



Appeal Decision

Inquiry held on 9 & 10 September 2008

Site visit made on 10 September 2008

by **Ian Radcliffe** BSC (Hons) MCIEH DMS

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

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Decision date:
21 October 2008

Appeal Ref: APP/B1740/A/08/2079905

**46, 46a & 48 Southampton Road & 1 Avenue Road, Lymington, Hampshire
SO41 9GQ**

- 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 McCarthy and Stone (Assisted Living) Limited against New Forest District Council.
- The application Ref 08/92050, is dated 14 March 2008.
- The development proposed is redevelopment to form 42 assisted living apartments for the frail elderly, including staff accommodation, communal facilities, with associated car parking and landscaping.

Procedural Matters

1. An initial application for 53 assisted living apartments was dismissed on appeal in April 2007 (Ref APP/B1740/A/06/2028552). A subsequent revised application, which sought to address the concerns of the Inspector with regard to the effect of the proposal on the character and appearance of the area, was then made for 42 apartments. It was refused by the Council in December last year. A subsequent appeal was withdrawn. A further application for the same number of apartments, the subject of this appeal, was then made to the Council. I have treated the reasons for refusal contained within the report on the proposal, considered by the Development Control Committee on 9 July 2008, as the reasons the Council would have given in refusing the application, had it been empowered to do so.
2. The parties agreed at the Inquiry that the appeal concerned the following drawings; 1440-P100 Rev D, 1440-P101 Rev G, 1440-P102 Rev H, 1440-P103 Rev E, 1440-P104 Rev G, 1440-P105 Rev G, 1440-P106 Rev C, 1440-P107 Rev C, 1440-P108 Rev B, 1440-P109 Rev B and 6243/01. My consideration of the case and my decision is based on these drawings.
3. A unilateral undertaking was submitted by the appellant in relation to the provision of affordable housing which I have taken into consideration.

Application for costs

4. At the Inquiry an application for costs was made by McCarthy and Stone (Assisted Living) Limited against New Forest District Council. This application is the subject of a separate Decision.

Decision

5. I allow the appeal, and grant planning permission for redevelopment to form 42 assisted living apartments for the frail elderly, including staff accommodation, communal facilities, with associated car parking and landscaping at 46, 46a & 48 Southampton Road & 1 Avenue Road, Lymington, Hampshire SO41 9GQ in accordance with the terms of the application, Ref 08/92050, dated 14 March 2008, and the plans listed above, subject to the conditions set out in the schedule at the end of this decision.

Main issue

6. The main issue is the effect of the proposal on the character and appearance of the area, including the setting of the Lymington Conservation Area.

Reasons

Character and Appearance

7. The appeal site occupies the corner of Southampton Road, the principal route into Lymington from the north, and Avenue Road. It is previously developed land, and is in a sustainable location for residential development with regard to public transport, and the range of services and facilities found in the town centre. It is common ground that in principle the site is suitable for flatted development for the frail elderly, subject to the proposal being of an acceptable form and standard of design.
8. Approaching the centre of Lymington from the north the urban grain of development is coarse and suburban with larger houses on wide plots and relatively long front gardens. This abruptly changes south of Avenue Road where the urban grain of older housing nearer to the town centre is far finer, particularly on the south western side of the road, with dwellings occupying far narrower plots. To the east along Avenue Road, I concur with the previous inspector that the character of the road close to the appeal site has changed in recent years with new, far higher density residential development. The completion of Cavendish Mews this year has consolidated this process.
9. Whilst in urban design terms the context of the appeal site means that it would be equally acceptable for development on it to reflect the density of development to the north or south, government guidance seeks the effective use of housing land, and so a higher density of development reflecting that found to the south of the site is more appropriate in this situation.
10. The proposal would be an 'L' shaped development with elevations facing both Southampton Road and Avenue Road. In comparison to the proposal refused on appeal both elevations would be set back significantly further from the highway, creating more space for landscaping to the front. This would be more in keeping with the layout of houses on the eastern side of Southampton Road to the north of the appeal site. The height of the proposal along both elevations has also been reduced. This is particularly evident along the Southampton Road elevation. Whereas the vast majority of the previous scheme was three storeys in height, less than half of the appeal proposal is. As a consequence of this reduction in height the proposal complements adjacent development along both roads at roof and eaves level. Whilst the

height of the building and its eaves rises towards the junction of the two roads, it does not become excessive and the resulting emphasis of the corner is consistent with the principles of good design.

11. Much was made of the ground diagram illustrating the absence of a building with a footprint as large as the proposal along Southampton Road. Such diagrams can be a useful tool to understand the grain of development in the area, but whether or not the development is a single building is in itself not an important issue. What matters is how the building appears within the street scene. The use of deep setbacks along Southampton Road and the contrasting materials on the elevations would successfully break up the mass of the building. As a consequence, when viewed from Southampton Road, the overriding impression of the building would be that its design and mass would reflect the rhythm of development of the closely spaced houses on the same side of the road immediately to the south. Along Avenue Road the higher eaves levels and absence of setbacks as deep as those found on Southampton Road reflects the mass and scale of neighbouring development and complements the character and appearance of development on the road.
12. Unlike the previous proposal refused on appeal the corner has been emphasised by use of a rectangular tower that projects forward of the façade and is the tallest point of the building. The height of the corner is in proportion to the width of the road junction and the height of the buildings on facing corners. As a consequence, it would be in keeping with the scale of surrounding development and would not unduly dominate the street scene. The corner, emphasised by its projection and use of glazing, also allows a far more successful and coherent transition between the differing facades of the building than the earlier proposal achieved and is a positive design feature.
13. The choice of architectural features drawn from the wider townscape also helps the proposal to complement its surroundings. Whilst certain of the features, such as the canted bays and gables, are wider than those found on the houses on Southampton Road to the south, they are similar in scale to features found on nearby buildings to the north and east of the site. I therefore consider that these aspects of the design would be in keeping with the character and appearance of the area.

Conservation Area

14. The open space on the corner, which it is proposed would be occupied by a fountain to which the public would have access, represents an opportunity to improve the quality of the public realm. I note concerns that such a feature could attract antisocial behaviour, however, a well designed space, which could be controlled by a suitably worded condition, has the potential to improve the setting for everyday life without causing such problems.
15. The boundary of the Lymington Conservation Area includes Buckland House on the western side of Southampton Road opposite the appeal site, along with the terrace immediately to its south. It also includes most of the road junction in front of the appeal site. The terrace to the south west also includes a number of listed buildings, some of which have group value. Although the Conservation Area assessment does not identify views along Southampton Road as

important, views into or out of the Conservation Area along this main route would be affected by development of the appeal site.

16. Owing to the lower height and greater set back of the proposal, views along Southampton Road heading south into Lymington and the Conservation Area would be limited, and the focus of attention would not be diverted from the attractive terrace on the western side of the road. From the south heading out of the town the proposal would appear as a series of discrete buildings whose shape and form would complement the character and appearance of Southampton Road. The corner feature, which if poorly positioned would have the potential to be unduly prominent in views out of the Conservation Area, would also be sufficiently well setback so as not to be visible until the Conservation Area has almost been left behind.
17. The most prominent view of the development would be from the junction of Eastern Road with Southampton Road almost opposite the appeal site. However, as this is at the very edge of the Conservation Area and is a particularly minor junction I attach little weight to the impact of the proposal on this view. It is common ground that the proposal does not affect the setting of any listed buildings in the vicinity of the site and this is an assessment with which I concur.
18. Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) places clear emphasis on design. Planning Policy Statement 3: *'Housing'* (PPS3) recognises that through good design higher densities of residential development can be achieved without an adverse impact on the character and appearance of an area. For all the reasons I have given the proposal is well designed and would not cause harm in this regard. It would also preserve the setting of the adjoining Conservation Area. I therefore conclude that the proposal would comply with policies DW-E1, DW-E2, DW-E23 and BU-H1 of the New Forest District Local Plan First Alteration. These policies require the protection of the character and appearance of a locality, including conservation areas, through high quality design that respects local design features.
19. The proposal would also comply with the supplementary planning document *'Housing Design, Density and Character'* in that it follows the general advice regarding the process that should be followed in order to achieve better designed residential environments. As this document has been adopted following public consultation, I attach considerable weight to it.

Other Matters

Housing Supply

Housing for Older People

20. The high proportion of elderly residents in the District and the future projected growth of this section of the population, particularly the frail elderly, is acknowledged by the Council and the County Council. As a consequence, there is a need for housing that caters for their needs. The proposal in offering specialised market housing would clearly help to address this aspect of housing need within the District.

Affordable Housing

21. In line with national planning policy for housing, policy AH-1 of the Local Plan seeks the inclusion of an element of affordable housing because the proposal would result in the construction of 15 or more dwellings. In the absence of the proposal containing provision for affordable housing on site the Council, in accordance with policy DW-F1 of the Local Plan, seeks a financial contribution from the developer towards the cost of providing such housing elsewhere. Based upon the policies of the Local Plan the contribution meets the tests set by Circular 05/2005: *Planning Obligations* and is justified. The obligation therefore is an important material consideration to which I attach significant weight. A copy of the unilateral undertaking signed by all parties was presented at the Inquiry.

Transport

22. Policy DW-T8 of the Local Plan advises that where otherwise acceptable development is likely to impose additional burdens on existing transport networks, contributions from the developer will be sought to enable the additional travel needs to be met. However, on the basis of the adverse impact that the contribution would have on the viability of the proposal, the Council no longer seeks a contribution towards transport improvements, provided the development operates a green travel plan. I agree that there would be a noticeable impact from the proposal on local transport and that such a travel plan, secured by the use of an appropriately worded condition, in encouraging travel other than by private car would assist in addressing this matter.

Highway Safety

23. Concerns were expressed regarding the impact of the additional vehicular traffic generated by the proposal and the position of the access to the site close to a busy road junction. The danger posed by powered scooters and buggies driven by residents coming into conflict with pedestrians was also raised. However, the authority has no objection to the application with regards to highway safety and I find no reason to disagree with that conclusion.

Living Conditions

24. The kitchen serving the development would be located close to the boundary with the house at 50 Southampton Road. Given the number of residents that the kitchen could cater for, it would be of a far larger scale than a domestic kitchen and so odour would need to be controlled. I am satisfied that this could be dealt with by the attachment of a suitably worded condition. In relation to the effect of the proposal on other properties with regard to noise, outlook, privacy, natural light and the presence of a substation, I note that the Council have no objection. I have found no reason to conclude differently.

Conditions

25. In order to ensure that the development complements its surroundings further details on landscaping, boundary treatments and the submission of samples of materials to be used on external surfaces are required. To ensure that any planting becomes well established it needs to be well maintained. Furthermore, the trees on the site which contribute to the mature landscaping

and are to be retained need to be protected. It is also necessary to restrict occupancy of the apartments to the elderly in order to ensure that the type of occupation is appropriate for the level of parking and standards of amenity that are to be provided.

26. Given the potential for nuisance to nearby residents control needs to be exerted on the location of external lighting, arrangement and management of the construction site, and the hours of construction. Weekends and bank holidays are particularly valuable and construction noise on such days would be particularly intrusive. Other than on Saturday mornings I have therefore prevented construction on these days. To assist in preventing flooding a sustainable drainage system is necessary. In order to protect highway safety the parking and turning areas need to be laid out before the building comes into use. I have required all these matters by condition, revising the Council's suggested conditions where necessary to better reflect the requirements of Circular 11/95 '*The Use of Conditions in Planning Permissions*'.

Conclusion

27. For the reasons given above I conclude that the appeal should be allowed.

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) The occupancy of the assisted living apartments hereby permitted shall be limited to persons aged 60 years or over or, in the case of occupation by couples, one occupant is aged 60 years or over and the other 55 years or over.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include;
 - a) the existing trees and shrubs on the site, specifying those to be retained.
 - b) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedule of plants, noting species, plant sizes and proposed numbers / densities where appropriate.
 - c) areas for hard surfacing including the access drive, buggy lane and the materials to be used thereon
 - d) all means of enclosure including walls, fencing and trellis work
 - e) details of all structures, gazebos, pergolas, seats and fountains

- f) a method and programme for its implementation and the means to provide for its future maintenance.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 6) No development shall take place until a scheme for the protection of the retained trees (section 7, BS5837:2005 the Tree Protection Plan) has been prepared by a competent person and has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out as approved and shall include a method statement detailing the timing of events, all changes of levels, plans showing the protective fencing or other measures required for the avoidance of damage to trees. Protective fencing shall be erected prior to any other site operation and at least 24 hours notice shall be given to the local planning authority that it has been erected. The tree protection measures installed shall be maintained and retained for the full duration of the works, or until such time as agreed in writing with the local planning authority. No activities, nor material storage, nor placement of site huts or other equipment shall take place within the fencing without the prior written agreement of the local planning authority
- 7) No external lighting shall be installed on the site before details have first been submitted to and approved in writing by the local planning authority. The external lighting shall be installed in accordance with the approved details.
- 8) No development shall take place until details of the kitchen extract and odour abatement system have been submitted to and approved in writing by the local planning authority. Before the building hereby permitted is first occupied the kitchen extract and odour abatement system shall be installed in accordance with the approved details.
- 9) Development (excluding demolition works) shall not begin until details of foul and surface water drainage works, prepared in accordance with the principles of sustainable drainage systems set out in national Planning Policy Statement 25 '*Development and Flood Risk*', have been submitted to and approved in writing by the local planning authority. Drainage works shall be carried out in accordance with the approved details before the building hereby permitted is first occupied.
- 10) The building shall not be occupied until the parking and turning area shown on the approved drawings has been drained and surfaced in accordance with details submitted and approved in writing by the local planning authority, and the parking area shall not thereafter be used for any purpose other than the parking of vehicles.
- 11) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning

authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
- 12) Demolition or construction works shall not take place outside the hours of 07.30 hours to 17.30 hours Mondays to Fridays, 07.30 hours to 12.00 hours on Saturdays and at no time on Sundays or Bank Holidays.
- 13) Prior to the first occupation of the development hereby approved, a green travel plan for the whole development shall be submitted to and approved in writing by the Local Planning Authority. The green travel plan shall be implemented in accordance with the approved details within three months of first occupation. The green travel plan shall deal with the following key issues:
- a) appointment of a Travel Plan Co-ordinator and notification in writing to the Local Planning Authority of the name of the holder of that post;
 - b) measures to promote and facilitate public transport use; timetables and fare information to be updated regularly;
 - c) measures to promote and facilitate walking and cycling;
 - d) promotion of car sharing and practices and on-site facilities that reduce the need for travel
 - e) monitoring and review mechanisms.

Ian Radcliffe

Inspector

- 3 Submission by Councillor Elizabeth Lewis
- 4 Statement of common ground
- 5 Proposed schedule of conditions
- 6 Unilateral undertaking
- 7 Note of internal meeting held on 24 June 2008
- 8 Submission by Dr Ivor Johnston
- 9 Appellant's costs points