



Appeal Decision

Inquiry Opened on 25 January 2021

Site visit made on 29 January 2021

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2021

Appeal Ref: APP/Z0116/W/20/3257200

St Catherine's Place Shopping Centre, East Street, Bedminster, Bristol, BS3 4HG

- 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 Firmstone Consortia One Limited against the decision of Bristol City Council.
 - The application Ref 18/05310/F, dated 4 October 2018, was refused by notice dated 6 February 2020.
 - The development proposed is comprehensive redevelopment of the site to provide mixed use development comprising residential (Class C3), new retail, leisure and commercial space including a cinema (Class A1, A3, D2), refurbishment of existing retail facilities together with parking and amenity space, vehicular access, servicing arrangements, public realm, landscaping and associated works.
 - The inquiry sat for 6 days on 25-29 January and 1 February 2021.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Because of the lockdown restrictions in place as a result of the coronavirus pandemic, the inquiry was held as a virtual event with the main parties and interested persons making their contributions by means of video appearances, over the internet. I visited the appeal site and the surrounding area on an unaccompanied basis prior to the opening of the inquiry, and undertook a further unaccompanied site visit shortly before the close of the inquiry.

Site description, surrounding area and background to the appeal proposal

3. The appeal site extends to about 1.03 hectares and is located some 0.5 kilometres to the south of Bristol City Centre, within the Bedminster town centre primary shopping area as defined in the Bristol Core Strategy (adopted in 2011). The site is bounded to the south and east by a curved section of the A38 Dalby Avenue, and to the west by residential and commercial buildings fronting onto Stafford Street and Mill Lane. To the north the site partially fronts onto East Street, the local town centre and high street of the Bedminster area, with other parts of the site's northern boundary abutting existing retail and commercial properties which lie outside the boundary of development.
4. The site comprises previously developed land and contains existing and largely underused retail floorspace in the form of the St Catherine's Place Shopping

Centre, with residential maisonettes above. No listed buildings, structures or scheduled monuments lie on the site, but its northern perimeter forms a part of the Bedminster Conservation Area, namely retail units fronting onto East Street. There are also about 12 existing trees on site. None are covered by Tree Preservation Orders, but the Statement of Common Ground (SoCG), agreed between the Council and the appellant, records that these trees do provide a degree of visual amenity.

5. In June 2017 planning permission was granted on the southern part of the appeal site, under reference 13/05616/P, for a ground plus 8-storey building (in detail) for 45 residential dwellings, along with a ground plus 15-storey building (in outline) for 143 residential dwellings (188 dwellings in total). Both buildings included flexible commercial floorspace at ground floor level (amounting to about 600 square metres (sqm)).
6. This development would have demolished the existing St Catherine's House office building which was located close to Dalby Avenue, but this building was subsequently retained and converted to residential use through the prior approval process and a separate grant of planning permission. Together, these applications raised the height of the building by 2 storeys (resulting in the current 8-storey building now known as Catherine's House), to provide a total of 54 residential units. Planning permission 13/05616/P remains extant but there is agreement between the main parties that it cannot be implemented, because of the retention and conversion of the St Catherine's House building.
7. With regards to the current appeal proposal, as originally submitted it sought full planning permission for a total of 271 residential units within 5 development blocks (Blocks A-E), along with some 930 sqm of new-build commercial floorspace, including a cinema, and the refurbishment of existing retail facilities. Blocks B-E were proposed to have heights between 3 and 8 storeys, whilst Block A was proposed to have 22 storeys and would contain the majority of the residential units (208). The existing maisonettes above the St Catherine's Place Shopping Centre would be retained as part of the proposal.
8. However, the proposal was revised in September 2019, primarily to reduce the height of Block A to 16 storeys, with a corresponding reduction in the overall number of residential units (205 in the scheme as a whole, with 142 within Block A). The layout of the site was also amended to provide for a future northbound bus lane along Dalby Avenue, in anticipation of strategic public transport corridor proposals being pursued along this A38 route by the Council.
9. This revised proposal was first considered by the Council's Development Control Committee A in November 2019, when Officers recommended that it be refused for 3 reasons, broadly covering the failure to provide any affordable housing; design and the impact on residential amenity; and transport and highways matters, including the absence of any agreed package of contributions. Committee Members resolved to defer a decision to a future meeting, to allow time to see if the matters of concern could be resolved.
10. As a result, and following further discussions and negotiations, agreement was reached on affordable housing and transport matters, such that when the proposal was reconsidered by Committee in January 2020 it was still recommended for refusal by Officers, but just for a single reason relating to design and the impact on residential amenity. Council Members accepted the Officers' recommendation, and the proposal was refused for this reason.

Main Issues

11. With the above points in mind, I consider the main issues in this case to be:
- The design of the proposed development, and its effect on the character and appearance of the surrounding area;
 - The effect of the proposed development on the living conditions of future and nearby residents, with particular reference to daylight, sunlight, and privacy;
 - The extent to which the proposed development would be consistent with the development plan for the area, and the weight to be given to relevant development plan policies; and
 - Whether any submitted planning obligation would adequately and satisfactorily address the impacts of the proposed development.

Reasons

Main issue 1 – Design matters, and the effect on character and appearance

12. To set the scene for the consideration of this main issue it is appropriate to first note that Policy BCS1 of the Council's Core Strategy states that South Bristol (where the appeal site is located), will be a priority focus for development and comprehensive regeneration. Amongst other things the area is expected to provide around 8,000 new homes over the period 2006-2026, with development overall taking place primarily on previously-developed land. To support growth in the area Policy BCS1 also outlines major improvements to transport infrastructure with a focus on pedestrian, cycling and public transport facilities.
13. To assist with progressing these policy objectives and making the most of the development land available within the city, the Council adopted an Urban Living Supplementary Planning Document (SPD) in November 2018, which has the aim of making successful places at higher densities, which includes by means of tall buildings. It's Foreword explains that in the last 20 years there has been a dramatic shift with people returning to live in or close to the city centre, and that this has led to apartment living being commonplace in Bristol. It goes on to say that the more successful schemes combine homes with cafés, shops, community uses and workplaces, to create vibrant spaces with a high quality public realm. It also makes it clear that the aim of the SPD is not just about increasing densities, but also about raising design quality.
14. The appeal site lies within an area covered by the Bedminster Green Framework (BGF), a non-statutory 'Place-Making Framework' which is a material consideration in this appeal. It was prepared in early 2019 by landowners/ developers who have an interest in 5 key sites (including the appeal site) following a collaborative process with the Council. Its introductory section recognises the Council's identification of the South Bristol area as a location for significant development to help meet the city's acute market, affordable housing and related needs. The BGF's stated role is to act as a high-level document which sets broad principles and parameters to help shape and integrate individual site-based development proposals, as they come forward through the planning and design process, to create a high quality new urban quarter.
15. The BGF has had regard to the Urban Living SPD, which states that the areas with potential for optimising densities are those which are centred on local train stations, including Bedminster. With this in mind, the BGF contains a number of indicative 'parameter plans', covering such matters as 'Access', 'Public Realm

and Landscape', 'Green Infrastructure and Hydrology', 'Ground Floor Land Use', and 'Heights'. This latter parameter plan shows the intention to have a number of 'Framing Buildings' of up to 10 storeys broadly on the northern, western and eastern sides of an enlarged and enhanced Bedminster Green, which lies just to the south of the appeal site, on the southern side of Dalby Avenue.

16. In addition, the plan shows that these Framing Buildings provide the opportunity for tall buildings in these general locations, with 10 or more floors. In this regard the plan also notes that there is an existing planning permission for a building of 16 storeys at St Catherine's Place, as noted in paragraphs 5 and 6 above. Importantly this plan also notes the intention to have a range of building heights spread across each of the aforementioned 5 key sites, with low-rise buildings of between 2 and 5 floors; mid-high buildings with between 6 and 9 floors; and the framing buildings of up to 10 floors.
17. The BGF and this plan have the broad approval of the Council, and thereby make it clear that the Council endorses the aim of pursuing higher-density development in this general area, in accordance with the aims of the Urban Living SPD detailed above. Because of this I give little weight to many of the sentiments put forward by interested persons, both in written representations and orally at the inquiry, to the effect that the area should, instead, be developed with lower-density 'family style' dwellings.
18. That said, it is clear that whilst the Council accepts the general approach of increasing density in this area, including on the appeal site, it is not satisfied that the current proposal would achieve this in an acceptable manner. This is reflected in the single reason for refusal which indicates that the height, scale, massing, inadequate public realm and overall design quality of the proposed development would be unacceptable in design terms and impact on existing residential amenity.
19. As such the Council maintains that the proposal would be at odds with a number of development plan policies, including Core Strategy Policy BCS21 which, amongst other things, requires new development to deliver high quality urban design that contributes positively to an area's character and identity, and delivers a coherently structured, integrated and efficient built form that clearly defines public and private space. In the following paragraphs I therefore consider design matters, and the effect the proposed development would have on the character and appearance of the surrounding area.
20. The first thing to say is that there are several distinct, albeit related, aspects to this overall proposal, as set out in paragraphs 7 and 8 above, with a key part of the proposal being the refurbishment of the dated and run-down St Catherine's Place Shopping Centre. At the time of my site visits I saw that this contained a large number of vacant units and appeared rather neglected and tired. The appellant explained that the proposed refurbishment would include the removal of existing canopy features and walkways to open up the retail areas and improve daylight, sunlight and amenity; the upgrading of shopfronts to align them more with the concept of a mews/street development and less of a shopping centre feel; and the introduction of street furniture and new public realm to make the route feel like an integrated street within Bedminster.
21. In addition, the existing balustrading to the high level walkways serving the existing maisonettes would be replaced with softer timber with integrated planters, allowing greenery to cascade down the elevations; and where existing

overhanging walkways would have to be retained, the proposals allow for new lighting and timber slat soffits.

22. I have no doubt that such a refurbishment would greatly improve the appearance and attractiveness of this shopping area, and would be a clear benefit of the proposal which would have a positive impact in character and appearance terms. Moreover, this proposed refurbishment received the support of the vast majority of consultees and those who made representations on this proposal, with the Council's Committee Report confirming that there is no in-principle objection to the proposed development.
23. However, other elements of the proposal did not find favour with the Council, with key strands of the Council's case relating to its concerns regarding the size, massing and positioning of Block A and its relationship with the retained St Catherine's House. As already noted, this building has been increased in height and converted to residential use, a point which the Council maintains has not been adequately and satisfactorily factored into the overall design for the site. I generally share those concerns, along with other matters set out below.
24. In particular I consider that the proposed size, positioning and design of Block A would make it appear cramped and crowded on the site. It would sit awkwardly close to the much lower 12 and 26 Stafford Street to the west, and would fail to provide an acceptable transition in height to Catherine's House to the east. I also consider that it would sit too close to Dalby Avenue, even though the appellant explained that land from the site would no longer be needed in this area to allow for the provision of a northbound bus lane. I accept that part of the ground floor on this frontage would be set back from the highway, providing a double-height open area behind columns, but it seems to me that this would still result in much of the taller element of Block A being positioned very close to Dalby Avenue, resulting in a cramped and overbearing appearance in views along Malago Road and Dalby Avenue. In turn this would limit the scope for the provision of attractive public realm along this frontage.
25. I have noted the appellant's comment that additional street trees, not currently shown on the submitted plans could be planted in this area, to frame Block A, but in the absence of any firm proposals in this regard there is nothing before me to show that additional, appropriately-sized trees could be satisfactorily accommodated without fouling upper-floor elements of the proposal. I also consider that the close proximity of much of Block A to Dalby Avenue, and the necessary provision of columns, would work against the BGF aspiration to fashion Malago Road/Dalby Avenue as an 'Avenue with Street Trees', described as a '*wide urban avenue with considered space for all users; reducing conflicts and maintaining comfort for pedestrians and cyclists*'.
26. A further area of concern, in my assessment, is Block E, which would rise to a height of 5 storeys in relatively close proximity to the boundary of the conservation area and, as such, would appear somewhat incongruous in the context of the predominantly 2 and 3 storey buildings in the locality. This point did not feature specifically in the Council's reasons for refusal, but a reading of the views of the Conservation Advisory Panel and the Council's comments on this matter, set out in the Committee Report, make it quite clear that this massing was considered to be out of character with the conservation area. As such, I regard this criticism to be part of the overall concerns the Council has with regard to the height, scale and massing of the development as a whole.

27. Neither the Council nor the appellant made any specific reference to this matter in the context of section 16 of the National Planning Policy Framework (the NPPF), which deals with conserving and enhancing the historic environment, in their written proofs of evidence, or orally at the inquiry. Moreover, I note that Historic England raised no specific objection to the proposal (a point noted in the agreed SoCG), although it did advise that the scheme should be taken to a design review panel. Nevertheless, it seems to me that the criticisms levelled at Block E, as detailed above, have to be interpreted as this part of the scheme resulting in some harm to the setting of the conservation area.
28. In NPPF terms I consider that there would be a low level of less than substantial harm to the significance of the conservation area. In accordance with NPPF paragraph 196, any such harm needs to be weighed against the public benefits of the proposal. In this regard the SoCG records the agreement between the Council and appellant that *'The application is appropriate in heritage terms and complies with the statutory provisions within Section 66 & 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990'*. There would clearly be some notable public benefits arising from the appeal proposal, including through the refurbishment and updating of the St Catherine's Place Shopping Centre, and I am satisfied that these benefits would be sufficient to outweigh the low level of harm identified above. As such, this heritage harm should not weigh against the appeal proposal.
29. However, the Council also maintains that the extent and scale of development proposed, and the design approach adopted, means that there would be an inadequate amount of public realm, a lack of shared amenity provision and a lack of meaningful space for children's play. Public Realm is the subject of Policy DM28 of the Council's Site Allocations and Development Management Policies (SADMP) Development Plan Document, adopted in July 2014. This policy requires, amongst other things, that new development should provide an appropriate relationship with the building edge and a suitable transition between clearly defined public and private spaces.
30. I have already concluded that the close proximity of Block A to Dalby Avenue would work against the provision and creation of an appropriate level of attractive public realm along this key frontage, located directly opposite the main open space of Bedminster Green itself. In this regard I share the view expressed by the Council's City Design Group (CDG) that a more generous building set-back, of full-height is required here in order to achieve the aforementioned 'Avenue of Trees' vision set out in the BGF.
31. I also share the Council's concerns regarding the open space to be provided adjacent to the base of Block B, referred to as a 'pocket space'. As this would lie in a corner location between 2 tall buildings – Catherine's House and Block B - it is difficult to assess how attractive it would prove to be. I accept the appellant's point that this area would serve as a transition space, between Bedminster Green and the appeal site, with the function of filtering people towards St Catherine's Place. However, it would also be the closest accessible area of outdoor space for future occupiers of Blocks B and C, but was referred to by the appellant as a gateway to St Catherine's Place with a café spilling out. It is unclear whether a relatively small area such as this could satisfactorily respond to the various demands likely to be placed on it.

32. I have noted further public realm concerns expressed by the Council, reflecting the views of the CDG, such as the absence of any provision for the improvement of the public realm at Mill Lane, and the loss of street trees outside proposed Block C. However, on the first of these concerns I accept the appellant's point that the area of appeal site adjacent to Mill Lane forms a service yard and parking area for the rear of the retail units and, as such, presents little scope for improvement as this area needs to accommodate the requirements of vehicle turning and servicing. I further note that the BGF refers to the Stafford Street/Mill Lane route as a 'Pedestrian Friendly Side Street', with possibilities for street planting, pedestrian and cycle improvements, where appropriate. There is a tension between these 2 functions or uses, but as effective servicing arrangements are clearly necessary for a proposed commercial area such as the refurbished St Catherine's Place, I do not see the absence of public realm improvements in this specific area as weighing significantly against the proposal.
33. On the second point, I see nothing inherently wrong with the appellant's proposals for the public realm in front of Block C, where the street frontage would be 'humanised' and would include trees, landscaping and active frontages. I acknowledge that some existing street trees would be lost in this area, and that proposed replacement trees would likely be smaller specimens. But as the appellant has pointed out, there would be a net gain in trees on the site and a net gain in trees across Bristol overall, secured through the submitted planning obligation, as discussed under the final main issue. On balance I consider the proposals for the frontage of Block C to be acceptable.
34. Insofar as other areas of public realm are concerned, I acknowledge that the proposed refurbishment of St Catherine's Place would provide an attractive pedestrian route between Dalby Avenue and East Street, and would provide access to an improved and enhanced public square or courtyard within St Catherine's Place. The appellant has commented that this has been deliberately designed for flexible community use and is seen as acting as a hub for social gatherings, pop-up markets and other events. Although the Council voiced some concerns regarding likely overshadowing of this courtyard area, further information submitted by the appellant leads me to the view that overshadowing would be little different to the current situation. As such, I see no good reason why this square should not function as an attractive communal area.
35. With regards to the provision of outdoor space, SADMP Policy DM27 indicates, amongst other matters, that new development will be expected to provide adequate appropriate and usable private or communal amenity space. Further guidance on this is given in Appendix A to the Urban Living SPD, which points to the need for 1,282 sqm of private open space for the appeal proposal as currently proposed. There is no dispute between the parties that by seeking to provide some 1,329 sqm as a mix of private and communal open space, the quantum of amenity space proposed would exceed the requirement.
36. Much of this space would be provided on the 9th and 11th floors of Block A, and although not part of the original design, the appellant agreed at the inquiry that wind protection for such areas could be secured by the imposition of an appropriate planning condition. It is unclear, however, how effective any such wind protection would be for areas of the size proposed, and notwithstanding the appellant's contention that access to these areas would simply involve the pressing of a button to summon a lift, I am not persuaded they would be seen

as particularly accessible or convenient for occupiers of the other Blocks, especially if any equipment/chairs/toys etc needed to be taken on such visits.

37. Furthermore, I share the Council's view that the absence of any specific provision of play space for children weighs against this proposal. I have noted the appellant's contention that this would not be a particularly desirable location to live for people with children, and that any children could, in any case, readily use the communal outdoor areas proposed. The fact remains, however, that the Council's Child Yield Calculator indicates that at least 27 children would be likely to form part of the future residential population of this development, and as there would be a significant number of apartments with 2 or more bedrooms (some 129 out of the total of 205), I consider it quite reasonable to assume that some families with young children would be future occupiers of such a scheme.
38. The appellant maintains that there would be ample high quality public realm in the wider area, including the Windmill Hill City Farm to the east, which would be far more popular with children than anything that could be provided on the site itself. However, it seems to me that most of these areas lie some distance away from the appeal site and would require the crossing of relatively main roads, such that although they could well be popular places to visit, they would not provide appropriate 'doorstep play' types of areas for children, as referred to by the Council.
39. Overall, the points detailed above indicate to me that whilst the appeal proposal would provide the necessary quantum of private and communal outdoor space, the location of much of the space would not make it readily available to all residents. Moreover, its form, quality and function would not assist in providing a high quality environment for all future residents, including children.
40. In summary, and having regard to all the points set out above, I conclude that on balance the appeal proposal would fail to provide a high quality urban design and, accordingly, would have an adverse impact on the character and appearance of the surrounding area. As such it would be at odds with Core Strategy Policy BCS21 and the aforementioned SADMP policies.

Main issue 2 – The effect on living conditions

41. A further area in which Core Strategy Policy BCS21 requires new development to deliver high quality urban design is by safeguarding the amenity of existing development and creating a high quality environment for future occupiers. Of particular concern in this regard is how the proposed development would impact upon the living conditions of existing, nearby residents, primarily in terms of daylight, sunlight and privacy, and whether satisfactory living conditions would be created for future occupiers of the proposed dwellings.
42. SADMP Policy DM29 is relevant in this regard. It states that new buildings should be designed to a high standard of quality, responding appropriately to their importance and reflecting their function and role in relation to the public realm. Amongst other matters, it seeks to ensure that existing and proposed development achieves appropriate levels of privacy, outlook and daylight.
43. The aforementioned Urban Living SPD assists further with these topics. In its section dealing with major development it recommends providing a fair and equitable share of sunlight and daylight between existing occupants in neighbouring buildings and future occupants of the scheme. Further, in the

section dealing with tall buildings, it recommends undertaking a sunlight and daylight assessment at the outset of the design process, and comments that by adopting a slender point form tower, with compact floor plates, the building will cast smaller, faster moving shadows than a bulkier tower.

44. Appendix B to this SPD provides specific guidance for assessing daylight and sunlight, and begins by stating that achieving adequate levels of daylight and sunlight into the buildings and external spaces where we spend most of our time contributes to our health and wellbeing. It confirms that the most commonly used guidance on such matters is that published by the Building Research Establishment¹ (BRE), which contains nationally applicable best practice guidelines on the levels of daylight and sunlight that existing and new development should follow.
45. Importantly it explains that one of the key factors in achieving more intensive forms of development, particularly in city centre and urban areas, is a more flexible approach to achieving daylight and sunlight standards for dense urban environments, while still maintaining liveable environments. This closely reflects guidance in paragraph 123(c) of the NPPF which requires local planning authorities to take a flexible approach in applying policies or guidance relating to daylight and sunlight when considering applications for housing, where they would otherwise inhibit making efficient use of a site – as long as the resulting scheme would provide acceptable living standards.
46. The SPD therefore advocates an approach which allows an assessment of daylight and sunlight targets to be informed by comparative contextual analysis, in order to provide flexibility to the application of the BRE targets, and explains that guidance on setting alternative target values for skylight and sunlight is given in Appendix F of the BRE guidance. The SPG goes on to explain that in determining a comparative context, physical and environmental characteristics should be considered together with other context considerations. Finally, the SPD advises that the appropriateness of a comparative context should be determined through early dialogue with the local planning authority.
47. The appellant submitted a Daylight and Sunlight Report prepared by Avison Young (AY) to support the application, but my understanding is that this was prepared once the proposal had been designed and submitted, and was therefore not instrumental in formulating the design. This Report comments that at present the existing neighbours experience very high levels of daylight and sunlight, which would not be considered commensurate with a central urban location. It then concludes that, post-development, many of these properties would remain in excess of the default BRE recommendations. As such, it states that the majority of the existing neighbours would experience no worsening or no noticeable differences to existing daylight/sunlight amenity, demonstrated by the very high level of compliance with the default BRE recommendations.
48. The Report's conclusions do, however, accept that exceptions would be locations where the neighbouring properties are in close proximity and/or self-obstructed. It states that these types of situation are predicted in the BRE guidance as ones where their default recommendations may not be met, as is the case here. Insofar as the proposed development itself is concerned, the Report concludes that future occupants would enjoy high levels of natural light provision. The

¹ BR 209 - Site Layout and Planning for Daylight and Sunlight: A guide to good practice 2nd Edition' (Building Research Establishment, 2011)

Report's overall conclusion is that *'when taken in the round, the proposed development would be acceptable on daylight and sunlight grounds, given the planning policy aims for the site and its setting, National and Local planning policy and the inherent flexibility of the Daylight and Sunlight guidance'*.

49. In its Committee Report the Council applied some flexibility in considering the results of the AY Report, by adopting a less stringent approach than set out in the BRE Guidelines, but it nevertheless disagreed with this overall AY conclusion and, for reasons set out below, I share the Council's concerns.
50. Mr Croft, for the Council, re-examined the conclusions of the AY Report and recorded that whilst 7 neighbouring properties would fall within the permissible levels recommended within the BRE guidelines if the appeal proposal was to proceed, 11 properties would incur a reduction in daylight and/or sunlight amenity below the numerical guidelines recommended by the BRE, with 9 of these containing windows which would experience reductions of daylight in excess of 40% in terms of the VSC² test. Of these properties he further noted that some 61 windows would retain less than 15% VSC, whereby the area lit by the window would appear more gloomy, such that electric lighting would be needed more of the time.
51. With regard to sunlight, the AY Report records that the effects would be within the permissible BRE recommended levels for 16 neighbouring buildings, but that 9 properties would fall outside these levels, with 8 of these experiencing major adverse losses of sunlight in terms of the APSH³ test. Mr Croft indicates that this impact would be significant at Catherine's House, where 77 of the windows tested would experience APSH reductions greater than 0.6 times their former value, with some of these windows predicted to have APSH values as low as 0.2 times their former value, representing an 80% loss.
52. Catherine's House was the only one of the neighbouring buildings for which AY had information about room configurations, and this meant that an additional daylight test could be carried out to assess the daylight distribution within each room served by the windows in question. This 'No Sky Line'⁴ (NSL) test showed that of the 120 rooms tested 63 would record a negligible effect (0-19.9% change); 5 a minor effect (20-29.9% change); 8 a moderate effect (30-30.9% change); and 44 a major effect (40% change or greater).
53. Taking the VSC and NSL results together, Mr Croft notes that only 36 out of the 120 rooms tested (30%) would meet BRE recommendations for both tests. Given the retained levels of VSC and daylight distribution he maintains that unacceptable harm would be caused to a large number of apartments within Catherine's House, and I share that view.

² VSC: Vertical Sky Component – a measure of the direct skylight reaching a point from an overcast sky, measured at a point at the centre of a window on the outer plane of the wall, for existing buildings. The BRE guidelines state that if the VSC at the centre of a window is less than 27%, and it is less than 0.8 times its former value (ie the proportional reduction is greater than 20%), then the reduction in skylight will be noticeable, and the existing building may be adversely affected

³ APSH: Annual Probable Sunlight Hours - the BRE recommends that the APSH received at a given window in a proposed building should be at least 25% of the total available, including at least 5% in winter. Where the values would fall short of these, and the absolute loss would be greater than 4%, then the values should not be less than 0.8 times their previous value in each period (ie the proportional reductions should not be greater than 20%)

⁴ NSL: 'No Sky Line': a measure of the distribution of daylight within a room. It maps out the region within a room where light can penetrate directly from the sky, and therefore accounts for the size of and number of windows by simple geometry. The BRE guidance is that the area of the working plane within a room that can receive direct skylight should not be reduced to less than 0.8 times its former value (ie the proportional reduction in area should not be greater than 20%)

54. These daylight and sunlight impacts would be most significant for apartments on the western side of this property, which would face Block A. 19 out of 21 single-aspect apartments on this elevation would experience major adverse reductions of 40% or more in VSC to all windows, whilst 16 of these apartments would also experience 40% or more reductions in NSL to all rooms, including the main living/kitchen/dining rooms that carry the highest expectation for daylight. For sunlight, all 21 single-aspect apartments on this elevation would record major adverse reductions of 40% or more in APSH to all windows, including many that would experience a total loss of APSH.
55. These single-aspect apartments on the west elevation are also the most sensitive in terms of retained daylight levels. At first floor, 3 living/kitchen/dining rooms serving apartments 3, 5 and 7 would change from achieving 35%, 36% and 33% VSC in the existing situation, to 7%, 12% and 11% VSC if the proposed development was to proceed. These losses equate to 0.2, 0.32 and 0.34 times former value respectively (against a BRE recommended target of 0.8). Although AY suggest that retained VSC values in the mid-teens are typical for ground floor dwellings in a dense urban environment, it is evident that these apartments would be left with considerably less than this amount, such that even when the guidelines are applied flexibly the rooms in question would appear more gloomy, and electric lighting would be needed more of the time.
56. In this regard I note that Mr Wong, for the appellant, likens the effect of a reduction in VSC values to a drop in temperature, arguing that low temperatures should not necessarily be seen as unacceptable, but rather as a signal to put on warmer clothes. In a similar way he contends that low values of VSC simply mean putting an electric light on sooner than would otherwise be needed. However, whilst I understand this analogy, I am not persuaded that it can justify or make acceptable the sort of low VSC levels which would be caused here.
57. For sunlight, the single-aspect apartments on the west elevation of Catherine's House would experience major adverse reductions of 40% or more. At first floor, 3 living/kitchen/dining rooms serving apartments 3, 5 and 7 would change from achieving in excess of the BRE recommended 25% annual APSH and 5% winter APSH, currently, down to 1%, 5% and 4% annual APSH if the proposed development was to proceed, with a total loss of winter APSH. The results follow a similar pattern for rooms up to fourth floor level, with lesser adverse effects on the upper floors. Overall, the retained levels of daylight and sunlight amenity at this property would be extremely low for a total of 19 apartments. Again, even when applying the BRE guidelines flexibly, I consider that on the basis of the above, the effects to occupants would be noticeable and would constitute harm.
58. Mr Croft also records that there would be rooms in a number of other neighbouring properties where reductions in daylight and sunlight would be in excess of BRE guidelines, such as 45 East Street, 12 Stafford Street, and several of the existing St Catherine's Place maisonettes.
59. Mr Wong does not directly contest Mr Croft's assessment of the likely impacts of the proposed development on neighbouring properties. Rather, he adopts a somewhat different approach, whereby he compares the various predicted impacts of the appeal proposal against daylight and sunlight impacts predicted to arise from what was referred to as the 'Dandara scheme', approved by the Council in September 2020, at Little Paradise and Stafford Street just to the west of the appeal site. This development comprises some 295 build-to-rent

apartments with communal facilities, and 21 affordable housing apartments, in a series of interconnected blocks of flats ranging in height from 4 to 16 storeys and a separate northern block of 3 and 4 storeys.

60. Mr Wong argues that this approach amounts to a comparative contextual analysis as recommended in Appendix B to the Urban Living SPD, referred to above, further arguing that this provides a clear steer on what the Council considered to be acceptable impacts on neighbouring residents, in circumstances that he considers are directly comparable to the appeal proposal. Mr Wong's Proof of Evidence indicates that he has also considered the potential impact of the appeal proposal against wider comparables in the form of Aldgate Place in Tower Hamlets and Iceland Wharf, adjacent to the Olympic Park in London. However, the suitability of these examples providing a comparative context had not been previously discussed with the Council, as is required by the SPD, and despite Mr Wong's assertions it is unclear to me how appropriate it would be to use any of these examples on a comparative basis in this case.
61. Moreover, I note that guidance on this matter in Appendix F of the BRE guidelines has not been followed by the appellant. This guidance explains how alternative targets for VSC and APSH could be established by assuming parity with a 'mirror image' of the proposed building. Although not before me for consideration in this appeal, evidence submitted by the Council suggests that the appellant has adopted this 'mirror image' approach in a further application for development on this site, which is currently before the Council for determination. This matter can clearly carry no weight in this appeal, but it does show that alternative designs, quite possibly with different impacts in daylight and sunlight terms, are capable of being pursued on this site.
62. Returning to the Dandara scheme, the Council accepted that there are some similarities between it and the appeal proposal, but also pointed out a number of significant differences. These include the fact that the Dandara scheme was recommended for approval by Officers as it was considered to represent a positive response to development plan policy, the Urban Living SPD, and the BGF. In addition, the design of the tall building reflected the Council's concerns regarding scale and massing, with the scheme's overall transition in scale, particularly at the northern end, and its relationship to properties within the conservation area, being considered acceptable. Moreover, the Council was satisfied that the Dandara scheme would provide a greater quantum and quality of public realm and amenity space than the appeal proposal.
63. Insofar as a comparison of the likely impacts in daylight and sunlight terms are concerned, Mr Wong maintains that it is more scientifically correct and robust to use percentages to compare the relative performance of the Dandara scheme and the appeal proposal. In so doing he argues that the appeal proposal can be seen to perform better than the Dandara scheme in terms of VSC impact, NSL Daylight Distribution, and also ADF. However, whilst I generally accept Mr Wong's figures, the fact remains that noticeably more windows and rooms would be adversely affected by the appeal proposal than by the Dandara scheme.
64. Moreover, the Council has explained that many of the units likely to be affected by the Dandara scheme in 12 and 24 Stafford Street and at St Catherine's Court, are dual-aspect, with this latter property providing retirement living, with many main habitable rooms facing away from the Dandara scheme. In view of these points, it seems to me that these impacts cannot be considered comparable to

the impact of the appeal proposal on Catherine's House, in which all the units which would be affected by the appeal proposal are single aspect.

65. On this point I have also been mindful of comments made by the appellant in closing submissions, that what really matters is not dry numbers on a page but the impact of the proposed development on the people who actually live in the properties likely to be affected. The appellant maintains that as all of the people who spoke at the inquiry in support of the development were those who live on the site and/or work nearby, and whose living conditions would be the most affected, this should be seen as the acid test. In the appellant's view these submissions demonstrated that the people concerned had understood and clearly welcomed the wider benefits of the appeal scheme in spite of the loss of light that they would experience.
66. However, whilst I accept that some of those who spoke in support of the proposal do live at or own properties at Catherine's House, or have formerly lived at or owned properties at St Catherine's Place, this oral evidence only tells part of the story, and is not supported by the written representations submitted at application stage. Over 20 of these representations were from residents who live either in Catherine's House or in the St Catherine's Place maisonettes, and they overwhelmingly oppose the appeal proposal, with the vast majority citing a loss of light and overshadowing as their primary concern.
67. Drawing all the above points together, and having considered the detail of the Committee Report for this Dandara scheme, with its supporting plans and visualisations, I share the Council's view that the level of impact of the Dandara scheme on surrounding development would be less pronounced than would be the case with the appeal proposal. As such, and for the reasons set out above, I do not consider that the Council's grant of planning permission for the Dandara scheme provides any meaningful support in favour of the appeal proposal, in terms of impact on daylight and sunlight.
68. The Council also expressed concern in its Committee Reports for the appeal proposal that as Block A would be located between 13m and 17m from Catherine's House, it would be likely to lead to unacceptable overlooking between existing neighbours and future occupiers, especially in the case of units in the southernmost part of Catherine's House. However, this point was not pursued in proofs of evidence, or at the inquiry, and on balance I consider that this spacing, of itself, would not be inappropriate or untypical in a relatively dense urban area as is proposed here. In my assessment the appeal proposal would not have failed for this reason alone.
69. Turning to the living conditions of future occupiers of the proposed development, the Council has confirmed that each of the proposed dwelling units would meet the appropriate national space standards in terms of total floorspace, bedroom sizes and built-in storage. Furthermore, the AY Report indicates that overall, for Blocks A to E, 93% of habitable rooms would meet the appropriate ADF targets of at least 1.5% for living areas without kitchen use, and at least 2% for kitchen use. In addition, a small number of units in Blocks C, D and E would fall short of the relevant ADF targets. For the scheme as a whole, 54% of the proposed rooms would contain windows with a south-facing aspect, and of these, some 81% would meet the BRE recommended APSH targets.
70. Looking specifically at Block A, which would contain by far the greater number of units, the Council points out that 19 living spaces would fail to meet the 2% ADF

target, with 12 of these falling short of the 1.5% target. These 12 rooms would all be located on the eastern side of this block, spread over floors 1 to 4, with each providing a single-aspect unit, facing on to Catherine's House. The Council considers that the natural lighting in these apartments would be poor. However, this would only be a relatively small proportion of rooms in this block as a whole, and potential future occupiers would clearly be able to assess the likely lighting situation before committing to the unit in question. On balance, coupled with the fact that in terms of south-facing windows in Block A, some 95% of living rooms and 80% of bedrooms would meet the APSH target, I do not consider that the future living conditions would be unacceptable.

71. Mr Wong summarises the AY findings in a slightly different way, pointing out that for Block A, just 17 out of 264 habitable rooms would fall short of the relevant ADF targets, equating to a 'pass' rate of 94% and a 'fail' rate of just 6%. He states that a 6% 'fail' rate for a scheme of this size and scale is not unusual, and indeed should be considered as relatively good. On balance I share this view. Mr Wong also compares the AY assessment of the internal daylight and sunlight performance of the appeal proposal against the similar assessment undertaken by the consultants for the Dandara scheme, and reaches the overall conclusion that the appeal proposal would perform better. However, I have already set out my misgivings about the appropriateness of the Dandara scheme as an acceptable comparator in this case, and I do not repeat these points here.
72. On balance, and for the reasons just given, I am not persuaded that the appeal proposal would result in unacceptable living conditions for future occupiers of the proposed scheme. However, I do have grave misgivings about the impact of the proposal on the living conditions of existing occupiers of neighbouring buildings, particularly those on the western side of Catherine's House. Because of this, my overall conclusion on this issue is that the appeal proposal would have an unacceptably adverse impact on the living conditions of occupiers of existing, nearby dwellings, through loss of daylight and sunlight. Accordingly I find that the proposal would be at odds with Core Strategy Policy BSC21, SADMP Policy DM29, and the Urban Living SPD.

Main issue 3 - Development plan considerations and the weight to be given to relevant policies

73. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the signed SoCG agreed between the Council and the appellant confirms that the operative development plan for the area comprises the Bristol Core Strategy (2011) and the Bristol SADMP Development Plan Document (2014). Reference is also made to emerging planning policy in the form of a Local Plan Review, but this is only at a very early stage of preparation and although the main parties agree that it is a material consideration in this appeal, no emerging policies have been referred to, and I therefore give this plan only very limited weight.
74. There is no dispute that the appeal proposal complies with a number of development plan policies, with the policies of relevance in this appeal set out in paragraphs 4.2 and 5.7 of the SoCG. But in the Council's reason for refusal conflict is alleged with Core Strategy Policy BCS21 'Quality Urban Design'; and SADMP Policies DM26 'Local Character and Distinctiveness'; DM27 'Layout and

Form'; DM28 'Public Realm'; and DM29 'Design of New Buildings'. These have all been detailed previously, with the exception of Policy DM26.

75. As with the other SADMP policies referred to, this policy relates back to Core Strategy Policy BCS21 and expands upon the requirement to contribute positively to an area's character and identity, creating or reinforcing local distinctiveness by setting out the criteria against which a development's response to local character and distinctiveness will be assessed. In particular, Policy DM26 requires new development proposals to respect the historical development of the area; and respond appropriately to the height, scale, massing, shape, form and proportion of existing buildings, building lines and setbacks from the street, skylines and roofscapes.
76. The NPPF is a material consideration in this case, and its paragraph 11 makes it clear that plans and decision should apply a presumption in favour of sustainable development, with section (c) of this paragraph explaining that development proposals that accord with an up-to-date development plan should be approved without delay. However, section (d) goes on to explain that where there are no relevant development plan policies, or where the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:
- i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this NPPF taken as a whole.
77. A footnote to this paragraph explains that policies are deemed out-of-date in situations where the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites (with the appropriate buffer, as set out in NPPF paragraph 73); or where the Housing Delivery Test (HDT) indicates that the delivery of housing was substantially below (less than 75%) the housing requirement over the previous 3 years. That is the case here, as the main parties agree in the SoCG that the Council cannot demonstrate a deliverable 5 year housing land supply. This is reinforced by the recent publication of the Government's 2020 HDT results, which show that the Council's housing delivery over the last 3 years amounts to 72% of its requirement.
78. However, the fact that policies have to be considered out-of-date does not mean that they can carry no weight. To carry weight, policies must be consistent with the NPPF, as explained in its paragraph 213 which, amongst other things, explains that the closer the policies in the plan are to the policies in the NPPF, the greater the weight that may be given to them. As such, it is perfectly possible for policies which are deemed out-of-date for reasons of an inadequate housing land supply to still carry significant weight. I consider that to be the case here, as all the policies cited in the Council's reason for refusal deal with aspects of high quality design, and ways of achieving it.
79. This is in total accord with the objectives of the NPPF, with its paragraph 124 stating that '*the creation of high quality buildings and places is fundamental to what the planning and development process should achieve*'. It goes on to say that '*good design is a key aspect of sustainable development, creates better*

places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process'.

80. In summary therefore, despite the policies cited in the Council's reason for refusal being deemed out-of-date, I consider that they should still all carry significant weight in the determination of this appeal. The main parties agree that no policies covered by NPPF paragraph 11(d)(i) apply in this case, so the appeal should be determined in the context of NPPF paragraph 11(d)(ii).

Main issue 4 – Planning obligations

81. The Council did not make any reference to the absence of appropriate planning obligations in its reason for refusal, but it is clear that if this proposal was to be allowed some such obligations would be necessary. In the run-up to the inquiry the Council and appellant had been working together to try to produce a bilateral agreement under section 106 (S106) of the Town and Country Planning Act 1990, as amended, to address these matters, and the Council had submitted a statement showing how the requested obligations would accord with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations, 2010.

82. However, the parties did not find it possible to reach agreement on a number of matters, and because of this the appellant chose to offer the obligations by means of a S106 unilateral undertaking (UU). This UU would make provision for a number of agreed transport contributions towards the following: the Bedminster Green Travel Plan; the design and implementation of a residents parking scheme in the Windmill Hill area; the design and implementation of traffic management measures in the Windmill Hill area; the establishment and running of an electric vehicle car club serving the Bedminster Green area; improvements to the Dean Lane cycle route between Warden Road and Gaol Ferry Bridge; and the making of a new traffic regulation order affecting the roads within the immediate vicinity of the proposed development.

83. Further obligations would secure an affordable housing viability review; future connection to the district heat network; and a contribution towards the planting of off-site replacement trees in the vicinity of the development, to mitigate the loss of trees resulting from the proposal. This latter contribution would be calculated in accordance with the tree replacement standards provided for by Core Strategy Policies BCS9 and BCS11.

84. The amounts of all contributions are agreed, as are the phasing and timing of some of these contributions. However, 2 important matters were not agreed. The first of these related to the timing of the various transport contributions. As drafted, the UU would pay the various transport contributions prior to first occupation of the respective Blocks, whereas the Council argued for payment prior to commencement of development of the respective Blocks. In an attempt to reach a bilateral agreement the appellant had offered to pay 25% of the respective contributions prior to commencement, with the remaining 75% prior to first occupation, but this was not acceptable to the Council.

85. The second area of dispute related to the affordable housing review. As drafted, the UU requires an Affordable Housing Viability Assessment to be undertaken prior to the occupation of the 100th residential unit, whereas the Council was seeking 2

reviews – one prior to commencement of the development and a further review prior to the occupation of the 100th residential unit. The appellant did offer to bring the review forwards to prior to the 50th residential unit, but would not agree to a review prior to commencement.

86. On the first of these disputed matters, the Council drew attention to Core Strategy Policy BCS11 'Infrastructure and Development Contributions', and to the section of its supporting text which states: *'Without appropriate measures to mitigate impact and investment to enable the provision of infrastructure improvements, the proposed level of development will be neither sustainable nor acceptable. New development will therefore provide or contribute towards the provision of the necessary infrastructure, to enable it to be provided in a timely manner and to support the growth of the city'*.
87. The Council argues that the key word is 'timely', and that the lengthy timescale necessarily and invariably involved in the delivery of improvements to transport infrastructure means that payment of the contributions prior to commencement of the relevant part of the development is essential. In the Council's view this is the only way to avoid the delay in delivery of the sustainable travel and network management infrastructure upon which this development would rely - and without which the development would be unacceptable in planning terms.
88. I consider this to be a reasonable and understandable position for the Council to take, and whilst I have noted the appellant's comments that no factual evidence has been submitted to demonstrate that a trigger of first occupation would lead to delayed implementation, the timescales quoted by the Council – of up to 2½ years from design to implementation – certainly indicate that delays could be very likely. I further note the appellant's point that as all BGF developments would contribute to a pool for these improvements, a sensible way forward could be for the Council to borrow against existing commitments, if it wants to ensure the early provision of the infrastructure improvements. But whilst I understand and appreciate the appellant's position in this regard, I do not consider it appropriate for me to make assumptions about the Council's financial actions and abilities in this matter.
89. On the second matter, I consider it quite understandable for the Council to seek to do all it reasonably can to ensure that much needed affordable housing is provided wherever possible. As I understand it, the latest viability information submitted by the appellant was contained in a 'Financial Viability Assessment Addendum' dated 6 November 2019, making it some 14 months old at the time of the inquiry into this proposal, and so in this regard I do not consider it unreasonable for the Council to request a further, pre-commencement viability assessment. However, it does seem to me that if the appellant's preference were to be followed, of a review prior to the occupation of the 100th residential unit, then this would still allow for the on-site provision of affordable housing, if the review showed that such provision would be viable. As such, I take no issue with this aspect of the UU.
90. Drawing the above points together, it is clear that in a great many respects the UU would address the concerns and policy requirements identified by the Council. However, the failure to commit to the necessary and agreed transport contributions at the time requested by the Council lead me to conclude, on balance, that the UU would not fully satisfy the requirements of paragraph 56 of the NPPF and Regulation 122 of the aforementioned CIL Regulations. As a result it would not adequately and satisfactorily address the impacts of the proposed development, and would therefore be at odds with Core Strategy Policy BCS11.

Benefits and disbenefits

91. In assessing the likely benefits and disbenefits of this proposed development I have also considered how it would perform against the objectives of achieving sustainable development, as set out in paragraph 8 of the NPPF. The proposal would certainly assist in achieving the economic objective of helping to build a strong, responsive and competitive economy. Economic benefits would arise from the construction of the proposed 205 residential units, comprising some temporary benefits to the construction industry, with more permanent benefits arising from increased spending in the local economy by future residents.
92. The very fact that much-needed new housing would be provided would also be a clear benefit, especially at a time when the Council is failing to keep up with the required rate of housing delivery. The refurbishment and updating of the St Catherine's Place Shopping Centre would also support this economic objective by making this part of the commercial area more attractive to users, and also helping to boost the local economy. In view of these points the appeal proposal would satisfy the economic objective of sustainable development.
93. The first part of the social objective, as set out in the NPPF, is to support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. The proposed development would go some way towards satisfying this objective, by providing a mix of 1, 2 and 3 bedroom residential units geared towards 'urban living'. However, no affordable housing units would be provided. I accept that this is because such provision has been shown to make the overall proposal unviable, and that as such there would be no policy conflict. Moreover, I have noted that there is the potential for affordable housing contributions to be paid following a viability review, as discussed above. But there can be no certainty that any such contributions would arise, or that affordable housing units would form any part of the on-site mix. In view of the pressing need for affordable housing in the Council's area, I consider that the absence of guaranteed affordable housing units has to weigh somewhat against this proposal.
94. The social objective also seeks a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. Again, I consider that the proposal would go some way towards meeting this objective, by improving the appearance of the St Catherine's Place Shopping Centre and making provision for new commercial businesses and services such as a new cinema and new restaurants. This would be a benefit of the proposal, as would the improved accessibility and improved connection between East Street and Bedminster Green.
95. However, whilst the appeal proposal would also provide some new public realm and the necessary quantum of private and communal outdoor space, I have already concluded under the first main issue that there would be clear shortcomings in the level of public realm at key locations, such as along the frontage of Block A, and in the form, quality and function of the proposed private and communal outdoor space. Together with the adverse impact on the living conditions of occupiers of existing, nearby dwellings, through loss of daylight and sunlight, which I have found in my assessment of the second main issue, I conclude that the appeal proposal would not provide a high quality environment for all future residents, including children. These latter points have to be seen as

disbenefits of the proposal, and mean that overall the proposed development would not satisfy the social objective of sustainable development.

96. A main part of the environmental objective of sustainable development is to contribute to protecting and enhancing the natural, built and historic environment, including making effective use of land and using natural resources prudently. As the proposed development would take place on previously developed land, it would accord with the thrust of this objective, and this would be a clear benefit of the proposal. However, under the first main issue I have concluded that the proposed development would fail to provide a high quality urban design and, accordingly, would have an adverse impact on the character and appearance of the surrounding area. With this in mind, I do not consider that the proposal could be considered to protect and enhance the built environment, and this has to be seen as a disbenefit of the proposed development. In view of these points I conclude, on balance, that the proposal would not satisfy the environmental objective of sustainable development.
97. I acknowledge that the proposed development would give rise to a CIL payment of some £1.4 million, including indexation, and that further index-linked contributions totalling some £341,500 would be secured through the UU, relating to various transport matters (about £318,500) and replacement trees (about £23,000). However, as these contributions would be necessary to make the proposal acceptable in planning terms they cannot be seen as specific benefits of the scheme. Nevertheless, I consider it appropriate to give some modest weight to these various contributions in the overall planning balance as the benefits they would provide would not be limited to future residents and users of the proposed development, but would also be available to the wider local population.
98. I have noted the comparisons made by the appellant in closing submissions, between the benefits assumed with the Dandara scheme and those with the appeal proposal. But as already noted, the Dandara scheme was considered by the Council to accord with development plan policies – in contrast to the appeal proposal. As such, I do not consider it appropriate to make such a comparison.

Summary, planning balance and overall conclusion

99. To summarise the above points, the fact that the Council cannot demonstrate a deliverable 5 year housing land supply means that the most important development plan policies for determining this proposal have to be considered to be out-of-date. This means that the 'tilted balance' set out in NPPF paragraph 11(d)(ii) applies, as detailed earlier.
100. In this case I have found that there would be conflict with a number of development plan policies, but I consider that they should still carry significant weight in this appeal as all the policies of concern relate to the provision of high quality development, and the ways of achieving it, and are therefore fully consistent with the NPPF's overall objectives. Because of these points, and notwithstanding the application of the tilted balance referred to above, it is my assessment that the conflict with the development plan has to weigh heavily against this proposal.
101. In terms of the overall planning balance I have concluded, above, that the appeal proposal would satisfy the economic objective of sustainable development, and would provide some temporary and some permanent economic benefits, along with benefits arising from the provision of 205 new

residential units. It would also provide some social benefits as a result of the provision of new housing, the refurbishment of the St Catherine's Place Shopping Centre, and the improved accessibility and an improved connection between East Street and Bedminster Green. In addition, some environmental benefits would arise from the re-use of previously developed land, and the wider population would gain some benefit from some of the contributions secured through the UU.

102. However, the proposal would fail to provide any guaranteed affordable housing, and would not be of a high quality design, but would have an adverse effect on the character and appearance of the surrounding area. Moreover, it would have an unacceptable adverse impact on the living conditions of existing, nearby residents, primarily in Catherine's House, through loss of daylight and sunlight. In addition, the failure to secure the provision of the necessary agreed transport contributions at the time requested by the Council, means that the submitted UU would not adequately and satisfactorily address and mitigate the impact of the proposed development.
103. In my assessment, these adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. For these reasons, and having had regard to all other matters raised, I conclude that this appeal should be dismissed.

David Wildsmith

INSPECTOR

APPEARANCES

FOR THE COUNCIL

Mr Roy Pinney, Planning Lawyer	instructed by the Head of Development Management, Bristol City Council (BCC)
He called:	
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BSc MSc MRTPI	
Mr Steven Riches	Urban Design Manager, BCC
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Mr Rob Croft	Partner, GIA Chartered Surveyors
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FOR THE APPELLANT

Miss Nina Pindham of Counsel	instructed by Archie Ward, Managing Director, Consortia Developments
She called:	
Mr Brian Tracey	Operations Director, Leslie Jones Architects Limited
BSc(Hons) BArch DipProjMan	
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Mr Kaivin Wong	Director, Lumina London Limited
BSc (Hons) MRICS	
Mr Michael Orr	Director, CSJ Planning
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INTERESTED PERSONS SUPPORTING THE PROPOSAL

Mr George Grace	Manager, Bedminster Business Improvement District (BID)
Mr Jeremy Tudor-Pole	Local resident
Mr Julius Hucka	Local resident
Mrs Fiona Hender	Local resident
Mr Sven Hanson	Local resident
Mr Gabriel McLaughlin MRICS	Local businessman
Ms Olivia Nava	Local business owner

INTERESTED PERSONS OPPOSING THE PROPOSAL

Mr Roland Oliver	Local resident
Ms Charlotte Cameron-Beaumont	Local resident
Mr Nick Townsend	Local resident
Mrs Dianne James	Local resident
Ms Miranda Kellas	Local resident
Ms Helen Adshead	Local Resident
Mr Howard Purse	Local resident
Miss Kirsten Ross	Local resident

CORE DOCUMENTS

Number	Document Title
A: Decision Notice and Committee Reports	
1	Committee Report (20 Nov 2019)
2	BCC Minutes of Development Control Committee (20 Nov 2019)
3	Committee Report (22 Jan 2020)
4	BCC Minutes of Development Control Committee (22 Jan 2020)
5	Decision Notice (6 Feb 2020)
B: The Development Plan	
1	Bristol Core Strategy (Jun 2011) <ul style="list-style-type: none"> a. BCS1 – South Bristol b. BCS5 – Housing Provision c. BCS7 – Centres & Retailing d. BCS8 – Delivering a Thriving Economy e. BCS20 – Effective & Efficient Use of Land f. BCS21 – Quality & Urban Design
2	Site Allocations and Development Management Policies (Jul 2014) <ul style="list-style-type: none"> a. DM1 – Presumption in Favour of Sustainable Development b. DM7 – Town Centre Uses c. DM8 – Shopping Areas and Frontages d. DM26 – Local Character & Distinctiveness e. DM27 – Layout & Form f. DM28 – Public Realm g. DM29 – Design of New Buildings
C: The Emerging Development Plan	
1	Bristol Local Plan Review (Mar 2019) <ul style="list-style-type: none"> a. Draft Policy DS8 – Central Bedminster b. Draft Policy UL1 – Effective & Efficient Use of Land c. Draft Policy UL2 – Residential Densities d. Draft Policy H1 – Delivery of New Homes
D: Material Considerations	
1	Urban Living: Making Successful Places at Higher Densities Supplementary Planning Document (Nov 2018) <ul style="list-style-type: none"> a. Part 1 – Guidance for all Major Development b. Part 2 – Guidance for Major Residential Developments c. Part 3 – Guidance for Tall Buildings d. Appendix B – Guidance for assessing sunlight/daylight
2	Bedminster Green Placemaking Framework (Mar 2019)
3	Dandara Application Ref: 18/06722/F Committee Report (30 Sep 2020)
4	BCC Minutes of Meeting (30 Sep 2020)
5	Housing Delivery Test Results (13 Feb 2020)
6	Bristol Housing Delivery Test Action Plan (Aug 2020)
7	Dec 2020 Standard Method Calculations
8	Comparison of Standard Method 2017 Aug 2020
9	Progressing Bristol's Development (6 Oct 2020)
10	BRE Report 209: Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice (2011)

11	Bristol Residential Development Survey (RDS) Report 2020 main findings
E: Application Supporting Documents	
1	Design & Access Statement Addendum 1 of 3 received 18 Sep 2019
2	Design & Access Statement Addendum 2 of 3 received 18 Sep 2019
3	Design & Access Statement Addendum 3 of 3 received 18 Sep 2019
4	Landscape Addendum received 18 Dec 2019
5	Rooftop Landscape Masterplan received 18 Sep 2019
6	LTS_095(08)101_RevC Ground Floor Landscape Masterplan received 18 Dec 2019
7	LTS_095(08)102_RevB Landscape Ga Plan - Roof Level received 18 Sep 2019
8	Verified Visual Montages from viewpoints V01, V02, V04, V05, V06, V07, V11, V12 and V13 (Nicholas Pearson Associates, Sep 2019)
9	Updated Financial Viability Assessment (Avison Young, Sep 2019)
10	Viability Assessment Addendum (Avison Young, Nov 2019)
11	Daylight and Sunlight Report (Avison Young, Oct 2019)
12	Daylight and Sunlight Report (GVA, Sep 2018)
13	Planning Statement (GVA, Oct 2018)
14	Urban Living SPD Design Response (Leslie Jones, Oct 2019)
F: Application Plans and Drawings	
1	3646AP(02)1000 - Rev P03 Site Location Plan received 9 Oct 2018
2	3646AP(02)1100 - Rev P02 Existing Site Plan received 9 Oct 2018
3	3646AP(02)1300 - Rev P01 Existing Elevation - Elevation 01 received 9 Oct 2018
4	3646AP(02)1301 - Rev P01 Existing Elevation - Elevation 02 received 9 Oct 2018
5	3646AP(02)1302 - Rev P01 Existing Elevation - Elevation 03 received 9 Oct 2018
6	3646AP(02)1303 - Rev P01 Existing Elevation - Elevation 04 received 9 Oct 2018
7	3646AP(02)1304 - Rev P01 Existing Elevation - Elevations 05, 06 & 07 received 9 Oct 2018
8	3646AP(02)1305 - Rev P01 Existing Elevation - Elevation 08 received 9 Oct 2018
9	3646AP(02)1306 - Rev P01 Existing Elevation - Elevations 09 & 10 received 9 Oct 2018
10	3646AP(02)1307 - Rev P01 Existing Elevation - Elevation 11 received 9 Oct 2018
11	3646-AP(04)2061 Revised Block B Mezzanine & 01 Floor received 18 Sep 2019
12	3646-AP(04)2064 Revised Block B 02 To 06 Floor received 18 Sep 2019
13	3646-AP(04)2068 Revised Block B Rooftop received 18 Sep 2019
14	3646-AP(04)2071 Revised Block C Mezzanine received 18 Sep 2019
15	3646-AP(04)2072 Revised Block C 01 Floor received 18 Sep 2019
16	3646-AP(04)2073 Revised Block C 02 Floor received 18 Sep 2019
17	3646-AP(04)2074 Revised Block C Rooftop received 18 Sep 2019
18	3646-AP(04)2220 Revised Block B&C North Elevation received 18 Sep 2019
19	3646-AP(04)2221 Revised Block B&C South Elevation received 18 Sep 2019
20	3646-AP(04)2222 Revised Block B&C East Elevation received 18 Sep 2019

21	3646-AP(04)2223 Revised Block B&C East Elevation received 18 Sep 2019
22	3646-AP(04)2224 Revised Block B&C West Elevation received 18 Sep 2019
23	3646-AP(04)2225 Revised Block B&C West Elevation received 18 Sep 2019
24	3646-AP(04)2242 Revised Block D East Elevation received 18 Sep 2019
25	3646-AP(04)2233 Revised Block D West Elevation received 18 Sep 2019
26	3646-AP(04)2233 Revised Block E East Elevation received 18 Sep 2019
27	3646-AP(04)2033 Revised Block A 01 Floor Plan received 18 Sep 2019
28	3646-AP(04)2034 Revised Block A 02 To 08 Floor Plan received 18 Sep 2019
29	3646-AP(04)2041 Revised Block A 09 Floor Plan received 18 Sep 2019
30	3646-AP(04)2042 Revised Block A 10 Floor Plan received 18 Sep 2019
31	3646-AP(04)2043 Revised Block A 11 Floor Plan received 18 Sep 2019
32	3646-AP(04)2044 Revised Block A 12 To 15 Floor Plan received 18 Sep 2019
33	3646-AP(04)2053 Revised Block A 16 Rooftop Plan received 18 Sep 2019
34	3646-AP(04)2212 Revised Block A East Elevation received 18 Sep 2019
35	3646-AP(04)2031 Revised Block A Ground Floor Plan received 18 Sep 2019
36	3646-AP(04)2210 Revised Block A North Elevation received 18 Sep 2019
37	3646-AP(04)2211 Revised Block A South Elevation received 18 Sep 2019
38	3646-AP(04)2032 Revised Block A Upper Ground received 18 Sep 2019
39	3646-AP(04)2213 Revised Block A West Elevation received 18 Sep 2019
40	3646-AP(04)2060 Revised Block B Ground Floor received 18 Sep 2019
41	3646-AP(04)2070 Revised Block C Ground Floor received 18 Sep 2019
42	3646-AP(04)2080 Revised Block D and E 01 Floor received 18 Sep 2019
43	3646-AP(04)2081 Revised Block D and E 02 Floor received 18 Sep 2019
44	3646-AP(04)2082 Revised Block D and E 03&04 Floor received 18 Sep 2019
45	3646-AP(04)2083 Revised Block D and E 05 Floor received 18 Sep 2019
46	3646-AP(04)2230 Revised Block D and E North Elevation received 18 Sep 2019
47	3646-AP(04)2231 Revised Block D and E South Elevation received 18 Sep 2019
48	3646-AP(04)2243 Revised Block E West Elevation received 18 Sep 2019
49	3646-AP(04)2202 Revised General East Elevation received 18 Sep 2019
50	3646-AP(04)2201 Revised General North Elevation received 18 Sep 2019
51	3646-AP(04)2200 Revised General South Elevation received 18 Sep 2019
52	3646-AP(04)2203 Revised General West Elevation received 18 Sep 2019
53	3646-AP(04)1501 Revised Ground Floor Phasing Plan received 18 Sep 2019
54	3646-AP(04)2001 Revised Key Plan received 18 Sep 2019
55	3646-AP(06)2204 Revised North Elevation East Street received 18 Sep 2019
56	3646-AP(06)1500 Revised Phasing Plan received 18 Sep 2019
57	3646-AP(04)2004 Revised Proposed Floor 01 received 18 Sep 2019

58	3646-AP(04)2005 Revised Proposed Floor 02 received 18 Sep 2019
59	3646-AP(04)2006 Revised Proposed Floor 03 04 received 18 Sep 2019
60	3646-AP(04)2008 Revised Proposed Floor 05 To 08 received 18 Sep 2019
61	3646-AP(04)2000 Revised Proposed Floor 09 received 18 Sep 2019
62	3646-AP(04)2010 Revised Proposed Floor 10 received 18 Sep 2019
63	3646-AP(04)2011 Revised Proposed Floor 11 received 18 Sep 2019
64	3646-AP(04)2012 Revised Proposed Floor 12-15 received 18 Sep 2019
65	3646-AP(04)2016 Revised Proposed Rooftop received 18 Sep 2019
66	3646-AP(04)2000 Revised Proposed Site Plan received 18 Sep 2019
67	3646-AP(04)2003 Revised Proposed Upper Ground Floor received 18 Dec 2019
68	3646-AP(04)2003 Revised Section A-A received 18 Sep 2019
69	3646-AP(04)2090 Public Realm Width received 18 Dec 2019
70	3646-AP(04)2091P01Block A and SCH Cycle Storage received 18 Dec 2019
71	3646-AP(04)2092P02Block B, C, D and E Cycle Storage received 18 Dec 2019
72	3646-AP(04)2092P01 Disabled Parking Spaces received 18 Dec 2019
73	3646-AP(04)2100P01 Land to be Stopped Up Ground Floor received 18 Dec 2019
74	3646-AP(04)2103 Revised Section B-B received 18 Sep 2019
75	3646-AP(04)2104 Revised Section C-C received 18 Sep 2019
76	3646-AP(04)2105 Revised Section D-D East Street received 18 Sep 2019
77	3646-AP(04)2101 Revised Section Thru Mall East received 18 Sep 2019
78	3646-AP(06)2102 Revised Section Thru Mall West received 18 Sep 2019
79	3646-AP(04)2002 Revised Residential Ground Floor received 18 Sep 2019
G: Consultation Responses	
1	City Design Group: Comments on revised scheme (Oct 2019)
2	City Design Group: Urban Living Assessment (Jun 2019)
3	Transport Development Management: Final comments (Jan 2020)
4	Sustainable Cities (Oct 2019)
5	Nature Conservation (Dec 2018)
6	Air Quality (Dec 2018)
7	Contaminated Land (Oct 2019)
8	Pollution Control (2019)
9	Tree Officer (Nov 2019)
10	Historic England (Nov 2018)
11	Environment Agency (Nov 2019)
H: DOCUMENTS SUBMITTED DURING THE COURSE OF THE APPEAL	
1	Appellant Statement of Case (CSJ, Aug 2020)
2	Council Statement of Case (BCC, 9 Nov 2020)
3	Council Appendices to Statement of Case (BCC, 9 Nov 2020)
4	Statement of Common Ground (draft)

DOCUMENTS SUBMITTED AT THE INQUIRY, AND SHORTLY BEFORE

Document	1	Opening submissions on behalf of the appellant
Document	2	Opening submissions on behalf of the Council

Document	3	Bundle of 7 statements from interested persons supporting the appeal proposal
Document	4	Bundle of 8 statements from interested persons opposing the appeal proposal
Document	5	Signed Statement of Common Ground, dated 26 Jan 2021
Document	6	Email from Jim Cliffe, BCC's Planning Obligations Manager to Mr Orr, dated 26 Nov 2020. Submitted by the appellant
Document	7	Bundle of plans and documents for the unaccompanied site visit, agreed between the Council and the appellant
Document	8	St Catherine's Place Heritage Assessment
Document	9	Email from Mr Pinney, dated 1 Feb 2021, providing the Council's justification for the timing of transport contributions
Document	10	Signed and completed unilateral undertaking, submitted by the appellant, dated 1 Feb 2020, with accompanying emails
Document	11	CIL Compliance Statement submitted by the Council, dated 12 Jan 2021 (submitted at a time it was expected that the appellant and Council would enter into a S106 Agreement)
Document	12	Final schedule of proposed conditions, agreed between the Council and the appellant
Document	13	Closing Statement from Mr Oliver
Document	14	Closing Statement from Ms Cameron-Beaumont
Document	15	Closing Statement from Mr Townsend
Document	16	Closing Statement from Ms Kellas
Document	17	Closing Statement from Ms Adshead
Document	18	Closing Statement from Miss Ross
Document	19	Closing Statement from Mr Purse
Document	20	Closing Submissions on behalf of the Council
Document	21	Closing Submissions on behalf of the appellant