



# Appeal Decisions

Inquiry held on 4, 5 & 6 September 2007

Site visit made on 5 September 2007

by **Richard Thomas** BA, Dip Arch, RIBA, IHBC

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

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**Decision date:**  
12 October 2007

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## Appeal A - Ref: APP/F0114/A/06/2012321

### Walcot Yard, Walcot Street, Bath, BA1 5BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by London & Argyll Developments Ltd against Bath & North East Somerset Council.
- The application Ref.05/03779/FUL is dated 9 November 2005.
- The development proposed is the redevelopment of the Upper Yard area following partial demolition of existing buildings to form 9 no. dwellings (Class C3) with associated car parking area, and remodelling of existing car parking area to the Riverside Buildings.

**Summary of Decision: The appeal is dismissed and planning permission is refused.**

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## Appeal B - Ref: APP/F0114/E/06/2012322

### Walcot Yard, Walcot Street, Bath, BA1 5BN

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
- The appeal is made by London & Argyll Developments Ltd against Bath & North East Somerset Council.
- The application Ref.05/03833/CA, is dated 9 November 2005.
- The demolition proposed is the partial demolition of Upper Yard buildings to enable redevelopment of Upper Yard area.

**Summary of Decision: The appeal is dismissed and conservation area consent is refused.**

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## Appeal C - Ref: APP/F0114/A/06/2024396

### Walcot Yard, Walcot Street, Bath, BA1 5BN

- 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 London & Argyll Developments Ltd against the decision of Bath & North East Somerset Council.
- The application Ref.06/02462/FUL, dated 7 July 2006, was refused by notice dated 29 August 2006.
- The development proposed is the redevelopment of Upper Yard area: demolition of existing buildings to form 9 no. residential dwellings and associated works (conventional roof variant of planning application 05/03779/FUL).

**Summary of Decision: The appeal is dismissed.**

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## **Preliminary Matters**

1. The Council resolved that had it been in a position to determine the applications that are the subjects of Appeals A and B, it would have refused them for the following reasons.
2. **Appeal A:**
  - 1) The proposal would result in the demolition or partial demolition of existing buildings within the application site which make a positive contribution to the appearance and character of this part of the Bath Conservation Area and the Bath World Heritage Site, contrary to Policies CI and C6 of the Bath Local Plan and Policy BH7 of the Bath and North East Somerset Local Plan Revised Deposit Draft 2003.
  - 2) The proposed development, by reason of its size and height, would represent an overdevelopment of this limited site, to the detriment of the appearance of the site and the residential amenities of nearby residential occupiers, contrary to Policies C2, H13 and H15 of the Bath Local Plan and Policies DI, D2 and D4 of the Bath and North East Somerset Local Plan Revised Deposit Draft 2003.
  - 3) The proposed development, by reason of its size, height and design would visually conflict with the scale and architectural style of existing development in the area. The proposal would therefore fail to preserve or enhance the character of the area, but rather would detract from the appearance and character of the area forming part of the Bath Conservation Area and the Bath World Heritage Site. The proposal is thus contrary to policies CI, C3 and C4 of the Bath Local Plan and policies BH1 and BH6 of the Bath and North East Somerset Local Plan Revised Deposit Draft 2003.
  - 4) The proposal would result in the loss of the present character of the Upper Yard as an informal workshop area, which is an important factor in the character of this yard and the surrounding area. This would be detrimental to the distinctive character of this part of the Bath Conservation Area, contrary to guidance in the Walcot Street Works Supplementary Policy Guidance, and contrary to Policies C3 and C4 of the Bath Local Plan and Policy BH6 of the Bath and North East Somerset Local Plan Revised Deposit Draft.
  - 5) The proposed development, by reason of its size, height and design would detract from the setting of nearby listed buildings, contrary to policies C I 1 and C 12 of the Bath Local Plan and policy BH2 of the Bath and North East Somerset Local Plan Revised Deposit Draft 2003.
  - 6) The proposal would result in the loss of premises last used for employment purposes, contrary to Policy ET. 1C of the Bath and NE Somerset Local Plan (Revised Deposit Draft) and Policy 30 of the Joint Replacement Structure Plan, adopted September 2002.
3. **Appeal B:**
  - 1) The proposed demolition of the former timber store and the west range of the upper yard would result in the loss of buildings which make a positive contribution to the character and appearance of this part of the Bath Conservation Area. This is contrary to Policies C1, C3, C4 and C6 of the Bath Local Plan and Policies BH1, BH6 and BH7 of the Revised Deposit Draft Local Plan and Planning Policy Guidance Note 15 (*Planning and the Historic Environment*).

## **Main issues**

4. The Council accepts that the lawful use of the appeal site is Class A1 retail, and withdrew reason for refusal No.6 at the start of the Inquiry. I therefore consider that the main issues in this case are, firstly, whether the partial

demolition of existing buildings, the erection of 9 new dwellings and the consequent changes in the character and appearance of the Walcot Yard area would preserve or enhance the character or appearance of the Bath Conservation Area; secondly, whether the proposed development would preserve the setting of the adjacent listed buildings and, thirdly, whether it would result in unacceptable harm to the amenities of neighbouring occupiers.

## Reasons

### *The appeal site and its context*

5. The Walcot Street area is unique within Bath. The disposition of its Georgian and later buildings which follow the line of the Roman route into Bath are constrained by the underlying medieval pattern of narrow frontages and deep rear burgage plots stretching down to the river Avon. Whilst the centre of Bath attracted the attention of residential developers, the narrow strip of land between Walcot Street and the river continued to provide an affordable location for essential facilities such as a cattle market, artisans' yards and a variety of workshops. This diverse pattern of use has continued into the 21<sup>st</sup> century, with the area providing an attractive location for small independent household goods and antiques shops, together with a range of craft manufacturing and sales enterprises, served by a number of cafes, pubs and restaurants.
6. The special character of the area, with its strong mix and variety of built forms is recognized by the Council in *Walcot Street Works: Conservation Area Assessment and Principles for Development*, adopted as Supplementary Planning Guidance (SPG) in 1997. This identified a number of 'land pockets' which reflected the medieval morphology of the area and used them as a basis for the physical character survey.
7. Walcot Yard was identified as one of these land pockets, an open area that has been used as a builders' yard from the late 19<sup>th</sup> century and more latterly as the home of Walcot Reclamation, an architectural salvage company. This firm still leases 108 Walcot Street, an impressive grade II listed house that faces the street, together with the North Range buildings that lie behind it and form the northern boundary of the appeal site.
8. The eastern boundary of the yard is formed by the three-storey Riverside North and South Buildings, relatively modern structures in a robust industrial style that replace earlier buildings destroyed by fire. These are currently occupied by technology-related businesses employing some 70 – 90 people.
9. The appeal site comprises the remainder of Walcot Yard and is separated from the Riverside South Building by a row of parking spaces abutting the Timber Store. This partly open-sided storage building is now in a semi-derelict state, with the roof covering removed to reduce the loading on its unstable structure.
10. To the west, and at a higher level lies the Upper Yard, bounded to the north by the access road and to the west and south by an L-shaped arrangement of two storey buildings (the L-plan buildings). The stone-built building opposite the rear of 94-106 Walcot Street has a terrace of workshops served by the intervening Cornwell Row. These workshops are set above basements with limited headroom and a lack of ventilation or daylight. The western arm is Edwardian and the upper floor has extensive windows set at high level within

the framed façade, while the lower floor relies on large double doors opening onto Upper Yard for lighting and ventilation.

*Conservation Area Consent*

11. In my view, it is the nature and scale of the interlocking spaces enclosed between the buildings that characterises the yard, in contrast to the more open vistas along Walcot Street. Within these spaces, the piles of reclaimed materials and the bustle of activity generated by their repair, restoration and sale generated vitality and interest served to catch the eye of the passer-by in the past. However, in their absence today, it is apparent that these much-valued activities took place against a backdrop of modestly scaled buildings that are in themselves of little architectural significance and do not make a significant contribution to the character or appearance of the conservation area.
12. I consider that it is the spaces they surround, rather than the buildings themselves that are of particular importance to the character of Walcot Yard. Their limited architectural significance and present condition means that the buildings themselves make little positive contribution to the distinctive character or well-kept appearance of the area.
13. The Council accepted that the former timber store makes no significant contribution to the character and appearance of the conservation area and is beyond economic repair. It therefore has no objection to its demolition in conservation area terms. The Council conceded that the L-plan buildings are in a state of disrepair externally and gave the area an air of dereliction and abandonment, yet maintained that they also contributed positively to the character and appearance of the conservation area. It was further argued by the Council that the L-plan buildings were capable of refurbishment for craft-based activities or other uses appropriate to the character of the Walcot Street area.
14. Relatively detailed estimates of the cost of such works had been prepared and to a large extent agreed by both parties. It was accepted that a complete refurbishment sufficient to let the L-plan buildings on a full insuring and repairing lease was not economically viable. However, it was argued by the Council that potential artisans and craftsmen attracted by the Walcot Street ambience would be likely to take the subdivided buildings on an internal repairing lease, with the landlord retaining responsibility for the structure and exterior.
15. While much inquiry time was spent arguing over the details of the estimates, it is clear to me that the viability of the suggested refurbishment is, at best, only marginal. From what I heard and from my professional experience, a profit of only 20% inclusive of any contingency allowance, together with the limited covenant offered by potential tenants, would be unlikely to prove attractive to any reasonably cautious investor faced with the appeal site as it stands. The absence of any success in achieving the regeneration of artisan or craft activities on the site during the Council's lengthy ownership prior to its sale to the appellant only serves to reinforce this view.
16. In any event, the Council's wish to retain the buildings for crafts or artisan use is not directly supported by any Local Plan policy. While the SPG seeks to

safeguard existing workshops and encourage their provision, the Council acknowledges that the established use for the appeal site is Class A1 retail. There are no development plan policies that directly preclude the change of use of the site from retail to residential use.

17. Furthermore, Planning Policy Guidance Note 15 *Planning and the Historic Environment* (PPG15) advises that where unlisted buildings make little or no contribution to the character or appearance of the area, as I have found above, their proposed demolition should not be assessed as if they were listed buildings and subjected to the detailed financial assessment in paragraph 3.19. Instead the merits of any proposed redevelopment should take into account when considering their demolition.
18. Consequently, subject to the characteristics of the spaces that I have identified above being either preserved or enhanced, I find no overwhelming case, either architectural or financial, for the retention of the existing L-plan buildings provided that there is an acceptable plan for their replacement. I therefore conclude that in this respect the proposed development conforms to Policies C4 and C6 of the Bath Local Plan and Policy BH7 of the emerging Bath and North East Somerset Local Plan Revised Deposit Draft, which I note is close to adoption.

#### *The Proposed Development*

19. The proposals involve the demolition of the timber store and the western arm of the L-plan buildings. The site of the former timber store would be occupied by a terrace of 3 three-storey dwellings, built on a plinth containing a basement car park accessed at lower yard level. The demolished section of the L-plan building would be replaced a terrace of 3 four-storey dwellings and would be linked to 3 three-storey dwellings created within and on top of the retained southern wing. As a result, the disposition of the proposed new blocks would be broadly similar to the existing site layout, thus preserving the view down to the river from Walcot Street and the diagonal glimpse of the hillside to the east, albeit restricted by the greater width of the eastern terrace.
20. The design of the houses themselves is a bold contemporary response to the problem of building on a site within an area dominated by polite Georgian architecture yet containing a variety of later industrial buildings. The design, using large industrial scale framed windows overlooking the Upper Yard and small windows set in curved rendered walls is inventive, as is the use of balconies and a sweeping roof design that reflects the regular rhythm of Georgian terrace roofscapes which are boldly punctuated with chimney stacks.
21. I acknowledge that the proposed roof design could assist in helping the proposed development to blend in with the Paragon and other terraces that cover the hillside in more distant views of the site from across the river. However, I consider that the considerable height and short lengths of each proposed terraces would not enable this feature to be apparent from closer views, especially from within the enclosed yard areas, from where they would appear particularly prominent against the sky. In this respect the alternative pitched roof proposals would be less obtrusive, although the alternative roof design alone would not be sufficient to reduce the considerable visual mass of the proposed houses as a whole.

22. Although I noted the argument that the proposed houses would follow the sweep of roofs down from the Paragon and over 94-106 Walcot Street to Riverside Building South, it is apparent from the drawings and from my site inspection that their roofs would protrude some distance above the general line of surrounding roofs, which generally step down the slope towards the river, reinforcing their dominating impact upon the surrounding yard and adjoining areas.
23. I consider that when seen from within Cornwell Row, the Upper Yard or the Lower Yard, the mass of proposed three and four storey blocks would result in them appearing overbearing and diminishing the scale of the open spaces. This would destroy the essentially open character of the existing Yard by reducing it to a series of access ways serving the three and four storey facades that overlook them, resulting in them becoming mere adjuncts to the buildings, rather than parts of a greater, meaningful whole. As a result, I consider that the proposed development would fail to preserve the special quality of Walcot Yard which is an essential part of the Walcot Street area as a whole.
24. In addition, Walcot Yard played an important functional role in the development of the urban fabric, with appropriately scaled and proportioned buildings of formal design facing the public street. The vernacular industrial buildings to the rear are modest in scale and consequently are clearly perceived as secondary in importance to the frontage buildings on Walcot Street. However, the proposed development would reverse and distort this hierarchy, with terraces of large and architecturally distinctive houses with their principal elevations turned inwards around a small backland courtyard as opposed to addressing the wider public realm.
25. As a result, the particular relationship between the surrounding buildings and open space that is a key feature of this historic land pocket would be lost and the special interest of the conservation area and the Bath World Heritage Site diluted as a result. Consequently, I conclude that the proposed development would fail to preserve the character and appearance of the conservation area, contrary to the guidance in PPG15 and thus would conflict with Local Plan Policy C1, C3, C4 and C6 and emerging Policies BH1 and BH.6.

#### *Impact on Listed Buildings*

26. The appeal site lies within the immediate setting of the grade II listed terrace of Old Orchard Cottages to the south, of 108 Walcot Street, and of the terrace 94-106 Walcot Street. The Old Orchard Cottages are a short terrace of small houses facing towards the river across an open courtyard. I saw that the proposed eastern block of 3 houses would be particularly prominent in views of the cottages, as it would be set forward of their principal façade and form a prominent backdrop to views of the cottages. Due to the difference in height and bulk, the proposed block would dwarf the listed cottages, notwithstanding the intervening vegetation, and consequently detract significantly from their setting, contrary to the guidance in PPG 15 and in conflict with Policy C11 and C12, and emerging Policy BH.2
27. The buildings on Walcot Street would allow only restricted views of the proposed development from the street, through the main entrance to the Yard and down Cornwell Row. As a result, the most significant impact of the

proposed development on the setting of the listed buildings on Walcot Street would be limited to these narrow views into the yard. To my mind, there would be an awkward contrast between the significant bulk of the new houses dominating these views and the expectation of smaller scaled subservient buildings located behind the principal frontage buildings.

28. In addition, the greater bulk would reduce the existing openness of the courtyard, which can presently be readily perceived from the entrance gateway as part of their setting. The additional height of the eastern range of houses Nos.1-3 would obscure the existing views of the hillside visible above the Riverside South building. However, I do not consider that these changes to the setting of the Walcote Road listed buildings alone would be sufficient to warrant dismissal of these appeals, but consider it to add significant weight to my other conclusions.

*Amenity: Daylight and Outlook*

29. The rear elevations of Nos. 94-106 Walcot Street overlook Cornwell Row and the appeal site. The outlook from the windows of the basements of these premises is necessarily limited due to the high wall surrounding the sunken back yards. I saw that the outlook from the ground floor windows of Nos.94-100 is presently dominated by the existing workshops on the appeal site, while those of Nos. 102-106 have relatively unobstructed views over the Upper Yard.
30. The proposed western range of houses, Nos.7-9, would be higher than the existing workshops and would also extend further northwards in front of the rear elevation of No.104 Walcot Street. As a result, there would inevitably be some diminution in the amount of daylight reaching the windows of the existing properties and any reduction would be most noticeable within the rear ground floor rooms.
31. However, the unchallenged calculations submitted by the appellant show that the vertical sky component would exceed the 27% level recommended in the Building Research Information Paper IP 5?92. Consequently, I consider that level of daylight would not be adversely affected to an unacceptable degree, especially since each of the ground floor rooms accommodates commercial uses.
32. The first and second floors of Nos. 100, 104 and 106 Walcot Street are in residential use and the amenities of their occupiers are protected by Local Plan policies. In comparison with their ground floors, the upper floors of these premises would benefit from higher levels of daylight, due to their increased elevation relative to the roofline of the proposed houses opposite. While the levels of daylight would, for the reasons given above, be acceptable the proposed development would result in a change in outlook from the rear windows of these properties.
33. No.106 would be least affected, since the outlook from the rear windows would be unobstructed by the proposed development. The northern gable of proposed house No.9 would be sited on the centreline of No.104 Walcote Street, thus curtailing its outlook to some degree. However, whilst there is no right to a view, existing views of the North Range and the attractive tree within Upper Yard would be preserved. Consequently, I consider that the proposed development would not have an unacceptably overbearing impact upon the

occupiers of No.104 Walcot Street and consequently would conform to Local Plan Policy H13 and emerging Policy D2.

*Conclusions*

34. I have had regard to other matters raised, both in the written representations and at the Inquiry, including the unilateral undertaking by the appellant, but find that they do not outweigh the harm to the character and appearance of the conservation area and to the setting of the listed buildings that I have identified above. While the proposed development is a carefully considered response to the challenges of the appeal site, it would not succeed in preserving the essential character of an area of considerable significance within a conservation area and designated World Heritage Site or the setting of adjacent listed buildings. Consequently, for the reasons given above and having regard to all other matters raised, I conclude that the appeals should be dismissed.

**Formal Decisions**

**Appeal A - Ref: APP/F0114/A/06/2012321**

35. I dismiss the appeal, and refuse to grant planning permission for the redevelopment of the Upper Yard area following partial demolition of existing buildings to form 9 no. dwellings (Class C3) with associated car parking area, and remodelling of existing car parking area to the Riverside Buildings.

**Appeal B - Ref: APP/F0114/E/06/2012322**

36. I dismiss the appeal, and refuse conservation area consent for the partial demolition of Upper Yard buildings to enable redevelopment of Upper Yard area

**Appeal C - Ref: APP/F0114/A/06/2024396**

37. I dismiss the appeal.

*Richard Thomas*

INSPECTOR



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

|  |  |
|--|--|
| Gary Grant                                 | of Counsel, instructed by<br>Maggie Howell, Principal Solicitor<br>Bath and North East Somerset Council. |
| He called                                  |  |
| Brian Richardson<br><i>FRICS</i>           | Consultant Quantity Surveyor<br>Bath and North East Somerset Council                                     |
| Charles Newall                             | Team Manager: Property Services<br>Bath and North East Somerset Council                                  |
| John Cox<br><i>BSc(Hons), BArch(Hons)</i>  | Team Leader: Economic Development<br>Bath and North East Somerset Council                                |
| David McLaughlin                           | McLaughlin Ross llp<br>4 Springfield Cottages, Brewery Hill<br>Upton Cheyney, Bitton, BS30 6NA           |
| Funda Willetts                             | Senior Urban Designer<br>Bath and North East Somerset Council  |
| Neil Harvey<br><i>BA(Hons), MSc, MRTPI</i> | Senior Planning Officer<br>Bath and North East Somerset Council  |

### FOR THE APPELLANT:

|   |  |
|---|--|
| Robert Walton                                     | of Counsel, instructed by<br>Ingram Winter Green, Solicitors   |
| He called   |  |
| Edward Nash<br><i>BA, Dip Arch, RIBA, AABC</i>    | Nash Partnership<br>23a Sydney Buildings, Bath, BA2 6BZ        |
| Martyn Harrison<br><i>BSc, MRICS</i>              | D R Mills & Associates<br>23 James Street West, Bath, BA1 2BT  |
| Derek Walker<br><i>BSc, FRICS, MCI Arb</i>        | Derek Walker Chartered Surveyors<br>6 Gay Street, Bath BA1 2AH |
| Christopher Beaver<br><i>BSc(Hons), MA, MRTPI</i> | Nash Partnership<br>23a Sydney Buildings, Bath, BA2 6BZ        |

### INTERESTED PERSONS:

|                |   |
|----------------|---|
| Anne Nash      | 4 Old Orchard Cottages, Bath                                      |
| Jonathan Giles | 16 Bath Road, Atworth, Wilts (92 Walcot Street)                   |
| Annette Martin | 8 Prospect Cottages, Kingsdown, Box (105-107 Walcot Street, Bath) |
| Harriett Stone | 100 Walcot Street, Bath   |

**DOCUMENTS handed in at the Inquiry**

- 1 Notice of Inquiry
- 2 Bundle of two responses to the Notice
- 3 Unilateral undertaking by London & Argyll Developments Ltd & Anglo Irish Bank Corporation plc dated 12 February 2007
- 4 Updated proof of evidence of Mr Newall
- 5 Updated proof of evidence of Mr Cox
- 6 Updated proof of evidence of Mr McLaughlin
- 7 Revised Appendices B & C to Mr Newall's proof of evidence
- 8 Statement of Mr Giles, including 3 photographs
- 9 A3 plan identifying differences between resurfaced areas in estimates

**PLANS**

- 1-19 Application plans: Appeal A  
5066(P)01 – 016 inc., 5066(PD)01, 3123(PS)01,  
5066(P)01 (perspective)
- 20 Application plans: Appeal B  
5066(PD)01
- 21 - 38 Application plans: Appeal C  
5066(CR)01, 5066(CR)03 – 016 inc., 5066(PD)01, 3123(PS)01,