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# PLANNING STATEMENT

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**Police Station, Southampton Road, Lymington, SO41 9GH**

*Redevelopment of the site to form 32no. Retirement apartments including  
communal facilities, access, car parking and landscaping*

**planning***issues*  
TOWN PLANNING AND ARCHITECTURE



HAMPSHIRE  
CONSTABULARY

CRIMESTOPPER



# LYMINGTON

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# LYMINGTON

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## EXECUTIVE SUMMARY

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- I. This Planning Statement has been prepared by Planning Issues Limited, on behalf of Churchill Retirement Living Limited ("*the Applicant*") and is submitted in support of a detailed planning application for a proposed retirement living development at the Police Station, Southampton Road, Lymington, SO41 9GH ("*the Site*").
- II. This Planning Statement identifies the context and need for a proposed retirement living development and includes an assessment of how the proposed development accords with relevant national, regional and local planning policies.
- III. The planning application seeks permission for the demolition of the existing building and redevelopment of the site to form 32no. retirement apartments including communal facilities, access, car parking and landscaping. The mix of the proposed development comprise 21no. one bedroom apartments and 11no. two bedroom apartments.
- IV. It is acknowledged that there is a '*critical*' need for the delivery of older people housing in the Country and a significant pressing need within the administrative boundary of the Council. This planning application proposal will contribute towards delivering these much needed homes, including older people housing.
- V. The planning application has gone through pre application discussions with the Local Planning Authority and public consultation with key stakeholders and the local community. Amendments have been undertaken to the design and layout of the proposed development prior to submission of this planning application.
- VI. Through the studies undertaken, it can be confirmed that there are no technical or design related concerns that have been identified that should prevent the planning application proposal. Where necessary to avoid any adverse effects mitigation has been proposed.
- VII. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material planning considerations indicate otherwise.
- VIII. The Council are unable to demonstrate a 5 year housing land supply as confirmed by a recent appeal decision (ref: 3265937), as such Paragraph 11(d) of the Framework is engaged.
- IX. There is no conflict with any of the development plan policies and therefore it can be concluded that there are no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The benefits that are provided are significant and therefore planning permission should be granted without delay.

Ref:	LYMINGTON 1	LYMINGTON 1
Rev:	DRAFT	FINAL
Date:	27 05 2021	11/06/2021
Prepared by:	S.CATER	L.BAKER
Checked by:	L.BAKER	S.GOODWILL
Authorised by:	S.GOODWILL	S.GOODWILL

# LYMINGTON

## 1. INTRODUCTION

1.1 The proposal subject of this application seeks permission for:

*“Redevelopment of the site to form 32no. retirement apartments including communal facilities, access, car parking and landscaping.”*

1.2 This Planning Statement should be read in conjunction with the following supporting documents which accompany the proposal submission:

- Design and Access Statement by Planning Issues Limited;
- Planning Statement by Planning Issues Limited;
- Stakeholder Engagement Statement by Planning Issues Limited;
- Affordable Housing Statement by Planning Issues Limited;
- Topographical Survey by D&H Surveys Limited;
- Archaeology Desk Based Assessment by Ecus Environmental Consultants;
- Flood Risk and Drainage Technical Note by AWP;
- Transport Statement by Paul Basham Associates;
- Desktop Ground Investigation by Crossfield Consulting;
- Heritage Statement by Ecus Environmental Consultants;
- Landscape Strategy Plan by James Blake Associates;
- Preliminary Ecological Assessment by Tetra Tech and
- Arboricultural Method Statement, Tree Protection Plan and Manual for Managing Trees on Development Sites by Barrell Tree Consultancy.

1.3 Accompanying the above supporting documents and this statement are a set of supporting drawings/plans that detail the development proposals. The drawings/plans are listed below:

Site Location Plan	10109LY/PA00
Site Layout Plan	10109LY /PA01
Ground Floor Plan	10109LY /PA02
First Floor Plan	10109LY /PA03
Second Floor Plan	10109LY /PA04
Third Floor Plan	10109LY /PA05
Roof Plan	10109LY /PA06
Elevation Sheet 1	10109LY /PA07
Elevation Sheet 2	10109LY /PA08
Elevation Sheet 3	10109LY /PA09

1.4 This Planning Statement identifies the context and need for a proposed development and includes an assessment of how the proposed development accords with relevant national, regional and local planning policies.

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# LYMINGTON

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## 2. OLDER PEOPLE HOUSING

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- 2.1 On 26th June 2019 the Government published Guidance<sup>1</sup> on '*Housing for older and disable people*' to assist Councils in preparing planning policies on housing for older and disable people. The Guidance sets out that providing housing for older people is '*critical*'<sup>2</sup>.
- 2.2 People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million.
- 2.3 Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking.

### **The Applicant**

- 2.4 The Applicant is a retirement property housebuilder based in the United Kingdom. They specialise in developments of purpose built apartments for older homeowners and currently has more than 160 retirement developments across the United Kingdom.
- 2.5 The apartments are purpose built exclusively for sale to older people (specifically over 60's with the average age of purchasers being 79) with a package of estate management services.
- 2.6 Churchill Retirement Living Limited is an award-winning, family run company specialising in both building and managing Retirement Living homes for older people. The company was established in 2003 and they are a market leader in the provision of private retirement apartments.
- 2.7 Recent awards have included:



### **❖ HBF 5 Star Rating 2021**

In a customer satisfaction survey that was carried out by the Home Builders Federation (HBF) and the National House Building Council (NHBC), Churchill Retirement Living was awarded a maximum 5 star rating for customer service for another year.

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<sup>1</sup> Planning Practice Guidance - [www.gov.uk/guidance/housing-for-older-and-disabled-people](https://www.gov.uk/guidance/housing-for-older-and-disabled-people)

<sup>2</sup> Planning Practice Guidance, Paragraph: 001 Reference ID: 63-001-20190626. Available here: <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>

#### ❖ WhatHouse? Award 2019

At the 2019 WhatHouse? Awards, we were delighted to be awarded Gold for "Best Medium Housebuilder" at this prestigious award ceremony.

### Retirement Living Explained

- 2.8 The Government published Guidance discussing the different types of specialist housing designed to meet the diverse needs of older people and defines 'Retirement living or sheltered housing' as 'purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable residents to live independently. This can include 24 hour on-site assistance (alarm) and a warden or house manager'<sup>3</sup>.
- 2.9 A recent report by 'Healthier and Happier' by WPI Strategy for Homes for Later Living sets out that 'housing with support, or Retirement Living – age restricted housing, typically for those aged 60 and above, with communal lounges and other facilities such as a shared laundry and a guest room. Importantly, support is provided by an on-site manager who is dedicated to the running of the development. Schemes are typically between 30 to 60 units in size'.
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- 2.10 The developments consist of 1 and 2 bedroom apartments and are sold by the Applicant with a lease containing an age restriction which ensures that only people of 60 years or over, or those of 60 years or over with a spouse or partner of at least 55, can live in the development.
- 2.11 Notwithstanding the age restriction, it is found that the average age of purchasers of the apartments are 80 years old and that they are typically occupied by a widow. The decision to purchase this type of development is predominantly needs based with three key drivers (i) current property has become too large to cope with and maintain, (ii) death of a partner or spouse, and (iii) an acceptance or desire to give up use and ownership of a private car
- 2.12 The communal facilities which are included within the developments are as follows:
- ❖ A **lodge manager** is employed by the Management Company to provide assistance and security for the owners of the apartments. The manager provides the safety and security necessary for many of the residents as they reach old age and increasing frailty. They would also be in charge of the day to day maintenance of the development and oversee the maintenance of the gardens etc. The manager has their own office near the entrance to the building in order that they can keep survey the coming and goings from the building. The manager is on call during normal working hours, however, at times when the manager is out of the development there is an emergency alarm system fitted in each of the apartments and communal areas for use by the residents in an emergency. This is in the form of a telephone system which can, if necessary, be activated by a button on a pendant which is worn around the owners' neck. This alarm system is linked to a national call centre

<sup>3</sup> Planning Practice Guidance, Paragraph: 010 Reference ID: 63-010-20190626. Available here: <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>

which is manned 24 hours a day, 7 days a week. The response to the call is rapid;

- ❖ A **video entry system** which is linked to the owners' televisions in their apartments. This system allows complete security and instant recognition of the person who is calling at the main entrance door;
- ❖ An **owners lobby** is provided for use by all residents and their guests within the building;
- ❖ A **communal lift** is provided for use by all residents and visitors. The lifts are fitted with an emergency call system and seat. The lifts are wide enough to accommodate a wheelchair if necessary;
- ❖ A **communal landscaped garden** area is provided which is maintained by the Management Company.
- ❖ An **Owners Lounge** is provided for use by all residents and visitors. Owners can organise their own group activities, and the Applicants developments up and down the country have a range of gardening clubs, jigsaw, knitting, bridge and chess clubs to name just a few.
- ❖ A **guest suite** is provided for use by relatives of owners who wish to stay overnight. The room is fitted with twin beds and has a shower room and tea/coffee making facilities. The room can also be used by residents of other Churchill Retirement Living apartments who may wish to visit friends or family in the nearby area or indeed take a holiday away in an equally safe and secure environment;
- ❖ A **communal toilet** is provided for use by relatives and visitors;
- ❖ A **communal bin store** is provided for use by residents. This ensures that refuse and recycling does not build up in communal areas and the refuse collector can access and dispose of rubbish easily and quickly. The refuse room is accessible by residents through a set of doors from the inside of the building with both sets of external doors remaining locked shut at all times. The Lodge Manager is responsible for taking the bins to the back edge of pavement for the weekly (1 a week) collection from the development. The Lodge Manager will be responsible for bringing the bins back into the development following emptying. This will be the only time that the refuse room is opened and will remain locked whilst the bins are awaiting collection. The Lodge Manager will be responsible for monitoring the collection of refuse and as such the bins will not be left out for a lengthy period of time following collection;
- ❖ A **communal car parking area** is provided for use by those residents who have cars on a first come first served basis. Visitors or staff are not encouraged to park on site;
- ❖ A safe and covered area for housing and **recharging battery buggies** is also provided.

## Benefits of Retirement Housing

- 2.13 Older peoples housing produces a large number of significant benefits which can help to reduce the demands exerted on Health and Social Services and other care facilities – not only in terms of the fact that many of the residents remain in better health, both physically and mentally, but also doctors, physiotherapists, community nurses, hairdressers and other essential practitioners can all attend to visit several occupiers at once. This leads to a far more efficient and effective use of public resources.

### Economic

- 2.14 The report '*Healthier and Happier*' by WPI Strategy for Homes for Later Living explored the significant savings that Government and individuals could expect to make if more older people in the UK could access this type of housing. The research also looked at maximising independence and increasing social interaction – homes for later living can significantly improve the wellbeing of older people. The analysis showed that:
- ❖ *'Each person living in a home for later living enjoys a reduced risk of health challenges, contributing to fiscal savings to the NHS and social care services of approximately £3,500 per year.*
  - ❖ *Building 30,000 more retirement housing dwellings every year for the next 10 years would generate fiscal savings across the NHS and social services of £2.1bn per year.*
  - ❖ *On a selection of national well-being criteria such as happiness and life satisfaction, an average person aged 80 feels as good as someone 10 years younger after moving from mainstream housing to housing specially designed for later living.'*
- 2.15 **Each person living in a home for later living enjoys a reduced risk of health challenges, contributing fiscal savings to the NHS and social care services of approximately £3,500 per year** (*Homes for Later Living September 2019*). More detail on these financial savings is set out within the report.
- 2.16 With 32 units proposed, at a ratio of 1.3 people per apartment, there will be around 42 occupants. At a saving of £3,500 each per year, this equates to a saving of £147,000 per year in local NHS and social care costs, in comparison to mainstream housing. This is a significant economic benefit.
- 2.17 A recent report entitled *Silver Saviours for the High Street* (February 2021) found that retirement properties create more local economic value and more local jobs than any other type of residential development. For an average 45 unit retirement scheme, the residents generate £550,000 of spending a year, £347,000 of which is spent on the high street, directly contributing to keeping local shops open.
- 2.18 Retirement housing releases under-occupied family housing and plays a very important role in recycling of housing stock in general. There is a 'knock-on' effect in terms of the whole housing chain enabling more effective use of existing housing. In the absence of choice, older people will stay put in properties that are often unsuitable for them until such a time as they need expensive residential care.

- 2.19 An average retirement scheme will support the following new jobs:
- 85 construction jobs
  - 1 permanent job in repairs and renovations
  - 2.3 permanent jobs in management and care
  - 3.2 permanent jobs on the local high street (residents are basket shoppers and will do their shopping locally)
- 2.20 Older peoples housing also helps to address a common and growing problem experienced by many local authorities by releasing housing onto the general market which is currently under-occupied; help to maximize urban previously developed land which helps to reduce pressure for development on more sensitive sites in greenfield locations; help to discourage the use of private vehicles by being located within highly sustainable locations in relation to town centres and public transport routes; and introduce a neighbourly use of the sites, which as a result can add to the vitality and vibrancy of district/town centres.

### Social

- 2.21 Retirement housing gives rise to many social benefits:
- Specifically designed housing for older people offers significant opportunities to enable residents to be as independent as possible in a safe and warm environment. Older homes are typically in a poorer state of repair, are often colder, damper, have more risk of fire and fall hazards. They lack in adaptations such as handrails, wider internal doors, stair lifts and walk in showers. Without these simple features everyday tasks can become harder and harder
  - Retirement housing helps to reduce anxieties and worries experienced by many older people living in housing which does not best suit their needs by providing safety, security and reducing management and maintenance concerns.
  - Churchill developments offer a formal coffee morning as well as a number of informal coffee gatherings. Residents often organise bridge clubs, gardening clubs and weekly film nights in the communal lounge. There are also group trips into the town centre for coffee and shopping. Churchill also organise a number of events each year such as summer garden parties, cheese and wine nights, musical nights with tribute acts.
  - The Housing for Later Living Report (2019) shows that on a selection of wellbeing criteria such as happiness and life satisfaction, an average person aged 80 feels as good as someone 10 years younger after moving from mainstream housing into housing specifically designed for later living.
- 2.22 The requirement of the Framework at paragraph 91 to achieve healthy, safe and inclusive places are a fundamental part of the scheme proposed. These are key benefits that residents are looking for when they seek to move to a Churchill Retirement Living scheme.

### Environmental

- 2.23 The proposal provides a number of key environmental benefits by:

- Making more efficient use of land thereby reducing the need to use limited land resources for housing.
- Providing housing in close proximity to services and shops which can be easily accessed on foot thereby reducing the need for travel by means which consume energy and create emissions.
- Providing shared facilities for a large number of residents in a single building which makes more efficient use of material and energy resources.
- The proposal includes renewable technology through the use of solar panels to assist in the reduction of CO<sub>2</sub> emissions.
- All areas of the building will be lit using low energy lighting and where applicable utilise daylight and movement sensor controls.

2.24 It is therefore considered that there are significant benefits that arise from a retirement housing development that will benefit the local community.

### Older People Housing Need

- 2.25 It has been widely acknowledged that the UK has a housing crisis. Not enough homes are being built to meet the needs of the population. The revised Framework identifies that the Government aims to “*significantly boost the supply of housing*”, with the ‘*Single Departmental Plan*’ setting out how the Government intends to achieve an increase in housing supply and “*and put us on track to deliver 300,000 net additional homes a year on average*”.
- 2.26 The Government have highlighted that the changes will ‘*also help developers get shovels in the ground more quickly, and help the government meet its ambition to deliver 300,000 extra homes a year by the mid-2020s*’<sup>4</sup>.
- 2.27 Adopted Local Plans, where they are in place, provide for 187,000 homes per year across England – not just significantly below the Governments ambition for 300,000 new homes annually, but also lower than the number of homes delivered last year (over 241,000). The result of long-term and persisting undersupply is that housing is becoming increasingly expensive, including relative to our European neighbours. In Italy, Germany and the Netherlands, you can get twice as much housing space for your money compared to the UK<sup>5</sup>.
- 2.28 The Government have published Guidance on ‘*Housing for older and disable people*’ to assist Councils in preparing planning policies on housing for older and disable people. The Guidance sets out that providing housing for older people is ‘**critical**’.
- 2.29 The publication by Later Living published the ‘*Silver Saviours for the High Street*’ highlights that despite this public sentiment and the clear benefits that retirement

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<sup>4</sup> 4th June 2019 – Press Release, Ministry of Housing, Communities & Local Government. Available at: <https://www.gov.uk/government/news/communities-to-benefit-from-new-housing-infrastructure-rules>

<sup>5</sup> Planning For the Future, Ministry of Housing, Communities & Local Government, August 2020. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/907647/MHCLG-Planning-Consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/907647/MHCLG-Planning-Consultation.pdf)

developments bring to local communities, we are still not building enough suitable properties to cater for our ageing population. Currently in the UK, we build around 8,000 retirement properties a year. This is distinctly below the level of demand and need.

2.30 The publication goes onto set out the national picture, there analysis shows what would happen were the UK to build 30,000 retirement properties every year, consistent with the level of supply that is needed. Building 30,000 retirement properties a year would be just 10% of the national house building target and the estimated level of demand, and, compared to not developing the sites involved, would mean:

- £2bn of additional economic activity every year would be created across the country. This is £20bn over 10 years, roughly equivalent to 1% of current UK GDP over 10 years, focussed where it is most needed, on our high streets.
- 15,000 additional construction jobs would be created nationally and sustained over the period of construction. A further 700 jobs a year would come from management and renovation of properties freed up.
- Greenfield land across the UK could be preserved as the vast majority of these developments are on brownfield.

Age by measures	
Units: Persons	
Date	2011
Geography	New Forest
	value
All usual residents	176,462
Age 0 to 4	8,592
Age 5 to 7	5,100
Age 8 to 9	3,412
Age 10 to 14	9,665
Age 15	2,179
Age 16 to 17	3,988
Age 18 to 19	3,559
Age 20 to 24	8,146
Age 25 to 29	7,544
Age 30 to 44	29,185
Age 45 to 59	37,061
Age 60 to 64	13,889
Age 65 to 74	21,426
Age 75 to 84	15,384
Age 85 to 89	4,681
Age 90 and over	2,651
Mean Age	45.2
Median Age	47.0

2.31 People are living longer and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems.

2.32 The age profile of the population can be drawn from Census data. New Forest, as set out in Figure 1 identifies an age profile with a mean age of 45.2 and a median age of 47.0. However, the figures identify that 58,031 are over the age of 60, equating to 32.88% of the current population of New Forest.

2.33 The 2018-based Subnational Population Projections identifies that England's population will grow by 3,227,984 in people aged 60 and above between 2018 and 2030, this equates to a 24.41% increase in population. For the New Forest, the 2018-based Subnational Population Projections identifies that an increase in population for the over 60's being 12,860 homes between 2018 and 2030, equating to 16.68% increase across this period in the population for over 60's.

2.34 The 2011 Census data identifies that 9,732 homes within the New Forest are owned or shared ownership that are aged 65 and over. Which is the biggest tenure category

for the over 65's, with Social Rented as 1,659, Private rented and living rent free at 680.

- 2.35 To assess the scale and type of housing available for older people in the town, we have examined the database produced by the Elderly Accommodation Counsel (EAC), a national charitable organisation which has an extensive data base of all public and private sector elderly accommodation for all local authority areas.
- 2.36 The EAC<sup>6</sup> identifies at the time of writing this '*Planning Statement*' that there is one age exclusive/retirement building offering 1 or 2 bedroom apartments on the market for ownership within a 5km radius of the site. The site is Knights Lodge, North Close, Lymington and is being sold by the Applicant. 40% have already been sold on this development.
- 2.37 As previously suggested by the think tank Demos, over half of over-60s – around eight million people currently living in seven million homes – are interested in moving and one third specifically wanting to down-size<sup>7</sup>. More recently, Legal & General found that of all the households with homeowners aged 55 and over with at least two unoccupied rooms, more than half would consider downsizing<sup>8</sup>. The 2017/18 English Housing Survey found that 67% of home owners aged 65 or over live in an under-occupied property, equivalent to 3.6 million households in England<sup>9</sup>.
- 2.38 Freeing up this stock could make a huge contribution to easing the housing crisis, releasing many more family homes close to schools onto the market. But in the absence of enough local choice and incentive to consider moving home, many older people stay put in properties that are unsuitable and even unsafe to grow old in.
- 2.39 Parliamentarians have reached the same conclusion, with the House of Commons Housing, Communities and Local Government Committee highlighting a lack of suitable accommodation for older people to move to. "*Quite simply, older people who would like to move will be deterred from doing so if they cannot find a property that they would like to live in. This is particularly so given the practical, financial and emotional implications of moving*"<sup>10</sup>.
- 2.40 Housing LIN (The Housing Learning and Improvement Network) found that a typical 41-unit development for older people would generate additional 92 housing sales in the local market – showing a clear housing '*chain effect*'<sup>11</sup>. When investigated further a sample of 19 housing chains by moves into a development, the Housing LIN found 11 of the 19 generated opportunities for first time buyers, while eight generated opportunities for families with children.
- 2.41 The August 2020 report '*Chain Reaction*' details that every retirement property sold generates at least two moves further down the housing chain. For this proposed development this would generate an additional 64 housing sales in the local market.

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<sup>6</sup> Elderly Accommodation Counsel - <https://housingcare.org/>

<sup>7</sup> Demos (2013) *Top of the ladder*. Available here: <https://demos.co.uk/project/the-top-of-the-ladder/>

<sup>8</sup> Legal & General (2018) *Last time buyers Report 2018*. Available here:

<https://www.legalandgeneralgroup.com/media/2437/30042018-lg-ltbs-draft-v9.pdf>

<sup>9</sup> MHLG (2019) *English Housing Survey: Home ownership, 2017/18*. Available here:

<https://www.gov.uk/government/statistics/english-housing-survey-2017-to2018-headline-report>

<sup>10</sup> House of Commons Housing, Communities and Local Government Select Committee (2018) *Housing for Older People*. Available here: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/inquiries/parliament-2017/housing-for-older-people-17-19/>

<sup>11</sup> *Unlocking the Housing Market* (2017). Available here: <https://www.demos.co.uk/wp-content/uploads/2017/11/Unlocking-the-Market-Demos-Report.pdf>

- 2.42 National Planning Policy Framework requires Strategic Housing Market Assessment's to consider the accommodation requirements of specific groups, including the needs of older people.
- 2.43 The 'New Forest Strategic Housing Market Assessment' identifies that most age groups up to age 59 have decreased over time with the limited population growth being entirely down to increases in the older person population. Overall, the population aged under 60 has fallen by 1,780 people whilst the population aged 60 and over has increased by 2,560 (a 24% increase) over the 2002-12 period.
- 2.44 Over the 20-year projection period it is anticipated that there will be a continuing market for larger family homes, but the existing stock is expected to make a significant contribution to meeting this demand, as older households downsize (releasing equity from existing homes). There is consequently a significant need for older persons housing to allow the free up the larger homes.
- 2.45 Paragraph 8.22, on page 140 of the SHMA identifies "*The data suggests a current need for 2,884 units in New Forest District with an additional 4,144 units expected to be needed over the period to 2030*"
- 2.46 Table 65 on page 141 identifies that there is an estimated need for open market sheltered housing of 2,755 units within the plan period.
- 2.47 The Local Plan Part 1, identifies that homes attractive to active older households and down-sizers, including bungalows and smaller homes with higher accessibility and space standards are required in appropriate locations<sup>12</sup>.
- 2.48 The recent appeal decision for retirement housing within Lymington (ref: 3265937) states within the Inspector stated at paragraph 37 "*During the course of the appeal, I have been supplied with no substantive evidence which suggests that there are any deliverable sites, other than the one subject to this appeal, which would make a meaningful contribution to the supply of sheltered housing in the short-to-medium term.*"
- 2.49 The Inspector goes on to state at paragraph 41 that "*...in enabling older people to 'down-size' to smaller accommodation, which nonetheless would meet their needs, the proposed development would free up larger housing elsewhere, including a proportion in the District, which would also have beneficial housing supply effects.*"
- 2.50 In terms of 'down-sizers' paragraph 6.6 of the Local Plan Part 1 identifies that smaller homes should be designed to be affordable and to meet the needs of newly forming households, or to be attractive to 'down-sizers' when they no longer need their family home.
- 2.51 Paragraph 6.24 of the Local Plan Part 1 identifies that there remains a significant need to provide new specialist accommodation during the Local Plan period, especially for the very elderly.
- 2.52 From all of the above it can be concluded that there is a significant need for retirement living apartments in England and especially in the New Forest. The

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<sup>12</sup> Paragraph 6.4, Page 57, New Forest District Local Plan 2016-2036 Part 1: Planning Strategy. Available here: <https://www.newforest.gov.uk/developmentplan>

proposed development by the Applicant to deliver retirement living apartments in the area would provide these much needed older people homes.

- 2.53 The Strategic Housing Market Assessment identifies that the New Forest experiences high levels of under occupation and therefore the delivery of older people housing here would free up under occupied homes elsewhere to help address the under occupation found in the District.

# LYMINGTON

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## 3. DEVELOPMENT

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### The Existing Site

- 3.1 The site is located within the built up area of the town of Lymington which has a significant group of local shops and services.
- 3.2 The proposed development site is located on Southampton Road. The site address is the Police Station, Southampton Road, Lymington, SO41 9GH.
- 3.3 Lymington is well connected with easy links to the city of Southampton, being the closest city. Links are also available to the entire country, with local, regional and national roads and buses connecting Lymington.
- 3.4 The 0.26 hectare (0.64 acres) site comprises the former Police Station (now vacant) which opened in 1952.
- 3.5 The existing building is an L shape building and is traditional in style with a pitched roof. It has 2 floors of accommodation but is of a scale more equivalent to 3 floors given the inclusion of a mansard roof.
- 3.6 The existing car park is located to the east of the site with vehicle access off of Southampton Road. The existing building main entrance is located to the east of the site, and accessed through the main car park.
- 3.7 Existing trees run along the site boundary to Southampton Road and Queen Elizabeth Avenue on the east and north boundaries. To the north and west are the residential estate of Queen Elizabeth Avenue.
- 3.8 The southern boundary abuts a 3 storey residential apartment block which are accessed off of Eastern Road along with the car parking court for the residential apartments. To the east is Southampton Road and on the opposite side is the Farringford Court Retirement Living Plus development.
- 3.9 The residential properties in the area range from two, two and half and three storeys with the majority being of brick or render construction.



### Planning History

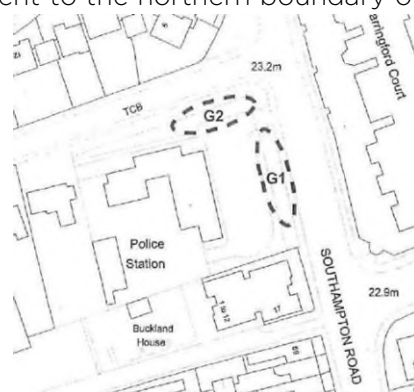
- 3.10 A search of the Local Planning Authority planning register reveals no relevant planning history for the site.
- 3.11 The Applicant, in accordance with the Framework, paragraphs 39-41, has engaged with the Local Planning Authority through pre application discussions on the

development proposals and full details can be found in the Statement of Community Engagement that is submitted in support of this planning application

## The Proposed Development

- 3.12 This planning application seeks permission for the demolition of the existing building and redevelopment of the site to form 32no. retirement living apartments including communal facilities, access, car parking and landscaping. The mix of the proposed development comprise 21no. one bedroom apartments and 11no. two bedroom apartments.
- 3.13 A vehicular access is proposed to be taken from Queen Elizabeth Avenue, creating a new vehicle access. The existing access to Southampton Road from the site is to be closed up and pedestrian footpath and grass verge to be constructed. The proposed development will provide 12no. car parking spaces for residents, together with parking and charging spaces for recharging battery buggies and cycle parking. Pedestrian access is provided from Queen Elizabeth Avenue as a shared surface with the vehicle access.
- 3.14 The proposed development will include a high-quality landscape amenity space in the form of a communal garden area which will be maintained in perpetuity by the management company, 'Millstream Management'. In addition, some apartments will benefit from balconies along with a communal seating terrace off of the owners lounge. Details can be found on the 'Landscape Strategy Plan' submitted in support of this planning application.
- 3.15 Existing trees are located on the edge of the site and a number of these are protected with a tree preservation order<sup>13</sup>. The tree preservation order is based on two groups of trees and these comprise and are identified in Figure 2:
- ❖ G1 – 5 x Silver Maple (Adjacent to the front boundary of Lymington Police Station)
  - ❖ G2 – 5 x Silver Maple and 1 x Cedar (Adjacent to the northern boundary of Lymington Police Station)
- 3.16 These trees have been considered through the working up of the application and in the supporting Tree Protection Plan and Arboricultural Method Statement. The details of the existing trees and there conditions are detailed later in this Planning Statement under Section 5: Planning Considerations.
- 3.17 Planting including tree planting has been proposed within the 'Landscape Strategy Plan' submitted in support of the planning application.
- 3.18 The proposed development is 2.5-3.5 storey in height as a traditional building with a pitched roof. The third floor is located in the roof space as dormered accommodation.

Figure 2 - Location of Tree Preservation Trees Group 1 and 2



<sup>13</sup> Tree Preservation Order reference TPO/0006/15

Materials are proposed as brick and render to the external faces of the proposed building.

- 3.19 Further details of the proposed development can be found in the Design and Access Statement submitted in support of this planning application.

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## 4. PLANNING POLICY FRAMEWORK

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4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material consideration indicates otherwise.

4.2 Material considerations include the National Planning Policy Framework and the Planning Practice Guidance (PPG).

### National Planning Policy Framework

4.3 The revised National Planning Policy Framework (the revised Framework) was updated on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in March 2012, and revised in July 2018. The revised Framework comprises 17 sections for which include:

4.4 Paragraph 8 of the revised Framework highlights three dimensions to sustainable development being economic, social and environmental objectives.

4.5 The revised Framework at paragraph 11 states that for plans and decisions should apply a presumption in favour of sustainable development which for decision making this means:

*"c) Approving development proposals that accord with an up-to-date development plan without delay; or*

*d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:*

*i. the application of policies in this Framework 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 Framework*

4.6 Paragraph 47 identifies that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless longer period has been agreed by the applicant in writing.

4.7 The Government's policy, as set out in the revised Framework, is to boost significantly, the supply of housing. Paragraph 59 reads:

*"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, **that the needs of groups with specific housing***

*requirements are addressed and that land with permission is developed without unnecessary delay."*

- 4.8 The revised Framework looks at delivering a sufficient supply of homes, Paragraph 61 identifies within this context, the size, and type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies including older people.
- 4.9 Paragraph 68 of the revised Framework acknowledges that small and medium sized sites and make an important contribution to meeting housing requirement of an area, and are often built-out relatively quickly. To promote the development of good mix of sites local planning authorities should support the development of windfall sites through their policies and decisions giving great weight to the benefits of using suitable sites within existing settlements for homes.
- 4.10 The revised Framework at Paragraph 73 identifies Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where strategic policies are more than five years old.
- 4.11 Paragraph 106 of the revised Framework establishes that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport. In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.
- 4.12 Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, Paragraph 109 of the revised Framework.
- 4.13 The revised Framework identifies at Paragraph 118(c) that substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land.
- 4.14 The Government recognises at Paragraph 122 that planning policies and decisions should support development that makes efficient use of land, taking into account:
- 'a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
  - b) local market conditions and viability;*
  - c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*

- d) *the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
  - e) *the importance of securing well-designed, attractive and healthy places.*
- 4.15 The revised Framework further identifies at Paragraph 123 that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.
- 4.16 The requirement for high quality buildings and places is fundamental to what the planning and development process should achieve and this is highlighted in Paragraph 124. 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.
- 4.17 The requirement for good design is a material planning consideration and one that is emphasised in paragraph 127: *'Planning policies and decisions should aim to ensure that developments:*
  - a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
  - d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
  - e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
  - f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'*
- 4.18 The revised Framework glossary contains a useful definition for older people: *"People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs."*

- 4.19 The Planning Practice Guidance ('Guidance') was published in March 2014. The 'Guidance' provides guidance on how policies in the Framework should be implemented.
- 4.20 The 'Guidance' is a material consideration when taking decisions on planning applications or appeals. This means that if a local policy is deemed out of date, local authorities may be directed by the national guidance's requirements.
- 4.21 The 'Guidance' assists Councils in preparing planning policies on housing for older and disable people a section on '*Housing for older and disable people*' and was published on 26th June 2019. The Guidance sets out that "***the need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking***"<sup>14</sup>.
- 4.22 The Guidance also highlights that "where there is an identified unmet need for specialist housing, local authorities should **take a positive approach** to schemes that propose to address this need"<sup>15</sup>. Specialist housing for older people is defined in the Guidance and '*Retirement Living and Sheltered Housing*' as in this planning application falls within the '*Specialist housing for older people*'<sup>16</sup>.

## The Development Plan

- 4.23 The Development Plan for New Forest District Council comprises the '*Local Plan 2016-2036 Part 1: Planning Strategy*' (Local Plan Part 1), '*The Local Plan Part 2: Sites and Development Management*' (Local Plan Part 2), saved policies of '*The New Forest District Local Plan First Alteration 2005*' and the saved policies of '*The Local Plan Part 1: Core Strategy 2009*'
- 4.24 The policies that are relevant to the determination of this planning application within the Development Plan are listed below:

### Local Plan 2016-2036 Part 1: Planning Strategy (July 2020)

Policies:

- ❖ Policy STR1: Achieving sustainable development
- ❖ Policy STR3: The strategy for locating new development
- ❖ Policy STR4: The settlement boundary
- ❖ Policy STR5: Meeting our housing needs
- ❖ Policy STR6: Sustainable economic growth

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<sup>14</sup> Planning Practice Guidance, Paragraph: 001 Reference ID: 63-001-20190626. Available here: <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>

<sup>15</sup> Planning Practice Guidance, Paragraph: 016 Reference ID: 63-016-20190626. Available here: <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>

<sup>16</sup> Planning Practice Guidance, Paragraph: 010 Reference ID: 63-010-20190626. Available here: <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>

- ❖ Policy STR8: Community services, infrastructure and facilities
- ❖ Policy ENV1: Mitigating the impacts of development on International Nature Conservation site
- ❖ Policy ENV3: Design quality and local distinctiveness
- ❖ Policy ENV4: Landscape character and quality
- ❖ Policy HOU1: Housing type, size, tenure and choice
- ❖ Policy HOU2: Affordable housing
- ❖ Policy HOU3: Residential accommodation for older people
- ❖ Policy ECON2: Retention of employment sites and consideration of alternative uses
- ❖ Policy CCC1: Safe and healthy communities
- ❖ Policy CCC2: Safe and sustainable travel
- ❖ Policy IMPL1: Developer contributions
- ❖ Policy IMPL2: Development standards
- ❖ Policy IMPL3: Monitoring

Local Plan Part 2: Sites and Development Management Development Plan Document (2014)

Policies:

- ❖ Policy DM1: Heritage and Conservation;
- ❖ Policy DM3: Mitigation of impacts on European nature conservation sites;
- ❖ Policy DM16: Within town centres, outside Primary Shopping Areas and Secondary Shopping Frontages;
- ❖ Policy HYD4: Hythe town centre opportunity sites;
- ❖ Policy HYD5: Car Park extensions;

'The New Forest District Local Plan First Alteration 2005'

- 4.25 The New Forest District Local Plan First Alteration 2005 has now been superseded by the Core Strategy (adopted in 2009, Part 1 of the new Local Plan) and the Local Plan Part 2: Sites and Development Management document (adopted April 2014).
- 4.26 Only one policy of the plan remains as a 'saved' policy and is still a part of the statutory Development Plan. That is Policy DW-E12: Protection of Landscape features.

'The Local Plan Part 1: Core Strategy 2009'

- 4.27 The Local Plan Part 1: Core Strategy 2009 has been superseded by new policies in The Local Plan 2016-2036 Part 1: Planning Strategy.
- 4.28 The only policies that remains as 'saved' policies are Policies CS7: Open spaces, sport and recreation, CS19 Tourism and CS21 Rural economy which are not applicable to the proposed scheme.

Supplementary Planning Documents and Other

- 4.29 The following documents are also considered to be relevant to the application:
- Mitigation for Recreational Impacts on the New Forest European Sites
  - Lymington Local Distinctiveness

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## 5. PLANNING CONSIDERATIONS

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### Principle of Development

- 5.1 The Development Plan identifies the site as falling within the built up area boundary (also known as the settlement boundary) of Lymington as identified on the South Coastal Policies map adopted under the Local Plan Part 1<sup>17</sup>.
- 5.2 The Local Plan Part 1 supports development within the settlement boundaries, in a manner that is appropriate for and proportionate to the nature and size of the settlement, and where there is or will be sufficient supporting infrastructure and services<sup>18</sup>.
- 5.3 Policy STR4 (*The settlement hierarchy*) of the Local Plan Part 1 identifies three tiers of settlements and sets out the nature and scale of development that would be appropriate for each type of settlement. Development which is not in accordance with the settlement hierarchy will normally be resisted. Lymington is identified at the highest tier, tier 1. Tier 1 is identified as towns that are in the most sustainable locations for large-scale residential, retail, leisure, cultural and business development to improve their self-containment and to support and consolidate their local service offer. It is considered that the proposal fully complies with policy STR4.
- 5.4 The future housing needs of the district have been identified in the Local Plan Part 1 and adopted. Policy STR5 (Meeting our housing needs) sets out the objectively assessed need and to target to provide **at least** 10,420 additional homes in the Plan Area for the Plan period 2016-2036. The Local Plan Part 1 looks to allocate land to deliver the additional home and some of these homes are to be provided within the settlement boundary which include around 200 homes on sites to be identified in Lymington and Pennington.
- 5.5 Policy HOU3 (Residential accommodation for older people) of the Local Plan Part 1 looks to ensure that new housing provision includes housing types designed to be suitable for older people. Housing need for older people housing was discussed earlier in this Planning Statement under section 2 and concluded that there is a significant need for retirement living apartments in England and especially in the New Forest.
- 2.54 As previously noted, The recent appeal decision for retirement housing within Lymington (ref: 3265937) states within the Inspector stated at paragraph 37 “*During the course of the appeal, I have been supplied with no substantive evidence which suggests that there are any deliverable sites, other than the one subject to this appeal, which would make a meaningful contribution to the supply of sheltered housing in the short-to-medium term.*”

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<sup>17</sup> Policies Map, South Coastal Towns. Available here:  
<https://www.newforest.gov.uk/article/1510/Local-Plan-2016-2036-part-1-Planning-strategy>

<sup>18</sup> Policy STR1: Achieving sustainable development of the Local Plan Part 1. Available here:  
<https://www.newforest.gov.uk/article/1510/Local-Plan-2016-2036-part-1-Planning-strategy>

2.55 The Inspector goes on to state at paragraph 41 that *"...in enabling older people to 'down-size' to smaller accommodation, which nonetheless would meet their needs, the proposed development would free up larger housing elsewhere, including a proportion in the District, which would also have beneficial housing supply effects."*

5.6 Support for residential development within Lymington will be supported in principle.

#### Loss of the Police Station to a Non-Employment Use

5.7 The current use of the existing site under the Town and Country Planning (Use Classes) Order 1987 (as amended) identifies the site as currently use class sui generis (of its own kind).

5.8 The Local Plan Part 1 defines 'Employment uses' in paragraph 7.5 on page 70. This identifies that industrial, office, business, storage and distribution uses falling within classes B1, B2 and B8 of the Town and Country Planning (Use Classes) Order 1987 as amended, and 'sui generis' uses of a similar character.

5.9 Policy ECON2 (Retention of employment sites and consideration of alternative uses) of the Local Plan Part 1 identifies that employment sites that remain suitable for employment use will be retained for continued employment use wherever possible.

5.10 As the site is a Police Station, it is not an employment use. It is not of a 'similar character' to any of the employment uses listed in Paragraph 7.5 of the Local Plan Part 1 portrays Sui Generis use class as an employment use, this is simply not the case for a Police Station and could not easily be converted to an alternative employment use. The policy is not applicable.

5.11 Even if the policy were applicable, the Police Station would need significant alteration to be brought into an employment use. The building was specifically designed and constructed as a Police Station and it is considered that its conversion for general purpose office or employment use would make other employment sites more favourable for sale or let.

5.12 As the Police Station is vacant there is no loss of any jobs from the proposed scheme. In fact, the development will be creating jobs as detailed at paragraph 2.19 of this Statement. The release of the site will not affect the existing or future stock of employment sites as the Police Station was not included in the employment land review<sup>19</sup>. Given that the Police Station did not form part of the stock of employment land identified in the employment land review, it confirms that the Council do not consider it as an employment site as defined in paragraph 7.5 of the Local Plan Part 1.

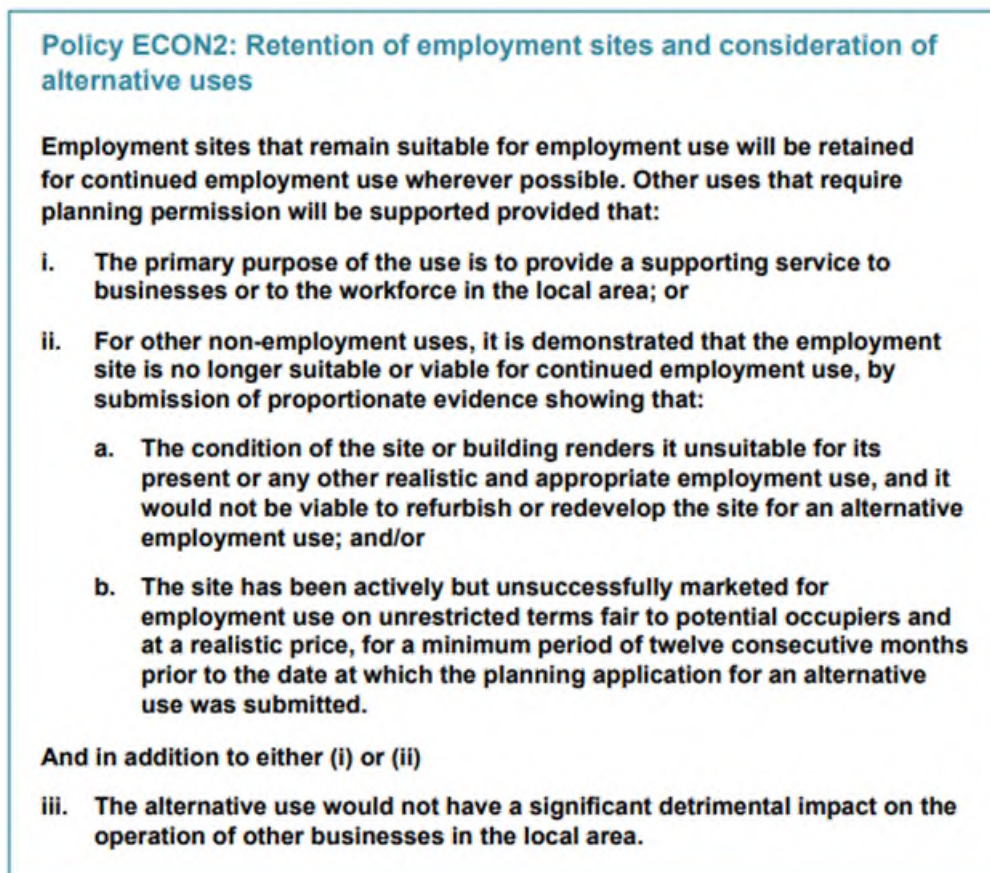
5.13 The employment land review also highlighted that the B1 office market is acknowledged to be relatively small and limited in the area. Local commercial agents in the employment land review also noted that this is partly a reflection of limited requirements for office floor space, although where such demand exists, this is

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<sup>19</sup> *Business Needs and Commercial Property Market Assessment, April 2017. Available here: [https://forms.newforest.gov.uk/ufs/form\\_docs/Policy/Evidence%20Base/EC%20-%20Economy/01%20Submission%20Documents/EC01%20Business%20Needs%20and%20Commercial%20Property%20Market%20Assessment%20Chilmark%20Consulting%202017.pdf?ufsReturnURL=https%3A%2F%2Fforms.newforest.gov.uk%2Fufs%2Fufsreturn%3Febz%3D3\\_1621251506368](https://forms.newforest.gov.uk/ufs/form_docs/Policy/Evidence%20Base/EC%20-%20Economy/01%20Submission%20Documents/EC01%20Business%20Needs%20and%20Commercial%20Property%20Market%20Assessment%20Chilmark%20Consulting%202017.pdf?ufsReturnURL=https%3A%2F%2Fforms.newforest.gov.uk%2Fufs%2Fufsreturn%3Febz%3D3_1621251506368)*

typically focused on small offices. In order to turn the Police Station in to smaller office space substantial investment would make the scheme unviable.

- 5.14 Other employment uses are not suited to this location due to the residential nature of the area and have therefore not been considered.
- 5.15 Policy ECON2 is not engaged as the site is not an employment site as set out above.
- 5.16 If the Council were to consider ECON2 to apply, regard must be had to paragraph (d) of the Framework, policies most important to determining the application are 'out of date' due to the Council being unable to demonstrate a 5 year housing land supply. However; we have considered the criteria to allow the Council to understand the position, contrary to the Applicants position on the engagement of Policy ECON2.
- 5.17 Policy ECON2 sets out three criteria and only requires criteria i) or ii) to be met and addition criteria iii) also requires compliance. A copy of the policy is below which has been taken from the Local Plan Part 1.



*Figure 3 - Policy ECON2: Retention of employment sites and consideration of alternative sites - Local Plan Part 1*

- 5.18 Criteria i) is not applicable to the application site as the site is a Police Station and does not offer a supporting service to businesses or to the workforce in the local area.
- 5.19 The Police Station ceased trading due to Hampshire's Police and Crime Commissioner determining that this Police Station was outdated and no longer fit for purpose. The police occupying the Police Station have been moved to the nearby town hall which

provides a modern and fit for purpose accommodation for the officers and staff to continue policing in Lymington.

- 5.20 In terms of criteria ii) the site is a Police Station and does not lend itself to conversion to offices or other businesses uses and therefore not viable for continued use for employment use.
- 5.21 The Police Station building was opened in 1952, we are unaware of any improvements to the building in this time but the Mechanical and Electrical systems would certainly need to be replaced. It would be unrealistic to expect such systems to remain in service for circa. 50 years. Any replacement would be costly and render the site unviable for conversion.
- 5.22 The site is therefore in a condition that the building renders it unsuitable for any other realistic employment use.
- 5.23 The property was marketed openly by Lambert Smith Hamptons in 2018. It has been confirmed by Lambert Smith Hamptons that all of the bids were for traditional residential or retirement development schemes and no employment use were interested in acquiring the site.

#### Loss of Community Use

- 5.24 The Police Station under the Local Plan Part 1 does not fall within the definition of 'community facilities'. Paragraph 4.34 of the Local Plan Part 1 sets out that community facilities are sports and leisure facilities, community centres, libraries, places of worship, crematoria and burial space.
- 5.25 Notwithstanding this, it should be noted that the Police Station has not been lost but has been relocated to a new location within Lymington.

#### Housing Land Supply and Housing Delivery Test

- 5.26 Under the revised Framework, Local Planning Authorities need to demonstrate a five year supply of deliverable housing sites, with appropriate buffer<sup>20</sup> or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.
- 5.27 Failure to demonstrate a five year supply of deliverable housing sites or the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years then the policies which are most important for determining a planning application are out of date<sup>21</sup>.
- 5.28 The Council are unable to demonstrate a 5 year housing land supply.
- 5.29 An appeal decision dated 8<sup>th</sup> June 2021 (ref: 3265937) confirmed that the Council area only able to demonstrate a 2.5 year housing land supply. The decision states "Consequently, at the Inquiry no substantive evidence was forthcoming sufficient to

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<sup>20</sup> National Planning Policy Framework, Paragraph 73. Available here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

<sup>21</sup> National Planning Policy Framework, Paragraph 11. Available here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

*undermine the appellant's conclusion, based on robust and credible analysis, that there is only around a 2.5 year supply of specific deliverable housing sites – a position that they characterise as an “optimistic view” of the situation.”.* The appeal decision can be found at Appendix 1 of this Statement.

- 5.30 The ‘*Statement of Housing Land Supply and Housing Trajectory 2016-2036*’ identifies and includes the potential brownfield sites/and or within the existing built-up areas that could potentially come forward without the need for a policy allocation. The site falls within Table 9 (Potential housing capacity from brownfield sites and/or sites within the defined built-up areas) as having capacity for 20 residential units.
- 5.31 With the above in mind, it can also be considered that policy ECO2 is not applicable as the Council have identified the site could come forward without the need for policy allocation by way of the ‘*Statement of Housing Land Supply and Housing Trajectory 2016-2036*’.
- 5.32 From review of the latest ‘*2020 Housing Delivery Test measurement*’ which is the last annual measurement of housing delivery in the area of relevant plan-making authorities. The table identifies that New Forest have delivered 107% of the housing requirement over the past three years.
- 5.33 Given the lack of Housing Land Supply, paragraph 11(d) of the Framework is engaged which states where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission shall be granted unless:
- i. the application of policies in this Framework 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 Framework taken as a whole.

#### Brownfield Register

- 5.34 The Council have published their Brownfield Land Register. The Council have produced a part 1 register which includes accompanying maps.
- 5.35 From review of the Part 1 Brownfield Register, the site is present and identified as site reference BLR\_Lymi\_005. The accompanying schedule identifies that the site is net dwellings range from 20. The schedule goes on to set out the following notes:

*“The site is a former police station building but the police has relocated to another premises within the town so the service will continue to be provided in an equally accessible location. Suitable for residential development and given its location and character of adjacent buildings, the site has potential for 20 flats”*

- 5.36 As the site is located on the Part 1 register, the site is categorised as previously developed land which the Council consider to be suitable, available and achievable for a housing-led development. There is no reference made to the potential loss of an employment use.

- 5.37 The Council have not undertaken a Part 2 Register which would give the Part 1 selected sites a '*permission in principle*' for a housing led development.

#### Summary of Principle of Development

- 5.38 The site is located in Lymington which falls in the highest tier of the settlement hierarchy making the location one of the most sustainable locations for large-scale residential development and offering a wider range of employment, facilities and services.
- 5.39 The site is a former Police Station, which is vacant due to the relocation of the police officers and staff to more suitable accommodation in Lymington.
- 5.40 The Council accept that the site is suitable for residential development and have listed the site both on the brownfield register part 1 and within the housing land supply trajectory.
- 5.41 In terms of the loss of employment, the Development Plan policy is not engaged as the site is a sui generis use that is not a use of similar character to industrial, office, business, storage and distribution uses as defined in the Local Plan Part 1.
- 5.42 It has therefore been concluded that the principle of residential development on this previously developed site is acceptable.

#### **Design Considerations**

- 5.43 This section looks to review the application proposal against the policies relating to the quality of the context, scale, massing and appearance of the proposed development. This section also discusses the rationale behind the design along with the discussions in pre application.
- 5.44 The National Design Guide forms planning practice guidance and illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. The Guide sets out ten characteristics of well-designed places which contribute towards the themes for good design set out in the Framework. The Design Guide lends some objectivity to the inherently subjective issue of '*good design*'. At paragraph 64 the National Design Guide states:

*"Well-designed new development makes efficient use of land with an amount and mix of development and open space that optimises density. It also relates well to and enhances the existing character and context."*

- 5.45 The Planning Practice Guidance establishes that 'good design' can be described with the ten characteristics of the National Design Guide, By clarifying that the National Design Guide does not attempt to establish a '*one-size fits-all*' approach to design for the whole country, it encourages the preparation of Local Design Guides.

#### *The Surrounding Context*

- 5.46 A Design and Access Statement has been prepared and submitted in support of the planning application. This contains a Context Analysis of the site and its surroundings.

- 5.47 In planning terms the site is in a sustainable location close to services and facilities and readily accessible by car, public transport, pedestrian and cycle links. Southampton Road, which is adjacent to the site, leads to Lymington Town Centre and further afield.
- 5.48 The site is at a key location at the corner of Southampton Road and Queen Elizabeth Avenue which has a change of character from the lower density of Buckland to the higher density of Lymington Town. In summary the site is in a location where the urban transitions into the suburban area of Buckland.
- 5.49 The local character is highly varied and different with no dominant style, typology, massing, building line, footprint, scale, use or material.
- 5.50 Further details of the surrounding context can be found in the Design and Access Statement submitted in support of the planning application.

#### *Scale and Massing*

- 5.51 The building is designed as an L-shape building with the proposed parking court located at the western side of the site with access taken from a new access road from Queen Elizabeth Avenue to the north east of the site. The proposed building fronts onto Southampton Road and Queen Elizabeth Avenue.
- 5.52 The proposed development is 2.5 -3.5 storeys in height with the fourth floor in the roof space. The end sections of the building reduce down to three storeys in height to reflect the secondary nature of Queens Elizabeth Avenue and stepping down to reflect the height of the adjacent building on Southampton Road.
- 5.53 The area has a mix of detached, semi-detached and apartment blocks in the area, with the larger apartment blocks located on Southampton Road the main road into Lymington town centre. The majority of the apartments have been on previously developed land and the area has been developed in an ad hoc fashion over time.
- 5.54 Apartment blocks in the area have incorporated setbacks and gable projections to reduce the mass. The scheme proposed looks to follow this approach with a modern Georgian style traditional development with two gables onto Southampton Road with sets backs between the main face which incorporates the mock entrance feature.
- 5.55 The initial design looked to incorporate a more contemporary version of a traditional development on the site. A low profile roof, set back fourth floor and flat roof projections were considered. This proposal looked to create a 'bookend', turning the corner from Southampton Road to Queen Elizabeth Avenue. Through feedback and review of the context of the area further revisions were made to finish at the current proposals.
- 5.56 The reduction in height and the more traditional design is in keeping with the context and character of the area. In the context of the site, the scheme proposed by the Applicant offers a high quality design, which is cohesive of Southampton Road and its surroundings.

### *Separation Distances*

- 5.57 From a review of the Development Plan, the Council do not have specified separation distances that have been adopted. However Policy ENV3 (Design quality and local distinctiveness) is the overarching Development Plan policy for design and includes *'New development will be required to..... create buildings, streets and spaces which are sympathetic to the environment..... and in relationship to adjoining buildings'*.
- 5.58 On a sustainably located brownfield site such as this one it is important to balance the maximisation of housing delivery through increased density of development against the impact on existing properties.
- 5.59 From review of the site layout the placement of the building on the corner of Southampton Road and Queen Elizabeth Avenue allows for maximum available separation distance between adjoining properties.

### The Old Police House

- 5.60 The Old Police House abuts the western boundary of the site and is 10.14 metres distant from the proposed development.
- 5.61 Reviewing the proposed development plans the external façade fronting The Old Police House has no windows, but includes communal corridor ventilation windows on the first and second floor and a communal door on the ground floor.
- 5.62 From a review of the Local Planning Authority online register, floor plans are available of the property under planning application reference 12/98938.
- 5.63 The floor plans show an external door to a utility with two small windows both sides and a small window that is located in the kitchen that fronts onto the site. However; there is an existing 1.8 metre close board fence that forms the boundary treatment and therefore due to this relationship there is no overlooking to these windows or doors.
- 5.64 On the first floor, the floor plan of the dwelling shows a window in the Bedroom 4/Study and a smaller window in the Bathroom for Bedroom 1 fronting onto the proposed development site.
- 5.65 As this relationship is side on and there are no windows on the proposed development there is no overlooking. Any overlooking from corridors could be mitigated from applying obscure glazing to the communal window vents.
- 5.66 Buckland House is located to the south of the site. Existing windows front onto the proposal site from Buckland House and therefore a copy of the floor plans have been obtained to determine if any of the windows will be impacted on. From review the following windows front onto the proposal site:

- ❖ Ground Floor –
  - 3no. bedroom windows;
  - 2no. Living room windows;
  - 1no. Kitchen window;
  - Communal Staircase.

- ❖ First Floor –  
3no. bedroom windows;  
2no. living rooms;  
2no. Kitchen window;  
Communal Staircase.
- ❖ Second Floor –  
3no. bedroom windows;  
2no. living rooms;  
1no. Kitchen window;  
Communal Staircase.

5.67 Reviewing the proposed development plans the external façade of the proposed building fronting Buckland House has no windows, but includes communal corridor ventilation windows on the first and second floor and a communal patio doors on the ground floor.

5.68 As this relationship is side on and there are no windows on the proposed development there is no overlooking. Any overlooking from corridors could be mitigated from applying obscure glazing to the communal window vents.

5.69 The Framework puts emphasis on development that will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development<sup>22</sup>.

#### *Density*

5.70 The scheme has been supported by Design and Access Statement which provides an understanding of the context, and through engagement the proposals have been developed to resolve a contextually informed proposal.

5.71 The scheme has demonstrably addressed the constraints and opportunities of the site and had regard to the local context including heritage assets and their setting.

5.72 The National Design Guide states at paragraph 62 that well-designed places have compact forms of development. At page 20, '*compact*' is defined as relatively high density and an urban layout.

5.73 The scheme proposes an urban, compact form of development that reflects the pattern and grain of Lymington.

5.74 The numerical density is at 123 dwellings per hectare, a product of the apartment living design, appropriate for a site with good accessibility to the town centre which affords amenities, services and employment opportunities.

5.75 The proposed development can be comfortably and appropriately accommodated on site without causing harm to amenity for existing and proposed residents and by meeting the required amenity standards.

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<sup>22</sup> Paragraph 127, National Planning Policy Framework. Available here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

### *Appearance and Materials*

- 5.76 From review of the surrounding context, the area is made up of traditional buildings with pitched roof. The majority of buildings have brick or render external finishes with slate or concrete tiled roofs. Chimneys are apparent on traditional buildings and the use of brick detailing can be seen in the area. Further afield towards Lymington town centre there is brick, render and painted brick external finishes, again with either slate or concrete tile roofs.
- 5.77 The traditional buildings, particularly those along Southampton Road vary in terms of their form and height, from pitched roofs with gabled bays. The height ranges from two to three storeys.
- 5.78 The design approach of the proposal has sought to be responsive to the surrounding context and character of the area identified above. Through the placement of the building, looking to maximise the active frontage to both Southampton Road and Queens Elizabeth Avenue. The design has also sought to have a better relationship with the corner of both Southampton Road and Queen Elizabeth Avenue at the junction.
- 5.79 Brick and render are proposed with the render to add contrast and interest to the building. The brick detailed on the drawings and in the Design and Access Statement are Ibstock Weston Red Multi). The brick proposed looks to reflect that of the distinctive of the area that is commonly found in Lymington and new developments.
- 5.80 Brick quoin detailing and windows cills and headers are proposed to add interest to the building and to reflect the character of the area.
- 5.81 The materials chosen for the proposed building are of high quality and have been selected to be sympathetic with the traditional materials employed within the local area, the Design and Access Statement identifies the sustainability features of the proposed materials.
- 5.82 UPVC casement windows with a modest Georgian appearance are proposed throughout the scheme, the window type reflects the style, size and shape of windows used in the surrounding new build developments in the area.
- 5.83 In accordance with Paragraphs 117, 122, 123, 127 and 130 of the Framework and the National Design Guide the Scheme is design led. Is of high quality and is in compliance with Policy ENV3 (Design quality and local distinctiveness) of the Local Plan Part 1.

### **Technical Considerations**

- 5.84 The technical considerations have been considered from a desk based assessment, pre application discussions and site visit/s. The technical considerations identified can be broken down to the following headings:
- Topography;
  - Amenity;
  - Transport;
  - Flood Risk and Drainage;

- Heritage;
- Landscape;
- Ecology;
- Geotechnical;
- Trees;
- Affordable Housing; and
- Sustainability and Energy Use

5.85 Documentation has been produced in support of this planning application to assess each technical consideration and this determines the suitability of the site. A summary of the findings and assessment against the relevant Development Plan policies are set out below.

#### Topography

5.86 A Topographical Survey has been produced by D&H Surveys in February 2020 and forms part of the planning application supporting documentation.

5.87 The topographical survey identifies the site as fairly flat with a slight fall from south to the north east corner, with the highest point being 24.08m. sq. AOD at the south western boundary. To the north east the lowest point is located adjacent to Southampton Road at 23.33m. sq. AOD. A fall of approximately 0.75m.

#### Amenity

5.88 The Applicant is committed to providing high quality and high impact visual enhancements to the landscape amenity areas of their sites. The Applicant has instructed a Landscape Architect, in this instance the Applicant has appointed James Blake Associates to produce a '*Landscape Strategy Plan*' along with a detailed hard and soft landscaping proposals.

5.89 The Local Plan Part 1 Policy ENV3 (Design quality and local distinctiveness) looks for development to be sympathetic to the environment including landscaping and landscaping features. The policy goes on to set out that appropriately designed green spaces including sufficient planting, and where applicable: provision for play, sports and natural green spaces for recreational mitigation

5.90 The Framework at paragraph 127 (f) looks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

5.91 The National Design Guide at paragraph 92 seeks well-designed places that provide usable green spaces, taking into account a number of criteria, this includes '*their ability to support a range of activities and provide amenity value*'.

5.92 Paragraph 93 of The National Design Guide sets out that open spaces are designed to be high quality, robust and adaptable over time so that they remain fit for purpose and are managed and maintained for continual use. With paragraph 94 describing open spaces as public, shared and private outdoor spaces and providing the following bullet point guidance.

❖ "*A range of sizes and locations;*

- ❖ *a variety of natural and designed landscapes for everyone, with different functions to suit a diverse range of needs;*
- ❖ *opportunities for formal and informal play, exercise and rest that are accessible to all and with no segregation;*
- ❖ *well-integrated drainage, ecology, shading, recreation and food production that achieve a biodiversity net gain as required by the 25-year Environment Plan; and*
- ❖ *well-considered maintenance and management regimes based on an understanding of the costs for occupants or users”.*

5.93 Churchill Retirement Living in association with Newcastle University and Housing LIN has published 'Retirement Living Explained – A Guide for Planning and Design Professionals' lists twelve essential design characteristics to a successful retirement living accommodation development for older people within the UK (Section 1, page 11).



*Picture 5 - Example Coffee Bar within Owners Lounge*

5.94 Characteristic 3 states that “*Quality amenity space*” as a key design characteristic and that “*quantity is less important where this is a shared garden*”. Given the typical age of a new resident is a 79-year-old woman, the appropriate type of amenity space is landscaped gardens that can be used for exercise with pathways around the site and seating areas.

5.95 The proposed development provides both patios for ground floor apartments and either Juliet on higher levels to apartments, normally off of the lounge of the apartment.

5.96 The amenity space is designed to allow for an occupier to walk the gardens and proposes a large seating area outside the owners lounge. Older people derive considerable pleasure and enjoyment from interacting with others as a community.

5.97 Further to the external amenity space that is provided, residents have the Owners Lounge a communal area that has a coffee bar to socialise. A variety of regular social activities is provided in the owners’ lounge. The room is used for coffee mornings, fish and chip suppers, bridge evenings, special events and residents meetings. Some of the residents spend a considerable amount of time in this lounge reading and undertaking other hobbies. It is a sociable place in which to meet and converse. Residents are able to gain a sense of purpose through helping another individual or through playing an active role in community activities.



*Picture 6 - Example Use of Owners Lounge*

5.98 Although the development is for independent living of 60 years and above with a 55 year old partner, the average purchaser of a Churchill Retirement Living development is a 79 year old single female that has had a life event and looking to downsize.

Therefore the use of full recreational activities, running, playing formal games is not consistent with the use of the development.

5.99 High quality visual planting is essential for occupiers to sit out, create gardening clubs or maintain their own patio areas.

5.100 The reduction in the site amenity allows for the service charges to be reduced to the future occupiers as the maintenance of the landscape areas is carried out by the management company, Millstream Management. Each occupier pays towards the management and maintenance of these areas, which including within this development results in a service charge increase.



Picture 7 - Typical Patio Area outside Owners Lounge

5.101 Through a review of the planning policy position and consideration of the end occupier it is considered that the amenity proposed by *'the Applicant'* on this development proposal is acceptable and is wholly appropriate for the end user. The amenity space provided is in compliance with the Development Plan, National Planning Policy and National Guidance.

5.102 The proposed landscaping scheme on the site has had regard to the protected trees within the site in its design evolution.

### Transport

5.103 A Transport Statement has been produced by *'Paul Basham Associates'* in support of the planning application.

5.104 The proposed development provides 12 unallocated car parking spaces for residents of the development along with a recharging battery buggies and cycle parking. Visitors and the Lodge Manager are encouraged not to park on the site and to use local public parking facilities.

5.105 The site is considered to be in a very accessible location, within 400m (5-minutes') walk of Lymington town centre. Local public transport facilities also provide opportunities for travel to destinations further afield by sustainable transport modes, including linked bus and rail trips. The site is served by a regular bus service, providing connectivity to Lymington Town Centre, Train Station and further afield. Such as Southampton.

5.106 The site is considered to be in a highly accessible town centre location, with a range of key services within close proximity of the site. Lymington Town Railway Station is located on Station Street, approximately 1.2km to the east of the site and can be accessed via a 15 minute walk.

5.107 The site is therefore considered to provide the opportunity for sustainable development in transport terms as required by the Framework.

5.108 Vehicular access to the site is proposed from Queens Elizabeth Avenue and closing off the previous access onto Southampton Road. The internal road is approximately

4.8m wide and links to the proposed car park to be provided for the development. The access road will lead into a 12-space car park along the southern boundary of the site.

- 5.109 A 7-day speed survey was carried out between 27<sup>th</sup> February 2020 and 4<sup>th</sup> March 2020 to determine speeds along Queen Elizabeth Avenue with results. The westbound 85<sup>th</sup> percentile speed of the eastern counter and the eastbound 85<sup>th</sup> percentile speed of the western counter were used to determine the required visibility splays.
- 5.110 Westbound 85<sup>th</sup> percentile speeds of 27.1mph and eastbound 85<sup>th</sup> percentile speeds of 29.5mph were recorded. This equates to visibility requirements of 2.4m x 37.2m in the primary direction and 2.4m x 41.9m in the secondary direction in accordance with Manual for Streets requirements.
- 5.111 Following pre-application discussions and agreement with Hampshire County Council Highway Authority, visibility splays have been measured at 2m x 43m in the primary direction and 2m x 43m with a 0.4m offset in the secondary direction
- 5.112 Acceptable visibility in accordance with Manual for Streets can be provided. The visibility at the existing junction is shown on drawing 135.0020.003 Revision B. A copy can be found in Appendix G of the Transport Statement.
- 5.113 In terms of refuse collection, the site will be serviced from Queens Elizabeth Avenue. Bins will be moved from the refuse store on the western boundary by the Lodge Manager on bin collection day to a collection point adjacent to the vehicle access. The refuse lorry will collect the bins and then once emptied the lodge manager will return these to the refuse store. The collection from Queens Elizabeth Avenue is no different to the collection arrangements for other properties on Queens Elizabeth Avenue.
- 5.114 The provision of 12 parking spaces (ratio of 0.37 per apartment) associated with the development is considered to be appropriate given the location of the site and on the basis of evidence from similar sites elsewhere, and will ensure there is no overspill parking onto surrounding roads.
- 5.115 Other developments by '*the Applicant*' in the New Forest District area recently are in South Street, Hythe and North Close, Lymington. The details of the parking to apartment ratios accepted are below:

Site	Apartment No's.	Parking No's	Ratio per apartment
North Close, Lymington	41	17	0.41
South Street, Hythe	43	14	0.32

- 5.116 Experience of '*the Applicant*', both nationally and regionally, identifies that the level of parking proposed is typical and adequate for the form and type of development. As you can see from the Transport Statement '*the Applicants*' similar developments nationally, it sets out that 0.33 spaces per unit is an acceptable level of provision, bearing in mind the average age of occupiers on entry to such accommodation.

- 5.117 Local Plan Part 1 Policy CCC2 (Safe and sustainable travel) requires all development to *'provide sufficient car and cycle parking.... In accordance with the adopted Parking Standards Supplementary Planning Document'*.
- 5.118 New Forest District Council *'Parking Standards Supplementary Planning Document'* (October 2012) does not include directly relevant standards for a Retirement Living development however as part of *'the Applicant's'* independent research, car parking demand at existing sites has been investigated to help to inform provision at new developments.
- 5.119 There are a wide range of shops and services located within the vicinity of the site and are detailed in Table 1 of the Transport Statement.
- 5.120 The closest bus stops to the site are located on Southampton Road approximately 90m north (a 1-minute walk) of the site for the northbound and southbound directions. The northbound bus stop providing services towards Southampton City Centre, New Milton and Totton is equipped with a single pole with flag and timetable. The southbound bus stop providing services towards Lymington is equipped with a single pole with flag. The local bus services operating close to the application site are summarised within Table 3 of the Transport Statement.
- 5.121 The location of bus stops makes bus travel accessible for residents, shoppers and visitors, and this together with the destinations served by the bus service from these stops would allow residents and visitors to use public transport as an alternative to a car.
- 5.122 Through a review of the planning policy position the development proposal is acceptable in highway terms. The *'Framework'* identifies at paragraph 109 that *'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on the highway safety, or the residual cumulative impacts on the road network would be severe'*.
- 5.123 No unacceptable or severe impact has been identified and therefore the development is wholly appropriate in relation to highway matters and complies with both the Development Plan and National Planning Policy.

#### Flood Risk and Drainage

- 5.124 Policy CCC1 (Safe and healthy communities) of the Local Plan Part 1 sets out in the interests of public safety, vulnerable developments will not be permitted in areas at risk of flooding unless with the sequential and exception tests.
- 5.125 A *'Flood Risk Assessment and Drainage Technical Note'* and *'Flood Risk Assessment and Drainage Technical Note'* has been prepared by AWP in support of this planning application. The report also outlines the preliminary drainage arrangements for the development.

#### *Drainage Strategy*

- 5.126 Clay content of shallow strata and raised groundwater preclude the use of soakaways. There are no nearby watercourses and therefore runoff will need to be discharged to a surface water sewer in Southampton Road.

- 5.127 It is believed that there is an existing surface water connection to a manhole in Southampton Road however the CCTV survey has identified this as being filled with mud and tree roots. Therefore the connection cannot be determined.
- 5.128 The proposed drainage strategy for Surface Water is in accordance with DCC's '*SuDS Guidance for Devon*' the scheme attenuates via cellular storage on site and released to the surface water sewer at a reduced rate.
- 5.129 Foul flows generated by the development will benefit from the existing connection to the main foul sewer in Southampton Road.
- 5.130 It is proposed that the drainage onsite will remain in private ownership once the development is completed and therefore will fall into the responsibility on the Management Company (Millstream Management) and they will be responsible for the long-term maintenance of the proposed drainage system as part of the wider management of the site.
- 5.131 As set out above the development has sought to demonstrate the compliance with the sustainable drainage hierarchy and is proposing the most sustainable drainage system that is practical. Therefore the proposed development complies with the Development Plan.

#### Heritage

- 5.132 As part of the planning application supporting documentation a '*Heritage Statement*' by Ecus Limited has been provided in support of the development proposal.
- 5.133 The Site lies outside of Lymington Conservation Area and the closest designated historic buildings comprise 81 and 83 Southampton Road (Grade II Listed Building NHLE: 1274592). This assessment has concluded that the key contributors to the heritage significance of these assets would not be affected by the proposals. Although the redevelopment would result in the introduction of new built form, through careful design and layout the changes resulting from the proposal would not harm the heritage significance of these assets.
- 5.134 As the Listed Buildings and Conservation Area would be not be harmed by the proposed redevelopment, the proposals comply with the Planning (Listed Buildings and Conservation Areas) Act 1990, the Framework and local planning policies relating to the protection of the historic environment. As such, the planning balance should be undertaken in line with paragraph 196 of the Framework.
- 5.135 Through pre application discussions the Local Planning Authority raised a key view from Eastern Road towards the site. However; the Heritage Statement considers that this is not an important view due to the presence of dominating built form extent along Southampton Road (i.e. Buckland House). Whilst it clearly illustrates the surrounding urban context and expansion of Lymington, the historic interests of this area are principally derived from the historic core and physical fabric. This view does not allow for a clear appreciation of that, and as such is considered to provide a neutral contribution to the heritage significance, as the majority of the setting has not inter-visibility with key aspects of this area.
- 5.136 The Heritage assessment concludes that the former Lymington Police Station comprises a non-designated heritage asset. Although considered to be of low local

heritage significance it is not considered to necessarily preclude development. As a non-designated heritage asset it will require consideration in the planning process and in line with paragraph 197, a balanced judgment is required when weighing up the loss of the built form against its significance (low and local).

- 5.137 The proposals are in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Framework and Local Plan Policy DM1 (Heritage and Conservation), and Section 66 of the Planning (LB&CA) Act 1990.

#### Landscape

- 5.138 As part of the planning application supporting documentation a '*Landscape Strategy Plan*' by James Blake Associates has been provided in support of the development proposal. The '*Landscape Strategy Plan*' has a drawing reference '*PR123100 09A*'.
- 5.139 The purpose of the '*Landscape Strategy Plan*' is to support the proposed development to identify both the Tree Planting Strategy and Planting Strategy that will underpin the detailed landscape design that can be secured under a suitably worded planning condition. The '*Landscape Strategy Plan*' has been produced by James Blake Associates, a professional landscape practice that have had over 30 years in practice.
- 5.140 The proposal has been developed in regard to the final occupier of the development with minimal maintenance and for high quality visual planting for the occupiers to sit out, create gardening clubs or maintain their own patio areas.
- 5.141 The additional tree planting and gardens will all provide opportunities for wildlife to use the site as set out in the below '*Ecology*' section of this report.
- 5.142 The '*Landscape Strategy Plan*' demonstrates the landscape proposal and is acceptable in terms of the end user of the proposed development.

#### Ecology

- 5.143 Tetra Tech Consulting were instructed to undertake a Preliminary Ecological Assessment at the planning application site and is submitted in support of this planning application.
- 5.144 The report confirms, potential effects are likely on the New Forest and Solent and Southampton Water. Mitigation is required in accordance with Policy ENV1 comprising:
- Financial contribution for recreation to the New Forest;
  - Financial contribution for recreation to the Solent and Southampton Water;
  - Financial contribution for air quality monitoring; and
  - Mitigation to achieve nutrient-neutrality.
- 5.145 It is recommended that scattered trees within the site are retained (where possible) as these habitats have the potential to support nesting birds and common invertebrates.
- 5.146 The report recommends that further surveys / works have been recommended for the following species for Bats and Birds. It can be confirmed that these surveys have been instructed.

5.147 In relation to enhancement, new trees should include native species and retained vegetation could be enhanced by using native infill planting. The inclusion of native planting as part of the landscaping proposal is likely to be beneficial to wildlife. Furthermore, it is recommended that the development incorporate a minimum of two bat (general purpose in-built box) and two bird (swift chamber) boxes on the new building.

### Trees

5.148 Barrell Tree Consultancy were instructed to produce an Arboricultural Assessment and Method Statement to support the planning application. The Arboricultural Assessment and Method Statement. The report includes:

- Tree protection plan illustrating tree locations, categories, the location of the proposed development, and the proposed tree protection measures;
- Provides an analysis of the tree issues to assist the LPA in assessing the impact on local character;
- Describes how retained trees will be protected and managed during the development activity.

5.149 The Arboricultural Assessment and Method Statement identifies a number of existing trees on the site which are party to a tree preservation order (reference TPO/0006/15). This indicates two groups of trees that are protected (G1 and G2).

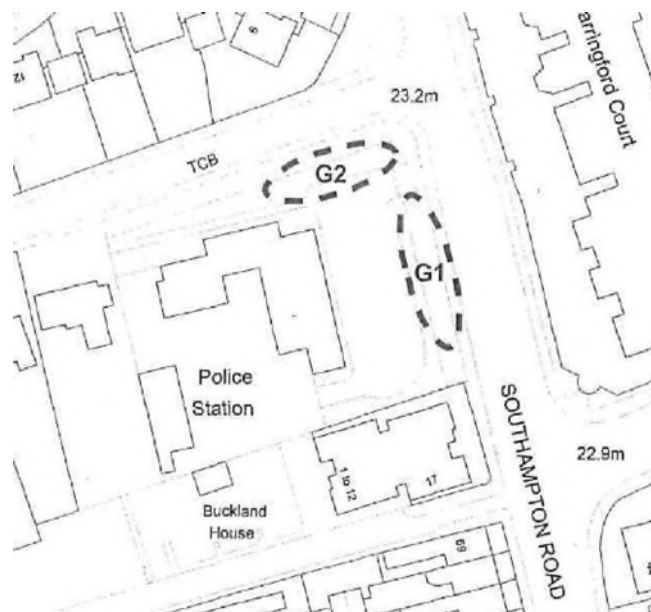


Figure 4 - Extract of TPO/0006/15

5.150 The trees that are protected are set out below:

- ❖ G1 – 5 x Silver Maple (Adjacent to the front boundary of Lymington Police Station)
- ❖ G2 – 5 x Silver Maple and 1 x Cedar (Adjacent to the northern boundary of Lymington Police Station)

5.151 Barrell Tree Consultancy have identified 7no. B grade trees and 5no. C grade trees. The majority of the trees are identified on the boundary of Queen Elizabeth Avenue and Southampton Road.

5.152 An existing Yew tree will require removal to facilitate the proposed development. This is identified as Grade B category tree and the '*Landscape Strategy Plan*' has sought to mitigate by replacement planting.

5.153 A small group of trees (G12) identified as Hazel, Cypress and Willow will need to be removed to facilitate the vehicle access.

5.154 Tree planting on the site is identified on the '*Landscape Strategy Plan*'. A number of trees being planted on the site, which offers an improvement to the current biodiversity and landscape character of the site.

#### Affordable Housing and Vacant Building Credit

5.155 Policy HOU2 (Affordable Housing) of the Local Plan Part 1 identifies a 50% affordable housing target of the total number of dwellings proposed are affordable.

5.156 The policy supports viability of development and will be taken into account in applying Policy IMPL1: Developer contributions.

5.157 Policy IMPL1 identifies that in exceptional circumstances where it is demonstrated in a robust and independently tested viability study that there are previously unidentified cost considerations that render development unviable, the Council will work with the applicant to explore options to restore viability in the following order of preference. The starting position is that there will be a proportionate reduction in returns to the developer and land owner for any reduction in developer contributions agreed, within acceptable margins of profitability.

- i) Varying the development proposal if development costs could be reduced without unacceptably compromising design quality or sustainability.
- ii) Where it is possible, phase or defer the required contributions in whole or part, including by the use of Grampian planning conditions.
- iii) Vary, reduce or remove contributions that would have the least impact on the achievement of sustainable development.

5.158 Given the nature of the proposed development, the applicant will be seeking a financial contribution rather than onsite provision.

5.159 An Affordable Housing and Viability Statement is submitted in support of this application which identifies the total level of affordable housing that the site could contribute. The applicant would be happy to discuss how best such a sum should be used to deliver affordable housing units.

#### Sustainability Measures

5.160 The Applicant is fully aware that sustainable development is a major concern of Climate Change. The applicant implements various initiatives within its schemes that address this issue. A sustainability group within the company are constantly reviewing the latest guidance and technologies with a view to reducing the carbon footprint of the retirement housing developments.

5.161 The Applicants scheme utilise previously developed sites in highly accessible locations close to community facilities and shops, with access to alternative modes of transport enabling a reduction in car numbers and ownership, but make provision for battery operated buggies and cycles.

- 5.162 As set out above, landscaping is an important feature of the development and the accompanying design provides an indication of the proposed planting levels to make the most effective use of the space as well as make a positive contribution to the amenity value, making it a more pleasant environment. The landscaping design is of an extremely high standard and will improve the environmental quality of the site for prospective residents.
- 5.163 Construction of the developments incorporates the use of local materials where possible and many energy saving devices, which is assisted by the containment of the apartments in a single block.
- 5.164 The Applicant continually reviews their environmental policies examining the newly evolving sustainable systems for incorporation into their developments where appropriate. Indeed, the use of either ground or air source heat pump within the development proposal demonstrates Churchill Retirement Living's commitment to the principles of Sustainable Development and for on-site energy generation.

#### *Waste and Recycling During Construction and In Operation*

- 5.165 During Construction as scheme for recycling/disposing of waste resulting from demolition and construction works will be considered, with priority given to reuse of building materials on site. Details can be provided in a Construction Management Plan that can form a suitably worded planning condition.
- 5.166 A Site Waste Management plan will be present onsite to ensure that operatives, contractors and staff are routinely monitored for compliance.

#### *Operation of the Development*

- 5.167 The development proposal has a communal refuse store located on the Ground Floor which is accessed internally for residents so they do not have to go outside.
- 5.168 Within the refuse room small bags of household waste and recycling material from each individual flat can be decanted into larger shared wheeled bins, clearly designated for specific waste storage.
- 5.169 The room has external doors opening onto an external pathway. The lodge manager is responsible for monitoring the refuse and moving the bins out of the refuse store on the relevant collection day and for moving them back inside shortly after being emptied by the refuse collectors. Refuse collection will take place internally within the site.

#### *Conserving Water Resources and Minimising Vulnerability to Flooding*

- 5.170 To reduce excessive potable water use in the proposed apartments, the latest energy and water saving devices will be provided. In addition, all apartments will be fitted with flow restrictors, aerated taps and dual flush low capacity cisterns.
- 5.171 The Drainage Impact Assessment produced by AWP has been provided in support of the planning application. The assessment concludes that the development site can be redeveloped without increasing flood risk from surface water in and around the

development or increasing the load on the existing public sewer network and allows for a suitable drainage strategy for surface water drainage.

*The Type, Life Cycle, and Source of Materials to be used*

- 5.172 The materials of the development have been considered in relation to the local character and delivering a development of high quality design.
- 5.173 Materials have been specified on the elevation drawings submitted in support of the planning application. Final details of materials will be agreed under a suitably worded planning condition prior to commencement.
- 5.174 The materials proposed will be sourced locally where possible; making sure that the products life cycle meets the relevant certified standard along with BES6001 Framework Standard for Responsible Sourcing of Construction Material.

*Opportunities to Incorporate Measures which Enhance the Biodiversity Value of Development*

- 5.175 The development proposal allows and incorporates measures which enhance the biodiversity value of the site which are set out within the Ecology Assessment by Tyler Grange submitted in support of the application.
- 5.176 The landscaping is an important feature of the development and the accompanying design with the planning application provides an indication of the proposed planting levels to make the most effective use of the space as well as make a positive contribution to the amenity value, making it a more pleasant environment. The landscaping design is of an extremely high standard and will improve the environmental quality of the site for prospective residents.
- 5.177 A higher density of development has been incorporated to allow for the best use of the previously developed land.

*Space Standards in Older People Housing*

- 5.178 Policy IMPL2 (Development Standards) of the Local Plan 2016-2036 Part 1, requires for Sheltered and Extra Care Homes to be built to the Wheelchair Adaptable Dwelling standard of M4(3)2a of the Building Regulations.
- 5.179 As previously indicated, the proposed development is a C3 use and not C2 (Residential Institution). The apartments all comply with part M4(2) regulations, (Accessible and Adaptable Dwellings).
- 5.180 The recent appeal decision of 8<sup>th</sup> June 2021 allowed an application by Renaissance Retirement Living within NFDC for 44 retirement apartments. The appeal decision states at paragraph 68, that although the development does not meet the policy requirement of M4(3) standards, *"In any event, the proposed development would cater for a range of occupants, and not only those with impaired mobility. Consequently, I am not persuaded that a requirement for the higher optional standards to be deployed in all of the proposed dwellings would be either reasonable or necessary in this case."*

- 5.181 The decision goes on to state at paragraph 69 that “... *taking these matters together with the benefits of the proposed development that are set out above, it is my view that any harm that would occur as a result of the appeal scheme’s variance with Policy IMPL2 of the Local Plan does not significantly and demonstrably outweigh the proposed development’s benefits – matters to which I accord very significant weight.*”
- 5.182 The proposed development is of the same nature as the proposal subject to the appeal and it is therefore considered that the same approach should be taken by the Council in this matter. As with the appeal scheme, the proposal subject to this application fully complies with M4(2) (accessible and adaptable dwellings and it is therefore considered that LPA should not pursue full compliance with Policy IMPL2.

# LYMINGTON

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## 6. CONCLUSION

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- 6.1 This full planning application seeks permission for 32 retirement living units, communal facilities, access, car parking and landscaping. This planning statement demonstrates how the development proposals will deliver a sustainable development in accordance with the Development Plan for Lymington and the '*Framework*'.
- 6.2 This Planning Statement should be read in conjunction with the other supporting documents, plans and reports submitted with this planning application.
- 6.3 The scheme has been through a process of pre application discussions, public consultation and a design review panel. The application has been amended to address comments made where possible.

### **Planning Balance**

- 6.4 Section 38(6) of the Planning and Compulsory Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.5 Policy HOU3 (Residential accommodation for older people) of the Local Plan Part 1 looks to ensure that new housing provision includes housing types designed to be suitable for older people. Housing need for older people housing was discussed earlier in this Planning Statement under section 2 and concluded that there is a significant need for retirement living apartments in England and especially in the New Forest.
- 6.6 Policy STR4 (The settlement hierarchy) of the Local Plan Part 1 identifies three tiers of settlements and sets out the nature and scale of development that would be appropriate for each type of settlement. Development which is not in accordance with the settlement hierarchy will normally be resisted. Lymington is identified at the highest tier, tier 1. Tier 1 is identified as towns that are in the most sustainable locations for large-scale residential, retail, leisure, cultural and business development to improve their self-containment and to support and consolidate their local service offer.
- 6.7 The building is vacant and not in use and the Police staff and operations have moved to better accommodation within Lymington Town Centre. The site is on the brownfield register and is accounted for in the Councils five year housing land supply.
- 6.8 In terms of the loss of employment the Development Plan policy is not engaged as the site is a sui generis use that is not a use of similar character to industrial, office, business, storage and distribution uses as defined in the Local Plan Part 1. If contrary to '*the Applicants*' position the Council feel the need to address the policy, the policies of the Development Plan are considered in this Planning Statement in terms of the loss of an employment site and no conflict has been found through the previous marketing and the unsuitability of the site for conversion to another employment use.
- 6.9 The Police Station under the Local Plan Part 1 does not fall within the definition of 'community facilities'. Paragraph 4.34 of the Local Plan Part 1 sets out that community

facilities are sports and leisure facilities, community centres, libraries, places of worship, crematoria and burial space

6.10 When considering the above considerations highlighted within this Planning Statement and apply them against the Development Plan and paragraph 11(d) of the Framework. It can be concluded that:

- ❖ The principle of residential development is acceptable and the loss of employment has been considered acceptable;
- ❖ The proposed development would bring basket shoppers/footfall to the area which would increase local spending'
- ❖ The proposed development would be sensitive to and conserve the surrounding townscape and landscape character;
- ❖ The development of the site would not give rise to issues of flooding or present an unacceptable impact to features of habitats of ecological interest;
- ❖ The proposed development would not result in detriment to highway safety and the site can be safely accessed on foot via a separate pedestrian access;
- ❖ The site is located in a sustainable location with good connections to services and facilities;
- ❖ The proposal would contribute to economy of the local area through the number of new residents who would use and facilitate existing local services
- ❖ The development would remove a building; and
- ❖ The development takes the opportunity to enhance and does not result in harm to the heritage significances of the designated heritage assets.

6.11 It is evident that there is '*critical*' need for the delivery of older people housing in the Country and a significant pressing need within the administrative boundary of New Forest District. This planning application proposal will contribute towards delivering these much needed homes, including much needed older people housing. That contribution can be considered as a significant benefit which weighs strongly in favour of this planning application.

6.12 From the supporting documents, plans and reports of the planning application, it can be concluded unequivocally that the site is appropriate for older people housing and in a sustainable and accessible location.

6.13 Through a review of the planning application it can be confirmed that the proposal is in accordance with the Development Plan. The development is wholly acceptable in terms of the footprint of the building in relation to the scale of the site and surrounding locality. It is therefore concluded that the development is of a scale, mass, bulk and design that is acceptable and will not harm the character and appearance of the locality whilst providing a high quality development.

6.14 In review of the other technical considerations, it can be concluded from that the planning application proposal complies in all aspects with the relevant Development Plan policies and the '*Framework*'.

6.15 The recent appeal decision at Former Fleet Police Station in Fleet<sup>23</sup> identifies the weight to be given to benefits in relation to older people housing (see appendix 2) and a copy of this is incorporated in the below table:

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<sup>23</sup> Appeal Reference APP/N1730/W/20/3261194

<b>Fleet Planning Benefits</b>	<b>Fleet Weight</b>
Provision of 31 residential dwellings	Significant
Redevelopment of a Previously Developed Site	Significant
Redeveloping a Sustainable Site	Significant
Effective and Efficient use of Land	Significant
Meeting local housing need for older persons	Significant
Meeting local housing need for affordable housing	Significant
Visual enhancement of the townscape	Significant
Freeing up under occupied local housing stock	Significant
Economic Benefits of the Proposed Scheme	Significant
Social Benefits of the Proposed Scheme	Significant
Environmental Benefits of the Proposed Scheme	Moderate

6.16 This site is no different to that appeal decision and the decision taker should come to the same conclusion when doing the Planning Balance in relation to this proposed development. For ease of reference, the table above has been updated to reflect this application:

<b>Lymington Planning Benefits</b>	<b>Fleet Weight</b>
Provision of 32 residential dwellings	Significant
Redevelopment of a Previously Developed Site	Significant
Redeveloping a Sustainable Site	Significant
Effective and Efficient use of Land	Significant
Meeting local housing need for older persons	Significant
Meeting local housing need for affordable housing	Significant
Visual enhancement of the townscape	Significant
Freeing up under occupied local housing stock	Significant
Economic Benefits of the Proposed Scheme	Significant

Social Benefits of the Proposed Scheme	Significant
Environmental Benefits of the Proposed Scheme	Moderate

- 6.17 It has been concluded that there are no adverse impacts that would significantly and demonstrably outweigh the benefits, when assessed against the policies in '*the Framework*', as a whole and that the benefits that are provided are significant and therefore planning permission should be granted without delay.
- 6.18 If to the contrary of the Applicants conclusion in terms of this application and found that there was a conflict with the Development Plan, any harm which might be identified as arising from the application proposal comes nowhere near significantly and demonstrably outweighing the many and varied benefits of the application proposal. There is no reason to withhold planning permission in this case and the application should be granted without delay.

**APPENDIX 1 – Appeal Decision Reference: 3261194  
(Churchill Retirement Living)**

**APPENDIX 1 – Appeal Decision Reference: 3265937  
(Renaissance Retirement)**



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## Appeal Decision

Inquiry Held on 11,12, 18, 19, 20 and 24 May 2021

Site visit made on 21 May 2021

**by G J Fort BA PGDip LLM MCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> June 2021**

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**Appeal Ref: APP/B1740/W/20/3265937**

**Site of The Rise and Three Neighbouring Properties, Stanford Hill,  
Lymington, SO41 8DE**

- 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 Renaissance Retirement Limited against the decision of New Forest District Council.
  - The application Ref 20/10481, dated 1 May 2020, was refused by notice dated 14 October 2020.
  - The development proposed is the demolition of existing buildings and the erection of 44 sheltered apartments for the elderly with associated access, mobility scooter store, refuse bin store, landscaping and 34 parking spaces.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and the erection of 44 sheltered apartments for the elderly with associated access, mobility scooter store, refuse bin store, landscaping and 34 parking spaces at the site of The Rise and Three Neighbouring Properties, Stanford Hill, Lymington, SO41 8DE in accordance with the terms of the application, Ref 20/10481, dated 1 May 2020, subject to the conditions set out in the schedule below.

### Procedural Matters

2. The application that led to this appeal was refused by the Council on a number of grounds including its effects to biodiversity (both offsite and on-site) and its effects to the living conditions of the occupants of 14 and 15 Bucklers Mews. However, during the course of the appeal, the Council withdrew its objections in relation to these aforementioned matters on the basis that the proposed development could be made acceptable in these terms through the use of planning obligations or conditions.
3. Whilst these matters do not therefore form main issues in this appeal, I am the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). Consequently, the Habitats Regulations require me to carry out an appropriate assessment of the appeal scheme in circumstances where it would be likely to have significant effects on European sites, alone or in combination with other plans or projects – I return to this issue below. Moreover, I will deal with the

other matters covered by the Council's original reasons for refusal, where appropriate, elsewhere in this decision.

4. During the Inquiry, it emerged that the Council had recently adopted<sup>1</sup> a Mitigation for Recreational Impacts on New Forest European Sites Supplementary Planning Document (the Mitigation SPD), which supplants the guidance<sup>2</sup> that was relevant at the time of the decision on the application that led to this appeal. The Mitigation SPD was provided as an Inquiry document and adequate time was available for its implications to be captured in the appellant's finalised planning obligation related to this matter. Consequently, I consider that no prejudice would occur to the interests of any parties as a result of me taking the Mitigation SPD into account in my assessment of the appeal's planning merits.
5. Following the closure of the Inquiry, I received finalised planning obligations relating to a number of matters, which are covered in my reasoning below.

### **Main Issues**

6. I consider the main issues in this case to be firstly, the effects of the proposed development on the significance of Lymington Conservation Area, and the Grade II Listed Buildings at Highfield (No 1(Hill House) No2; Nos 3 and 4 (Down House); and Nos 5 and 6 (Highfield Ridge)); and secondly, the effect of the appeal scheme on the character and appearance of the area.

### **Reasons**

#### *Site, surroundings and proposed development*

7. The appeal site comprises four relatively deep residential plots currently occupied by detached houses of varying scale and character. These existing dwellings are set back from Stanford Hill behind a considerable amount of hard standing bounded by hedges, and short walls in a mix of materials. Close to the town centre, the appeal site is just outside the boundary of the Lymington Conservation Area. Bucklers Court, a building mainly of three-storeys, and of a relatively deep plan, with a long, but articulated front elevation addressing the curve of Stanford Hill, lies to one side of the appeal site set at a higher level due to the underlying topography of the area. To the other is Concord, a detached dwelling in a deep plot. To the rear of the appeal site are detached houses in relatively deep plots, which address Belmore Road. The comparatively denser development of Bucklers Mews also lies to the rear of part of the appeal site. Situated across Stanford Hill from the appeal site are the mature trees and broad landscaped area to the rear of Rowans Park. Further up the hill, situated behind a landscape element referred to by parties as a "green" the substantial properties of Highfield, which are of considerable aesthetic quality, provide an obvious focal point.
8. The appeal scheme would entail the demolition of the existing buildings on the site and the development of a larger single building of mainly three storeys, which would provide 44 sheltered apartments for older people. A portion of the proposed development would also include a lower ground floor. Of a broadly "T" shaped footprint, the appeal building would comprise a number of distinct

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<sup>1</sup> On 5 May 2021

<sup>2</sup> *Mitigation Strategy for European Sites: Recreational Pressure from Residential Development Supplementary Planning Document* (Adopted June 2014) (CD4.6)

elevational elements of varied overall heights and set-backs from the highway. The proposed building's rear wing would project more deeply into the plot than the existing buildings. Vehicular access and egress from the site would be provided via two highway crossovers, and the remaining existing crossovers would be removed which would create a more consolidated boundary across the front of the appeal site than exists at present. The boundary would incorporate hedges and railings. A landscaped strip, including tree planting, would be placed between the front boundary and the appeal scheme's parking and access arrangements. Further parking would be provided on the portion of the site adjacent to Bucklers Court and Bucklers Mews. To the rear and side boundaries additional tree planting would accompany the retained trees in the site, which include one identified as an "important tree" in the Lymington Local Distinctiveness Supplementary Planning Document (adopted February 2011) (the Distinctiveness SPD).

#### *Listed Buildings and Conservation Area*

9. It is common ground between the main parties that the appeal site is within the setting of both the Conservation Area and No 1 (Hill House); No 2; Nos 3 and 4 (Down House); and Nos 5 and 6 (Highfield Ridge), Highfield, which are all Grade II Listed Buildings (the Highfield Listed Buildings).
10. The Highfield Listed Buildings are pairs of properties, which vary in terms of their elevational treatment and the materials employed but are consistent in terms of their scale. The overall symmetry of each pair, and the classical proportions of their facades are also clear similarities shared by the Highfield Listed Buildings. Occupying an eminent position at the brow of Stanford Hill, the Highfield Listed Buildings are high-status structures which mark an entry point into the historic town, with windows and other features at their fronts orientated towards Stanford Hill.
11. Consequently, insofar as is relevant to the appeal, the significance of these buildings derives, to a considerable degree, both from this marked architectural quality; and from their historic interest in terms of the evidence they yield about the development of Lymington, particularly in terms of their status as a visual entry point to the town centre and their position at the western extent of its historic core. In this latter respect, I also note the Council's view of their relationship to the emergence of Lymington as a resort in the 19<sup>th</sup> Century. As high-status buildings situated at the brow of the Hill and orientated towards it, views to and from them are elements of the setting that contribute to their significance in these respects.
12. The Listing Descriptions for the Highfield Buildings contain the annotation "GV", which indicates that their Group Value is of note, both in terms of their relationships with each other and with other nearby Grade II Listed Buildings at Stanford Road and Priestlands Place. It is clear that the Highfield Listed Buildings' relationships with these other structures is also a matter relevant to the consideration of the contribution made to the significance by their setting.
13. Historic mapping<sup>3</sup> supplied by both parties shows that most of the area broadly to the south of Highfield, aside from the "green" has changed considerably since the Listed Buildings were originally constructed – with extensive residential development taking place over the course of the 20<sup>th</sup> Century.

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<sup>3</sup> In the Council's *Conservation Proof of Evidence Appendix 2* (CD8.10) and the appellant's *Heritage Proof* (CD8.18)

Whilst the density of much of this development allows for landscaping and mature trees, the predominantly domestic character of much of the land, and the buildings on it, is readily perceived in views from Highfield – meaning that any ‘designed views’ that may have existed when the Listed Buildings were constructed have already been fundamentally altered.

14. The proposed building would be of a greater scale than the dwellings currently on the appeal site, and its footprint would extend across the existing plots. However, the proposed building would be set well back from Stanford Hill, behind tall trees. Taken together, these aspects of the appeal scheme’s design would help it to assimilate with the generally leafier and more spacious pattern further down the hill. The appeal scheme would not therefore, appear as an alien feature within this setting, which already includes buildings and landscaping. Moreover, the appeal site is set at a considerably lower level than Highfield. As a result, taken together with its set back and landscaping proposals, the appeal scheme would not constitute a dominant feature in views available from Highfield. In my judgement therefore, the proposed development would not materially erode any ‘designed views’ from the Highfield Listed Buildings and would thus avoid harm to their significance in this respect.
15. The location of the Highfield Listed Buildings on the brow of the hill and their scale, taken together with the set-back of the proposed development, the level of its site and the landscaping proposals to its front, would also ensure that the Listed Buildings remain the pre-eminent structures marking the entry point to the historic town, in views toward them from lower down Stanford Hill. Accordingly, the aforementioned aspects of the architectural and historic significance of the Highfield Listed Buildings would not be eroded as a result of the appeal scheme.
16. No 7 Highfield House and No 8 Highfield are not included on the statutory list, and neither are they identified in *Lymington: A Conservation Area Appraisal* Supplementary Planning Guidance (adopted July 2002) (the CAA) as “Key / Important Unlisted Buildings”. The Council confirmed at the Inquiry that they do not appear on a local list. Nevertheless, the Council consider them to be non-designated heritage assets. Be that as it may, for the reasons set out above in terms of the appeal site’s relationships to Highfield, I consider that the proposed development would not cause a harmful effect to any significance that those non-designated properties may possess.
17. The appeal site is situated to the side of Bucklers Court, a substantial structure, which would effectively screen it from the Grade II Listed Buildings on Priestlands Place and Stanford Road. As a result, the proposed development would not interrupt the relationship that these structures have with the Highfield Listed Buildings and would not diminish their group value.
18. The Conservation Area has a legible medieval street pattern in its core, with 18<sup>th</sup> Century and later expansion at its periphery. These aspects contribute to the significance of the Conservation Area in its architectural and historic senses – as does the resultant harmonious, but nonetheless varied, nature of its built form.
19. Bucklers Court marks the boundary of the Conservation Area in relation to the appeal site, and effectively severs inter-visibility between the site and the historic core of the town – albeit the appeal site is inter-visible with the

Highfield properties. I accept that there is a marked change in character and scale between Bucklers Court and the appeal site's properties. It is clear that the change in scale from Bucklers Court to the predominantly 20<sup>th</sup> Century dwellings further down the hill would become more gradual and transitional as a result of the proposed development.

20. However, the proposed development would clearly read as a modern building and not a traditional one, and due to its site level, set-back and landscaping at its front, it would not appear overly assertive. Moreover, these aspects of the proposed development, taken together with the more assertive positioning of Bucklers Court, and the high quality architecture of the Highfield Listed Buildings set at the brow of the Hill, would ensure that the existing entry to the Conservation Area and the town's historic core would remain readily understandable. Consequently, the proposed development would not undermine the legibility of the town and would not erode the historic and architectural significance of the Conservation Area.
21. Accordingly, for the reasons set out above, I conclude on this main issue that the proposed development would avoid harm to the significance of the Conservation Area, and to the Grade II Listed Buildings No 1(Hill House) No2; Nos 3 and 4 (Down House); and Nos 5 and 6 (Highfield Ridge) Highfield. In these respects, the proposed development would accord with Policy DM1 of the New Forest Local Plan Part 2 (adopted April 2014) (the Part 2 Plan) and the National Planning Policy Framework (the Framework). Taken together and amongst other things, these policies seek to ensure that heritage assets are conserved in a manner appropriate to their significance; and that development should pay particular regard to setting, historic significance and context of heritage assets. In arriving at this view, I have taken fully into account the relevant Historic England good practice and related advice<sup>4</sup>.
22. In light of the above, and mindful of my duty under s66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990, I conclude that the proposed development would preserve the setting of the Grade II Listed Buildings No 1(Hill House) No2; Nos 3 and 4 (Down House); and Nos 5 and 6 (Highfield Ridge) Highfield.
23. Whilst I have been supplied with the CAA, that document makes clear<sup>5</sup> that it provides guidance on "the subject of the design of development *in* Lymington's central conservation area" (with my emphasis). The appeal site would thus be outside the scope of this document in terms of its design principles.

#### *Character and appearance*

24. For the purposes of the Distinctiveness SPD, the appeal site is located within Character Area 6 - South Lymington. According to the Distinctiveness SPD<sup>6</sup> this area has several key defining elements including the similar scale and mass of neighbouring dwellings, the presence of large trees, large garden settings (including rear garden islands), common set-backs, build-up of plot widths and low front boundaries. As currently developed, the site broadly conforms to these key defining features.

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<sup>4</sup> GPA2 *Managing Significance in Decision-Taking in the Historic Environment* (CD7.13); GPA3 *Setting and Views* (CD7.14); Historic England Advice Note 1 – *Conservation Areas* (CD7.16); Historic England Advice Note 12 – *Statements of Heritage Significance* (CD7.17)

<sup>5</sup> At paragraph 1.2

<sup>6</sup> At page 95

25. Nevertheless, the Distinctiveness SPD, makes it clear<sup>7</sup> that the guidance contained within the document “should inform the necessary thorough research into the context of individual sites. It is for the ... developer or the designer to investigate the finer nuances of the place and how they can inform the design of new development.” In these regards it is relevant that the appeal site is situated at the boundary of Character Area 6, close to Character Area 1 – the Town Centre, and Character Area 7 – Yaldhurst Purlieu. In this context, it is also relevant that the Framework<sup>8</sup> sets out that SPDs relating to design matters should allow a suitable degree of variety where this would be justified.
26. I readily accept that there is a clear distinction between Bucklers Court and the dwellings present at the appeal site in terms of their massing, scale, set-back density and the build-up of their building lines. I am also mindful of the design intentions set out in previous planning policy/guidance relating to the Bucklers Court site, which identified an “opportunity to ‘round off’ the town centre with a high quality residential scheme”<sup>9</sup>. Nevertheless, I saw that, due to its immediate proximity to the appeal site, Bucklers Court provides a clear context, and unlike the majority of dwellings in Area 6, which are in the main situated on quieter residential streets and cul-de-sacs, those on the appeal site directly address the A337 (Stanford Hill). To my mind, these aspects of the appeal site, and its relationships with its immediate surroundings could reasonably be considered finer nuances of this part of Area 6 which clearly distinguishes it from the wider area, which lacks such immediate contextual relationships. For this reason, I do not share the Council’s view that the design evolution of the appeal scheme, as expressed in the Design and Access Statement and other submissions, is based on erroneous conclusions about the appeal site’s context.
27. The design of the proposed development has responded to this site-specific context and would see a building which would, instead of the marked change in character that now exists, provide a more transitional approach. This would be achieved through a building which would step down in scale from its northern edge to its southern, and would incorporate distinct elevational elements, which would be set further back from the highway than Bucklers Court. The proposed building would be set in from its boundaries and landscaping would be provided adjacent to these. These elements of the appeal scheme’s design would ensure that the proposed building, despite its scale and massing, would not appear as an overly assertive feature. For these reasons too, it would not compete with the ‘rounding off’ role of Bucklers Court, or interfere with a contextual understanding of where the town centre and Conservation Area begins. Neither would the proposed development dominate Concord, the dwelling to its other side.
28. The front of the proposed building would incorporate four distinct elevational elements, which would provide articulation and modelling to this street-facing elevation. I saw within the appeal site’s wider surroundings (including at Highfield) examples of dormer windows, canopies, parapets, and flat-roofed elements. The proposed building would also clearly reference the range of facing materials present in nearby structures.

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<sup>7</sup> At paragraph 1.3

<sup>8</sup> At paragraph 126

<sup>9</sup> Included in Appendix 4 of the Council’s *Conservation Proof of Evidence* (CD8.12)

29. Some aspects of the elevational treatment would differ from those of some of the traditional buildings in the area. For example, I note views that the elevations may not achieve the precise classical proportions, particularly under the pediment, in contrast to the Highfield Listed Buildings and Bucklers Court; and its dormers would be in a broadly "landscape" rather than a "portrait" orientation unlike a great deal (although not all) of dormers present on buildings within the Conservation Area. Moreover, the front elevation, whilst incorporating symmetrical elements (such as the rendered element with dormer windows), taken as a whole would be asymmetric – and also incorporate asymmetric individual elements. I am mindful also that, unlike Bucklers Court, the proposed development would incorporate more extensive areas of flat roofing. Nevertheless, the appeal site is outside of the Conservation Area, and the proposed development would be a modern building, which would clearly read as such, albeit with references to traditional elements. Furthermore, due to the roof-level design, which includes parapets and pitched features, the flat roof elements would be largely invisible in the majority of available views of the appeal scheme. Accordingly, the proposed development's design would not appear incongruous in these terms.
30. The appeal scheme would introduce a more consolidated front boundary than exists at present with associated landscaping and tree planting and in this respect would be a considerable improvement on the current arrangement of highway crossovers. In these terms, the proposed development would clearly meet with the Distinctiveness SPD's design advice relating to the garden setting for built development<sup>10</sup>. Moreover, this aspect would greatly assist the proposal to assimilate with its surroundings.
31. In other respects, the proposed development would not meet the Distinctiveness SPD's guidance of most relevance to the character area within which it sits – in terms of its build-up of building line and its plot width. Whilst I accept that this would close the gaps currently present between the houses on the site, these gaps are only perceptible in a limited range of views, and in any event ancillary structures are present in a number of them. Consequently, the current contribution of the gaps between the appeal site's existing dwellings to the streetscene is, in my view, limited and their loss would be mitigated by the implementation of the proposed landscaping scheme. Moreover, the articulation of the proposed front elevation would also serve to break up the building line into visually discrete elements.
32. I note also that the rear wing of the proposed building would extend over the rear gardens currently at the appeal site, and that this element of the scheme would be visible in gaps from Belmore Road. Nevertheless, a considerable proportion of the rear garden would remain and existing trees would be accompanied with new planting. Taking these aspects of the proposed development together with the depth of neighbouring gardens and the maturity of their existing vegetation, I consider that the rear 'garden island' would not be harmfully eroded, and that intervening landscape elements would screen and soften views through to the rear of the proposed development.
33. The Framework sets out that planning decisions should promote an effective use of land in meeting the need for homes<sup>11</sup>; and that where there is an existing shortage of land for meeting identified housing needs (a matter of

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<sup>10</sup> Set out on page 95

<sup>11</sup> At paragraph 117

common ground between the parties in the current case), it is especially important that planning decisions ensure that developments make optimal use of the potential of each site<sup>12</sup>. To my mind, the site-specific design response of the appeal scheme would ensure that this is the case, and, taken together with the lack of material harm that would be caused in townscape terms, justifies a departure from the advice of the Distinctiveness SPD in this case insofar as its guidance regarding the build-up of building line and plot width is concerned.

34. For the reasons set out above, the appeal scheme would clearly not constitute an example of poor design, and thus would not conflict with the Framework<sup>13</sup> in this regard. Accordingly, these considerations taken together with my conclusions regarding the effects of the proposed development on the significance of heritage assets, lead me to the conclusion on this main issue that the appeal scheme would avoid harm to the character and appearance of the area. In these respects, the proposed development would accord with Policy ENV3 of the New Forest Local Plan (adopted July 2020) (the Local Plan), insofar as (amongst other things) it expects new development to create buildings, streets and spaces which are sympathetic to the environment and their context in terms of layout, landscape, scale, height appearance and density and in relationship to adjoining buildings, spaces and landscaping features. For these reasons too, I find no conflict with the Government's priorities for well-designed places as expressed in the National Design Guide.

## Other Matters

### *Housing Supply Position*

35. It is common ground that the Council cannot demonstrate a five-year supply of deliverable housing land. Although I accept that the Council's recently adopted Local Plan includes a strategy to meet its requirement over the plan period – delivery of its strategic site allocations is not progressing at the rate previously anticipated. The Council is currently engaging with developers to support an updated housing supply position to be published later this year. However, the fruits of that labour are not yet available – and I am mindful of the Council's statement that, as this work is still in progress, "it is not possible to take a definitive position on whether or not the Council has a five-year housing land supply at this present point in time and to attempt to do so through this Appeal Inquiry would not be practical or worthwhile"<sup>14</sup>. Consequently, at the Inquiry no substantive evidence was forthcoming sufficient to undermine the appellant's conclusion<sup>15</sup>, based on robust and credible analysis, that there is only around a 2.5 year supply of specific deliverable housing sites – a position that they characterise as an "optimistic view"<sup>16</sup> of the situation.
36. Moreover, I have found that no harm would occur to the significance of heritage assets as a result of the proposed development, and that in this respect, policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusal. In such circumstances the Framework indicates<sup>17</sup> that the tilted balance is engaged. In arriving at this

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<sup>12</sup> At paragraph 123

<sup>13</sup> At paragraph 130

<sup>14</sup> Paragraph 4.10 of Appendix 4 of the Council's *Proof of Evidence* (CD8.6)

<sup>15</sup> Per paragraph 10.2 *Draft Proof of Evidence: Housing Land Supply*, included as Appendix 1 to the Appellant's *Planning Proof of Evidence* (CD8.29)

<sup>16</sup> Ibid at paragraph 10.2

<sup>17</sup> At paragraph 11(d)

view, I acknowledge that the Council has met the most recent Housing Delivery Test – however, the Framework is clear<sup>18</sup> that this consideration would not disengage the tilted balance, where a five year supply of deliverable housing sites cannot be demonstrated.

37. Whilst the Council and appellant's assessments differ on this point, both indicate a significant need<sup>19</sup> for specialist housing for older people in the District over the plan period. During the course of the appeal, I have been supplied with no substantive evidence which suggests that there are any deliverable sites, other than the one subject to this appeal, which would make a meaningful contribution to the supply of sheltered housing in the short-to-medium term. Furthermore, the Government's Planning Practice Guidance (PPG) advises<sup>20</sup> that the need to provide housing for older people is critical.
38. I am mindful of views of interested parties<sup>21</sup> referring to the availability of older people's properties in Lymington and the perceived slow sales of some of the available stock -including one development, which appears to have completed in late 2019. Some consider that the level of parking provided and other matters such as the tenure arrangements involved in such housing may have contributed to slower than usual sales rates for the recently completed scheme. Nevertheless, social distancing measures pursuant to the COVID-19 pandemic have been in place for a considerable period of time following the completion of that scheme – and these may well have affected sales rates. I am conscious also that the market for age-restricted housing is necessarily smaller than that for general needs housing subject to no age restrictions – this is clearly another factor which could influence sales rates for such dwellings.
39. Some consider that housing, such as that proposed in this case could attract occupants from outside of the District. However, the demographic projections on which the Council's needs assessments are based includes an allowance for in-migration – and I am mindful of the material presented by the appellant in relation to one of its recently completed schemes<sup>22</sup> located in Brockenhurst, which demonstrates that a considerable proportion of its occupants moved from properties within the immediate locality. Although this material relates to an individual scheme, and is thus a limited sample, I have been supplied with no substantiated evidence that would refute this or that demonstrates that higher proportions of in-migration have occurred in respect of other schemes.
40. Accordingly, these matters do not materially undermine either the appellant's or Council's assessments in terms of the underlying need for this type of accommodation over the plan period.
41. Furthermore, in enabling older people to 'down-size' to smaller accommodation, which nonetheless would meet their needs, the proposed development would free up larger housing elsewhere, including a proportion in the District, which would also have beneficial housing supply effects.
42. Against this background, and taking into account the Court judgements and appeal decisions provided by the parties<sup>23</sup>, the appeal scheme's delivery of

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<sup>18</sup> At Footnote 7

<sup>19</sup> Per paragraph 6.24 of the Local Plan

<sup>20</sup> *Housing for Older and Disabled People* at Paragraph: 001 Reference ID: 63-001-20190626 Revision date: 26 June 2019

<sup>21</sup> Including Lymington and Pennington Town Council (ID3) and the Lymington Society (ID11)

<sup>22</sup> At Appendix 3 of the appellant's *Planning rebuttal to proof of evidence by Mr James Gilfillan* (CD8.35)

<sup>23</sup> *Hallam Land Management Ltd v Secretary of State for Communities*

specialist housing for older people would deliver benefits that weigh very significantly in its favour.

*Other Benefits of the proposed development*

43. Due to its adjacency to the town centre, its positioning within a settlement boundary, and its ready access to services, the appeal site is manifestly a sustainable location – a matter of common ground between the parties. In these ways, the proposed development would accord with the Local Plan's intention for older persons' housing to be located close to local facilities and services<sup>24</sup>.
44. Moreover, a considerable proportion of the appeal site also constitutes previously developed land – and I am mindful that some 61% of the District's area is what the Local Plan describes as "Greenfield with NPPF 2012 footnote 9 constraints"<sup>25</sup>. In the light of these considerations, the Framework's support for the effective<sup>26</sup> and efficient<sup>27</sup> use of land is particularly relevant. For these reasons, taken together with my findings on housing supply matters, I consider that the proposed development would also contribute to the Government's objective of delivering the right homes in the right places<sup>28</sup>.
45. The PPG sets out<sup>29</sup> that offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Research has been drawn to my attention by the appellant<sup>30</sup>, which finds that provision of housing of the type proposed could yield substantial savings to health and social care budgets.
46. The proposals would deliver a biodiversity net gain (BNG) on the site, which would be secured by a planning condition, of over 10%. Although Policy STR1 of the Local Plan requires BNG, it sets no specific percentage gain, and legislation enshrining a requirement is not yet in place. In any event, the BNG provided would be a clear benefit of the appeal scheme.
47. During its construction phase the proposed development would create direct employment, of some 20 roles per annum over an 18 month build programme<sup>31</sup> – and over that time the appeal scheme would also have a positive effect on economic activity in the wider construction supply chain. When completed, the adjacency of the appeal site to the town centre would likely lead to a considerable increase in spending at local businesses. These

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*and Local Government and Eastleigh Borough Council* [2017] EWHC 2865 (Admin); *Cheshire East Council v Secretary of State for Communities and Local Government and Rowland Homes Ltd* [2014] EWHC 3536 (Admin); *Phides Estates (Overseas) Limited v Secretary of State for Communities and Local Government, Shepway District Council and David Plumstead* [2015] EWHC 827 (Admin); APP/B1740/W/17/3174028; APP/B1740/W/17/3180586; APP/H2265/W/18/3202040; APP/R3650/W/18/3211033; APP/B1740/W/18/3198347; APP/F2605/W/18/3194045; APP/A0665/W/18/3203413; APP/B1740/W/18/3212419; APP/C3810/W/19/3242332; APP/C3810/Y/19/3242340; APP/W1145/W/19/3238460; APP/Q3115/W/19/3230827; APP/C1570/W/19/3242550; APP/A1530/W/19/3223010; APP/N1730/W/20/3261194; APP/G5180/W/20/3257010.

<sup>24</sup> Expressed at paragraph 6.27 of the Local Plan

<sup>25</sup> At Figure 2.5

<sup>26</sup> At paragraph 117

<sup>27</sup> At paragraph 122

<sup>28</sup> Set out in *Fixing our broken housing market* Cm9352 CD7.8

<sup>29</sup> *Housing for Older and Disabled People* at Paragraph: 001 Reference ID: 63-001-20190626 Revision date: 26 June 2019

<sup>30</sup> *Healthier and Happier: an Analysis of the fiscal and wellbeing benefits of building more homes for later living*, Produced by WPI Strategy, September 2019 included as Appendix 15 to the appellant's Statement of Case

<sup>31</sup> Per the appellant's *Planning Proof of Evidence* at paragraph 9.1 CD8.29

would be clear benefits in the economic sense – and in these terms the Framework makes clear that significant weight should be placed on the need to support economic growth<sup>32</sup>.

48. Accordingly, for these reasons, the proposed development's clear social, environmental and economic benefits taken together would attract very significant weight in the overall planning balance.
49. Although some would prefer to see development of family housing, given the proportion of older residents already in the District, an alternative scheme to provide such dwellings is not before me in this appeal, and in any event, for the reasons set out above, the proposed development would meet clear needs and secure a number of benefits.

### *European Sites*

50. The Statement of Common Ground<sup>33</sup> and the appellant's Proof of Evidence in respect of Ecology and Nature Conservation<sup>34</sup> highlight the following European sites in close proximity to the appeal site:
- the New Forest Special Area of Conservation (SAC);
  - the New Forest Special Protection Area (SPA)
  - the Solent and Isle of Wight Lagoons SAC;
  - the Solent Maritime SAC;
  - The Solent and Southampton Water SPA and RAMSAR.
51. Where plans or projects, either alone or in combination with others, would be likely to cause significant effects to European sites, the Habitats Regulations requires the competent authority to carry out an appropriate assessment before granting such consent. For the purposes of the Habitats Regulations, I am the competent authority in respect of this appeal and will proceed on this basis.
52. In short, the internationally important interest features of the New Forest European sites derive from the heathland, water and meadow features, and the habitats they provide for, amongst others, the European honey buzzard, the hen harrier, the Eurasian hobby, the European nightjar, the woodlark, the Dartford warbler and the wood warbler. The internationally important special interest features of the Solent European sites, are, in summary, and amongst other things, the coastal lagoon, sandbank, mudflat, annual and perennial vegetation of drift lines and stony banks, shifting dunes and salt meadow features. These European sites provide a habitat for Desmoulin's whorl snail, the sandwich tern, the common tern, the little tern, the roseate tern, the dark-bellied brent goose, the Eurasian teal, the ringed plover, the black-tailed godwit, and the Mediterranean gull.

### *Likely Significant Effects*

53. The increase in residential development that would occur as a result of the appeal scheme would be likely, in combination with other plans and projects, to

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<sup>32</sup> At paragraph 80

<sup>33</sup> CD7.12 at paragraph 3.8

<sup>34</sup> CD 8.27

have a significant effect on the New Forest and Solent European sites as a result of recreational disturbance. Furthermore, an increase in occupation and related transport movements is also likely, in combination with other plans and projects to lead to air quality implications that could lead to significant effects on the New Forest SAC. Moreover, in terms of the Solent European sites, the proposed development is likely to have significant effects in terms of the increase in nitrates arising as a result of the additional wastewater that would be discharged from the site.

#### *Recreational Pressure and Air Quality*

54. Recreational pressures arising from the proposed development would be likely to include disturbance of wintering birds feeding and roosting along the Solent coastline. Similarly, the disturbance of ground nesting birds in the New Forest European sites as a result of increased recreational activity arising from the site would also be likely to lead to adverse effects. Other effects could include trampling, nutrient enrichment and increased risk of wildfires as a result of increased recreational activity. In these ways, the proposal, in combination with other plans and projects, would adversely affect the integrity of the European sites.
55. There is a degree of uncertainty at this stage as to whether or not the air quality impacts of proposed developments in the New Forest District would lead to significant effects to the integrity of European sites. Nonetheless, it is necessary to apply the precautionary principle in relation to this matter, and it is not possible to establish conclusively at this stage that no adverse effects would arise to the integrity of the European sites as a result of its air quality implications.
56. It follows that, in terms of recreational pressure and air quality, the proposed development could clearly cause an adverse effect to the integrity of the relevant European sites and their conservation objectives. However, I have been supplied with a lawfully executed planning obligation pursuant to s106 of the Town and Country Planning Act 1990 (as amended), which would secure mitigation measures in accordance with the Council's Mitigation SPD and its *Developers' Contributions to Air Quality Monitoring on New Forest Habitats* note of 2 March 2021<sup>35</sup>. I am also mindful of Natural England's position<sup>36</sup> on these matters, which is that appropriate financial contributions, in line with the Mitigation SPD, would provide acceptable mitigation in these terms. I consider that the unambiguous content of Natural England's consultation response in these regards means that the requirement<sup>37</sup> for consultation on this matter in terms of my appropriate assessment has been met.
57. The obligations in these regards are clearly necessary to make the proposed development acceptable in planning terms, are directly related to the proposed development, and are based on an established methodology which ensures that they are fairly and reasonably related in scale and kind to the development. Accordingly, the obligations meet the relevant legal<sup>38</sup> and national policy tests<sup>39</sup>. In these terms, I am satisfied that I can take these planning obligations into account and that they would provide an effective mechanism

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<sup>35</sup> CD7.18

<sup>36</sup> Set out in its consultation response on the planning application dated 24 June 2020

<sup>37</sup> Established by Reg 63(3) of the Habitats Regulations

<sup>38</sup> Per Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended)

<sup>39</sup> Per paragraph 56 of the Framework

for ensuring that adverse impacts to the integrity of the relevant European sites in terms of air quality and recreational pressure would be effectively mitigated.

### *Nitrates*

58. Evidence produced by the Partnership for South Hampshire, which supported the production of the Local Plan, found that the majority of Solent water bodies had in most cases, less than good ecological status for elements such as dissolved inorganic nitrogen, and that wastewater treatment works in the area would reach capacity early in the plan period<sup>40</sup>. Consequently, developments in the New Forest Plan Area which would lead to increased discharges of wastewater would be likely to cause an adverse impact to the integrity of the Solent European sites in terms of nutrient enrichment. I am also cognisant that Natural England has advised the council that development which would result in increased overnight stays in certain parts of the District (including Lymington), should achieve nitrate neutrality to avoid any likely significant effects<sup>41</sup> to water quality in the Solent. Taking these things together, leads me to the view that without mitigation to achieve nitrate neutrality the proposed development, due to the increased wastewater discharge that it would create, would lead to an adverse effect to the integrity of the Solent European sites.
59. The appellant proposes an offsite mitigation package (the Heaton Scheme) based at a site in the Isle of Wight. In short, the Heaton Scheme would involve land being removed from active agricultural use to be planted with woodland. In doing so, the outflow of nitrates from the Heaton Scheme would reduce. The appellant would buy credits for the appropriate amount of land to be taken out of agricultural use to offset the proposed development's nitrates output. Contributions would also be included to secure monitoring of the Heaton Scheme by Isle of Wight Council.
60. Natural England confirmed<sup>42</sup> that the proposed mitigation land subject to the Heaton Scheme would be appropriate to offset nitrogen from developments which would discharge to the Pennington Wastewater Treatment Works, such as the one proposed in this case. Moreover, Natural England provided a site-specific response<sup>43</sup> on this point, which confirmed that the Heaton Scheme would be an appropriate location to provide mitigation in respect of the proposed development. Given the clear position of its representations generally in terms of the Heaton Scheme taken as a whole, and specifically in relation to the proposed development, I consider that this fulfils the requirement<sup>44</sup> for consultation with Natural England in respect of my appropriate assessment.
61. Natural England's site-specific response emphasises the necessity for any planning obligation relating to nitrates mitigation to secure the appropriate amount of land in the Heaton Scheme. Material submitted with the appeal, including the draft overarching agreement relating to the Heaton Scheme, and a nitrogen balance calculation for the proposed development based on the

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<sup>40</sup> Per paragraph 3.10 of the Council's *Interim Position Statement on Nutrient Neutral Development* of 4 September 2019, included as Appendix 2 of the appellant's *Planning Proof of Evidence* (CD8.29)

<sup>41</sup> Ibid paragraph 3.13

<sup>42</sup> In a letter of 21 April 2020 included at Appendix 24 of the appellant's *Planning Statement of Case* (CD7.24)

<sup>43</sup> Dated 26 November 2020 and included as Appendix 25 of the appellant's *Planning Statement of Case* (CD7.24)

<sup>44</sup> Established by Reg 63(3) of the Habitats Regulations

methodology established by Natural England, clearly demonstrate that the appropriate amount of land would be secured.

62. The appellant has submitted a unilateral planning obligation to secure the measures related to the Heaton Scheme, which would relate only to the area of land necessary to mitigate the proposed development's effects. However, I am mindful that neither of the parties promote this measure as their preferred option. Instead, securing the mitigation as part of the emerging overarching agreement relating to the wider Heaton Scheme as a whole would be preferred, not least as Isle of Wight Council would be a signatory to the overarching agreement and would thus be bound by its terms insofar as the responsibility for monitoring is concerned. I concur that there would be advantages in these terms of securing the mitigation via the overarching agreement rather than by the submitted unilateral undertaking.
63. The overarching agreement is not yet finalised – however, the Council indicated that it is due imminently. Consequently, the parties propose a Grampian condition, which would prevent the proposed development from being occupied prior to the mitigation measures pursuant to the Heaton Scheme being in place. This approach would be in-step with the Council's *Position Statement on Nutrient Neutral Development – Interim Nitrogen Mitigation Solution* (4 September 2019)<sup>45</sup>, which advocates the use of such conditions.
64. As set out above, the Council cannot currently demonstrate a supply of specific deliverable sites to provide a minimum of five years' worth of housing against their adopted requirement. In this context, the requirement to enter into proposal-specific arrangements in relation to nitrates agreements in the absence of a strategic package such as that which is to be subject to the overarching agreement, could act as a further impediment to securing permissions and completions – placing the delivery of the District's housing requirement at risk. For these reasons, I am of the view that exceptional circumstances exist which would justify the imposition of a condition which requires the appellant to enter into a planning obligation, and that this approach would therefore accord with the PPG<sup>46</sup> in these regards.
65. In arriving at this view, I am mindful that the proposed development could commence, but that only its residential occupation would be dependent on the measures being in place, as it is from this aspect of the proposal that the nitrates impacts would arise. I am content that the principal terms of the obligation are clear from the material before me, and that its imposition would clearly meet the three legal and policy tests<sup>47</sup>. Moreover, given that the completion of the overarching agreement is imminent, I consider that proceeding on the basis of the suggested Grampian condition would not unreasonably delay either the delivery of the development or its residential occupation. Taking these things together leads me to the view that the use of a Grampian condition in these circumstances would clearly accord with the advice set out in the PPG. For these reasons, I consider that the planning obligations contained in the unilateral undertaking related to this matter to be

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<sup>45</sup> Included as appendix 2 of the appellant's *Planning Proof of Evidence* (CD 8.29)

<sup>46</sup> *Use of Planning Conditions Paragraph: 010 Reference ID: 21a-010-20190723 Revision date: 23 07 2019*

<sup>47</sup> Per Regulation 122(2) of the Community Infrastructure regulations 2010 (as amended); and paragraph 56 of the Framework

unnecessary in this case, and they therefore carry no weight in my assessment of the appeal's merits<sup>48</sup>.

### *Appropriate Assessment*

66. For the reasons set out above, the proposed development would be likely to give rise to adverse effects to the integrity of European sites in terms of its recreational, air quality and nitrates impacts. However, the combination of the planning obligation which secures policy compliant mitigation in terms of recreational and air quality impacts; and the imposition of a condition requiring nitrate mitigation prior to the first occupation of the proposed development would ensure that the appeal scheme would not adversely affect the integrity of the relevant European sites. Consequently, I conclude that the proposed development would be acceptable in these terms, and would accord with Policy ENV1 of the Local Plan, insofar as it requires developments to avoid adverse effects to the integrity of European sites.

### *Optional Technical Standards*

67. The Council suggested a condition which would require the proposed dwellings to meet the optional technical standard for wheelchair adaptable housing and cited Policy IMPL2 of the Local Plan as a justification for this. Although the Council withdrew this suggested condition during the course of the Inquiry, I am nevertheless mindful that s38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires me to determine applications in accordance with the development plan unless other material considerations indicate otherwise. Policy IMPL2 requires sheltered housing to be built to the wheelchair adaptable dwelling standard of Part M4(3)2a of the Building Regulations. The proposed development would not meet this standard, a matter not disputed by the appellant. Consequently, in this respect the appeal scheme would conflict with the Local Plan insofar as this policy is concerned.
68. It is important to note that the appeal is pursuant to an application for full planning permission, rather than an outline scheme, and thus the internal arrangement of the proposed development would be fixed per the approved plans should permission be forthcoming – meaning that a condition requiring these standards would be likely to render the scheme unimplementable. I am mindful also that the design of the appeal scheme seeks to achieve the M4(2) Optional Building Regulations standard for accessible and adaptable dwellings<sup>49</sup> – albeit that without a condition specifying this, I accept that the Council could not enforce this standard. In any event, the proposed development would cater for a range of occupants, and not only those with impaired mobility. Consequently, I am not persuaded that a requirement for the higher optional standards to be deployed in all of the proposed dwellings would be either reasonable or necessary in this case.
69. Accordingly, taking these matters together with the benefits of the proposed development that are set out above, it is my view that any harm that would occur as a result of the appeal scheme's variance with Policy IMPL2 of the Local Plan does not significantly and demonstrably outweigh the proposed development's benefits – matters to which I accord very significant weight. In

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<sup>48</sup>Clause 6.6 of the unilateral undertaking indicates that in such a circumstance, the relevant obligations cease to have effect from the date of this decision

<sup>49</sup> *Rebuttal to the Proof of Evidence of Mr Gilfillan*, Contact Consulting, 30 April 2021 at paragraph 6 (CD 8.38)

arriving at this view, I am cognisant that the Council does not cite Policy IMPL2 in any of its reasons for refusal, and I have not been made aware of any material which indicates that compliance with the higher optional standard was sought prior to the appeal stage.

### *Highway Safety and Parking*

70. The submitted plans depict works in the highway which would entail a dedicated right-turn lane from Stanford Hill to the access to the proposed development – and this measure could be secured by a condition – as could appropriate visibility splays from the proposed access. Consequently, whilst traffic movements associated with the site would undoubtedly increase as a result of the proposed development, these measures would ensure that its highway safety implications would be acceptable.
71. The appeal site is also in an accessible location in close proximity to the town centre and related bus routes and makes provision for mobile scooter parking and charging. Taken together, these aspects of the appeal site and the proposed development would allow its future occupants to use alternative transport modes and reduce the reliance on the private car. So, whilst I note views that the proposed development would not supply an adequate amount of car parking, I consider the provision it makes would not lead to any harmful overspill parking on adjacent streets. I am mindful also that the local highway authority has no objections to the proposed development in highway safety or parking terms.

### *Living Conditions*

72. An electricity substation would be located in the corner of the site adjacent to 14 and 15 Bucklers Mews. The principal windows of these properties are in their front elevations, which are orientated away from the appeal site and the proposed substation, with only smaller windows at ground floor on other elevations – which the approved plans<sup>50</sup> for the Bucklers Mews properties indicate relate to kitchens and shower rooms. Moreover, I am mindful that the noise report submitted by the appellant<sup>51</sup>, finds that the noise effects of the substation would be negligible. Additionally, a condition, which would restrict the noise generated by the sub-station could be attached, and this would secure acceptable limits in these terms – a matter with which the Council agrees. Although I am mindful of comments relating to health and safety aspects of the proposed substation, I am satisfied that it will meet the relevant regulatory standards for such installations which are matters outside of the scope of planning control.
73. I acknowledge that due to their height and orientation of some of the proposed windows and balconies that these could lead to some overlooking of neighbouring properties. However, the installation of obscure glazing could be secured by condition and this, taken together with existing and proposed landscaping, would ensure that the proposed development would not materially reduce the level of privacy available to the occupants of neighbouring properties.

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<sup>50</sup> Included as Appendix 27 of the appellant's *Planning Statement of Case* (CD7.24)

<sup>51</sup> According to the *Statement of Case on Noise* included as Appendix 27 of the appellant's *Planning Statement of Case* (CD7.24)

74. As set out above, the proposed building would be taller than the dwellings currently at the appeal site, and the footprint of the rear wing would extend over an area of what is currently garden space. Nevertheless, the proposed development would be adequately separated from the appeal site's rear boundaries, and further still from the dwellings which address Belmore Road. Moreover, existing and proposed landscaping both within the appeal site and in the properties to its rear would screen views through from the Belmore Road properties to the appeal site. I saw also that the closest properties at Bucklers Mews are orientated in a way which present no direct views of the appeal site from its windows.
75. For these reasons I consider that, whilst undoubtedly more visible than the dwellings currently on the appeal site from some adjacent dwellings, the proposed development would not harmfully reduce the outlook available from the properties to its rear. Moreover, the distance achieved by the proposed building from the boundaries of its site would ensure that the amount of daylight and sunlight available to the occupants of adjacent dwellings would not be materially reduced as a result of the appeal scheme. Similarly, the proposed development's distance from, orientation to, and the lower level of the appeal site in comparison with the properties on Highfield would mean that the outlook available from the latter buildings' front windows would not be reduced to any meaningful extent. These relationships between the Highfield properties and the proposed development would also mean that adequate privacy would remain (and be provided for) their occupants.
76. These considerations therefore lead me to the conclusion that the proposed development, subject to the conditions that I have mentioned, would cause no adverse effects to the living conditions of the occupants of adjacent dwellings
77. Some consider that the density of the proposed development may not secure adequate living conditions for its future occupants, citing social distancing measures pursuant to the COVID-19 pandemic in support of this view. However, the proposed development would provide adequate amounts of internal and external space, and as a result I consider that it would secure a high standard of amenity for its future occupants.

#### *Affordable Housing*

78. The application that led to the appeal was supported by a viability statement, which was independently reviewed<sup>52</sup> on behalf of the Council. The independent review found, for site and proposal-specific reasons, that an affordable housing contribution would not be viable. I concur with the independent review that the appellant's viability evidence is reasonable. Moreover, for the reasons set out above, the proposed development would deliver specialist housing for older people for which there is a clear need. Consequently, the lack of provision of affordable housing, either on-site or in the form of a commuted sum is justified in this case, and would accord with Policies IMPL1 and HOU2 of the Local Plan insofar as taken together, and amongst other matters, they require the viability of development to be taken into account in decisions relating to the provision of affordable housing. In arriving at this view, I am cognisant that the Council raised no objections to the proposed development in these terms.

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<sup>52</sup> CD2.18

### *Health Considerations*

79. At the application stage, the Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust sought a contribution from the proposed development to support the provision of its services during the first year of the proposed development's occupation to fill the gap that would occur until general funding available to the Trust increases in line with any overall increases in population. However, there is no specific Local Plan policy requiring such a contribution, and the viability material provided indicates that the proposed development would not be able to provide this in any event.
80. Moreover, I am mindful of the aforementioned research provided by the appellant<sup>53</sup>, which indicates that each person living in a home for later living such as those proposed in this case would benefit from reduced risks of health challenges, which could lead to circa £3,500 savings per occupant per annum to the NHS and social services. To my mind, this gives further evidential weight to the PPG<sup>54</sup>, insofar as it states that offering older people a better choice of accommodation to suit their changing needs can help reduce costs to the social care and health care systems. Also as set out above, based on sales of another comparative property in Brockenhurst, a considerable proportion of the proposed development's occupants would be likely to come from the existing catchment area for the NHS Foundation Trust – albeit I readily accept that some population increase could potentially occur both as a result of some in-migration to the proposed dwellings, and as a result of larger homes made available through the appeal scheme's future occupants down-sizing.
81. Nevertheless, these site and proposal specific reasons lead me to the view on this matter that the obligation sought by the Foundation Trust would not be necessary to make the development acceptable in planning terms and thus would not meet the requirements of the Community Infrastructure Levy Regulations 2010 (as amended)<sup>55</sup> or the Framework<sup>56</sup> in this respect. Consequently, the unilateral undertaking submitted by the appellant to address this matter carries no weight in my assessment of the appeal's merits<sup>57</sup>.
82. Furthermore, given the potential for specialist older people's housing to reduce health risks, and thus pressure on related services, taken together with the likelihood that a considerable proportion of the occupants of the appeal scheme would come from the District, I consider that the proposed development would not give rise to any unacceptable additional pressure on local health services.

### *Flood Risk*

83. The appeal site is located in Flood Zone 1 which means that there is a low probability that river or sea flooding would affect it<sup>58</sup>. Conditions requiring the implementation and maintenance of an appropriate drainage system have been

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<sup>53</sup> *Healthier and Happier: an Analysis of the fiscal and wellbeing benefits of building more homes for later living*, Produced by WPI Strategy, September 2019 included as Appendix 15 to the appellant's Statement of Case (CD7.24)

<sup>54</sup> *Housing for Older and Disabled People* at Paragraph: 001 Reference ID: 63-001-20190626 Revision date: 26 June 2019

<sup>55</sup> Regulation 122(2)

<sup>56</sup> At paragraph 57

<sup>57</sup> In such a circumstance, Clause 6.4 of the submitted unilateral undertaking sets out that the relevant obligations cease to have effect from the date of this decision

<sup>58</sup> Per the PPG *Flood Risk and coastal change* Paragraph: 065 Reference ID: 7-065-20140306 Revision date: 06 03 2014

sought and can be imposed. I am also mindful that the Lead Local Flood Authority has raised no objections to the scheme subject to such conditions. Accordingly, I am of the view that the proposed development would be acceptable in these terms and would not lead to increased flood risk on the appeal site or elsewhere.

### **Planning Balance**

84. Although the proposed development would not secure housing which would meet the M4(3)2a optional technical standard and would thus be at variance with Policy IMPL2 of the Local Plan in this respect, the very significant benefits it would yield combined with the other material considerations referred to above (including the operation of the tilted balance, as set out in the Framework) would justify a decision other than in accordance with the development plan in this instance.
85. Furthermore, taken together, the above-matters also lead me to the view that the proposed development would accord with Policy STR1 of the Local Plan insofar as it expects, amongst other things, all new development to make a positive social, economic and environmental contribution to community and business life in the Plan Area. In my judgement, the appeal scheme would in all other respects accord with the development plan.
86. Whilst some consider that the appeal scheme could create a precedent for further development in the area, I have considered this site-specific proposal on its own merits. My decision in this case would not therefore create a precedent for proposals elsewhere in the area, or for instances where the harmful effects of proposals are not outweighed by their benefits.

### **Conditions**

87. The Framework sets out<sup>59</sup> that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have considered the suggested conditions on this basis. In the conditions I have attached, I have made minor amendments to their wording in the interests of clarity<sup>60</sup>. Where conditions require compliance with them prior to the commencement of the proposed development, the appellant has supplied their written agreement<sup>61</sup> to their terms<sup>62</sup>.
88. In the interests of certainty, it is necessary to attach a condition that specifies the approved plans.
89. A condition is imposed which requires the submission of a construction management plan to the Council for its approval prior to the commencement of development on the site. As the construction management plan will set out the measures to be adhered to during the appeal site's development phase, elements of the condition of necessity require compliance prior to the commencement of development. For these reasons, I consider the imposition of this condition to be clearly justified.

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<sup>59</sup> At paragraph 55

<sup>60</sup> Condition numbers 3, 4, 5, 8, 10, 12, 13, 14, 16, 17, 18, 19

<sup>61</sup> ID9 *Agreement to pre-commencement conditions*

<sup>62</sup> Per s100ZA of the Town and Country Planning Act 1990 (as amended)

90. In the interests of biodiversity, as well as the character of the site and its surroundings, and to ensure that existing trees that are due to be retained are adequately protected, a condition is attached which requires compliance with the appellant's submitted *Arboricultural Assessment and Method Statement*<sup>63</sup> and related details. Given the criticality of protecting the trees during the construction phase of the development there is clear justification for requirement for these measures to be in place prior to the demolition of the houses currently on the appeal site.
91. A condition is attached, which requires details of the materials to be used in the external construction of the appeal scheme to be submitted to the Council prior to their use. This condition is necessary in the interests of the character and appearance of the site and its surroundings.
92. As set out above, the proposed landscaping elements of the appeal scheme are integral to its overall townscape quality. It is for this reason that a condition is attached which requires timely implementation of the landscaping proposals in accordance with the approved plans – and requires replacement of trees should this be necessary within 5 years of the proposed development's completion. For substantially similar reasons, a condition is attached which requires the implementation of the front boundary treatment and planting as depicted in the plans prior to the first occupation of the proposed development.
93. In the interests of highway safety, a condition is attached which requires visibility splays in line with those shown on the submitted plans to be provided, and to remain free from obstruction. I am of the view that any restriction of permitted development rights that this condition could entail would be clearly justified in the interests of highway safety. The same condition would also ensure that the proposed development would provide adequate amounts of car and scooter parking, including charging points.
94. Also in the interests of both highway safety and of the character of the streetscene a condition is attached which requires details of the highways works that would be required to facilitate the dedicated right turn and highway crossovers and the removal of redundant crossovers to be submitted and approved prior to the commencement of the development. The condition requires these measures to be implemented prior to the first occupation of the proposed development.
95. Given the criticality of these measures to ensure the highway safety of the development in its day-to-day use a pre-commencement condition is clearly justified in this case. I have made a minor modification to the suggested condition to ensure that it is relevant to planning insofar as the details of the local highway authority's approval are to be supplied to the Council prior to the commencement of the development. The local highway authority raises no objection to the scheme subject to the implementation of the highway works set out in the condition. A Grampian condition in this instance is therefore clearly justified as there is a reasonable prospect that those highway works would be carried out in a timely fashion.
96. In the interests of the residential amenity of the occupants of adjacent dwellings conditions requiring the installation and retention of obscure glazing

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<sup>63</sup> Produced by Barrell Tree Consultancy, Dated 17 April 2020

- in identified windows and balustrades are clearly justified and are accordingly imposed.
97. To ensure that the appeal scheme would provide housing to meet the needs of older residents in accordance with the description of development given in the banner heading, a condition is attached which restricts the occupancy of the proposed dwellings to those aged 60 or above and their spouses or partners.
98. To ensure that the proposed development would provide adequate drainage and that development of the appeal site would not increase flood risk elsewhere, a condition is attached which requires the implementation of a drainage system in accordance with previously submitted details. Moreover, to ensure that the drainage infrastructure remains effective over the lifetime of the development, a condition is imposed which requires details and schedules of protection measures and maintenance arrangements for the surface water drainage system to be submitted to the Council for its approval and implemented in accordance with the approved details. I have made minor modifications to the suggested wording of this condition in the interests of precision and enforceability.
99. As set out above, in order to ensure that the noise created by the proposed electricity substation would cause no material harm to the living conditions of the occupants of 14 and 15 Bucklers Mews a condition is attached to ensure that acceptable limits are placed on this in line with the relevant British Standards, and as set out in the appellant's noise report<sup>64</sup>.
100. A condition is included to secure a biodiversity net gain on the site to ensure that the development would accord with Policy DM2 of the Local Plan in this regard, and to secure the benefit anticipated in documents submitted with the appeal. For substantially similar reasons, a condition is attached requiring the implementation and maintenance of the green roof. Also in the interests of biodiversity, and to ensure that any bats present on the site are adequately protected during construction and related activity, a condition is attached which requires details of appropriate licences for relevant works to be supplied to the Council prior to the commencement of any activities which may have an effect on their roosts.
101. I set out above the specific justification for including a Grampian condition which requires the submission of a mitigation package in respect of the proposed development's nitrates output. Accordingly, a condition to this effect is attached as it is necessary in the interests of the integrity of European sites. The condition imposed includes some minor amendments to the wording supplied by the Council, in the interests of enforceability and precision; and to ensure that the drafting conforms with the PPG advice relating to such conditions – particularly that they should be negatively worded<sup>65</sup>.

## **Conclusion**

102. For the reasons set out above, and taking fully into account all other matters raised, I conclude that the appeal should succeed.

*G J Fort*

INSPECTOR

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<sup>64</sup>The *Statement of Case on Noise* included as Appendix 27 of the appellant's *Statement of Case* (CD7.24)

<sup>65</sup> *Use of Conditions* Paragraph: 009 Reference ID: 21a-009-20140306 Revision date: 06 03 2014 and Paragraph: 010 Reference ID: 21a-010-20190723 Revision date: 23 07 2019

## **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Topographical Survey 2810-SV-1
  - Existing Floor Areas 2810-SV-2
  - Location Plan 1913 30
  - Site Plan 1913 31
  - Site Plan First Floor 1913 32
  - Lower Ground Floor 1913 33
  - Ground Floor Plan 1913 34
  - First Floor Plan 1913 35
  - Second Floor Plan 1913 36
  - Roof Plan 1913 37C Rev C
  - Proposed Elevations 1913 38
  - Proposed Elevations 1913 39
  - Indicative Street Scene and Site Section 1913 40
  - Section A-A 1913 41
  - Section B-B 1913 42
  - Section C-C 1913 43
  - Section D-D 1913 44
  - General Landscape Arrangement 1632-GA-100 REV K
  - Graphic Landscape Plan 1632-GP-101 REV K
  - Section A and B 1632-GP-102 REV A
  - Section C 1632-GP-103 REV A
  - Planting Plan 1632-PP-300 Rev L
  - Planting Schedule 1632-PP-301 Rev L
  - Tree Protection Plan 19028-BT2
- 3) No development shall take place, (including any works of demolition), until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved CMS shall include scaled drawings illustrating the provision for:
  - 1) The parking of site operatives' and visitors' vehicles;
  - 2) Loading and unloading of plant and materials;
  - 3) Management of construction traffic and access routes;
  - 4) Details of construction access and construction vehicle tracking;
  - 5) Storage of plant and materials used in constructing the development;
  - 6) Details of the method of cleaning wheels and chassis of all HGVs, plant and delivery vehicles leaving the site and the means of keeping the

site access road and adjacent public highway clear of mud and debris during site demolition, excavation, preparation and construction.

The agreed CMS shall then be adhered to for the duration of construction of the development hereby permitted.

- 4) Prior to demolition of the existing houses at the site, the tree protective measures recommended by the Barrell Tree Consultancy *Arboricultural Assessment and Method Statement* (reference:19028-AA-PB dated 17 April 2020) and the Tree Protection Plan (reference: 19028-BT2) shall be installed and thereafter retained for the duration of the construction period for the development hereby approved. No fires, building operations, storage of goods including building materials, machinery and soil, or discharge of any chemical substances, including petrol and diesel, shall be undertaken within the tree protection zones or within the canopy spreads, whichever is the greater, nor shall any change in soil levels or routing of services within those defined areas be carried out.
- 5) Prior to their use, details of all materials to be used in external facing walls, roofs, doors, windows, balustrades and hard surfaces shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 6) All external hard and soft landscape works shall be carried out in accordance with the approved plans and details within one year of the first residential occupation of development. 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.
- 7) Prior to occupation of the development hereby approved the parking spaces, accesses, manoeuvring space, visibility splays and motorised scooter store (with electric charging points) shown on the approved plans shall be provided. The parking spaces shall be retained and kept available for the parking of residents and their visitors only. The visibility splays shall be kept clear of any obstructions over 0.6m in height.
- 8) Prior to occupation of the relevant flats, the windows on the south elevation shown to be obscure glazed on the plan ref: Proposed Elevations 1913-38, shall be obscurely glazed, top hung and shall not open outward more than 200mm and shall be retained as such.
- 9) Prior to occupation of the relevant flats, the 1.8m high obscure glazed balcony screens, shown on the approved plans, shall be installed and thereafter retained as such.
- 10) Prior to first residential occupation of the development hereby approved the boundary treatment as shown on the approved plans shall be planted, implemented and installed, as appropriate, and thereafter maintained and retained.
- 11) The sheltered apartments comprising the development hereby permitted shall only be occupied by persons of sixty years or over, and the spouse or partner of such a person and in the event of the death of such person,

the spouse or partner of such person shall be permitted to remain within the retirement apartments irrespective of whether they are aged sixty years or over.

- 12) Development shall not take place until details of the works in the highway to provide:
- The access and egress pavement crossovers and the right turn lane on the A337, as shown in principle on drawings PBA 107.0008.006 Rev C (included in the *Stanford Hill Lymington Transport Statement produced by Paul Basham Associates*) and Site Plan 1913.31; and
  - Removal of the existing pavement crossovers serving High Bank, Silver Birches and Hill View from the A337 and reinstatement of the kerb, pavement and verge;

Shall have been submitted to the local highway authority for approval for the purposes of s278 of the Highway Act 1980; and evidence of the local highway authority's s278 approval shall have been provided to the local planning authority.

The development hereby permitted shall not be occupied until the works in the highway have been constructed in accordance with the approved details.

- 13) Prior to the occupation of the development hereby approved, the drainage system shall be constructed to achieve the proposed discharge rate of 5.0 l/s, in accordance with the designs and details set out in *Hydraulic Modelling Calculations for 44 Unit Scheme Stanford Hill, Lymington produced by Arch Associates DRAINAGE STRATEGY LAYOUT*; Project No: AAL160; Drawing No: 502; Revision: P2; dated: APRIL 2020, received 17/09/20 unless otherwise agreed in writing with the local planning authority.
- 14) Details for the long-term maintenance arrangements for the surface water drainage system shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved. The submitted details shall include:
- a. Maintenance schedules for each drainage feature type and ownership;
  - b. Details of and timescales for implementation of protection measures;
- The agreed maintenance and protection measures shall be implemented thereafter in accordance with the approved details, schedules and timescales.
- 15) The rating noise level from the proposed substation, determined in accordance with the requirements of BS 4142: 2014 + A1:2019 *Methods for rating and assessing industrial and commercial sound* shall not exceed the prevailing representative background noise level by more than minus 10 dB in any external amenity space or at the nearest habitable room window (under free-field conditions) at numbers 14 and 15 Bucklers Mews at any time.
- 16) Any works that impact on the bat roosts (day roost for common pipistrelle at Silver Birches (garage) and day roost for brown long-eared at High Bank as identified in the Phase 2 Bat Survey Report undertaken by Abbas Ecology (Dated August 2019)) shall not in any circumstances

commence unless the local planning authority has been provided with either:

a) a licence issued by Natural England authorising the specified activity/development to go ahead; or

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

17) No construction works above damp proof course level shall take place until a Biodiversity Net Gain (BNG) Management Plan has been submitted to and approved in writing by the local planning authority (covering a minimum period of 30 years). The management plan should include:

- Methods and timetable for delivering BNG;
- Responsibilities for delivering BNG – during and after construction;
- Description of the habitats to be managed;
- Clear timed and measurable objectives in the short, medium, and long-term for BNG - Detail objectives for all habitats (target condition);
- A commitment to adaptive management in response to monitoring to secure the intended biodiversity outcomes;
- Details for a formal review process when objectives are not fully reached / roles and responsibilities;

The agreed BNG and management plan shall be implemented and maintained in accordance with the agreed timescales and schedules unless otherwise agreed in writing with the local planning authority.

18) The roof of the development hereby permitted shall not be constructed until full details and specification of the biodiverse extensive (green/brown) roof(s) as shown on the approved plan have been submitted to and approved in writing by the local planning authority. The biodiverse roof(s) shall be implemented in accordance with the details approved and shall be maintained as such thereafter.

19) The development hereby permitted shall not be occupied until:

- A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the local planning authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter;
- A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the local planning authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the local planning authority to

ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and

- The mitigation package shall include a timetable for implementation and measures for retention and maintenance of that mitigation package.

The mitigation package shall thereafter be implemented, maintained and retained in accordance with the approved timetable.

**\*\*\*End of Conditions Schedule\*\*\***

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Guy Williams of Counsel

Instructed by Amanda Wilson,  
Solicitor, New Forest District  
Council

*He called:*

James Gilfillan BA(Hons) MATCP  
MRTPI

Senior Development Management  
Officer, New Forest District Council

Warren Lever BSc (Hons) Cons  
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Senior Conservation and Building  
Design Officer, New Forest District  
Council

### **FOR THE APPELLANT:**

Charles Banner QC

Instructed by Robert Garden  
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*He called:*

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On behalf of David James  
Architects & Partners Ltd

Andrew Williams BA(Hons) DipLA,  
DipUD, CMLI

Director, Define

### **INTERESTED PARTIES:**

Councillor Andrew Peter Ash-Vie

Chair of the Lymington and  
Pennington Town Council Planning  
Committee

Don Mackenzie

Deputy Chair, The Lymington  
Society

**DOCUMENTS SUBMITTED AT THE INQUIRY:**

- ID1 – Appellant’s Opening
- ID2 – Council’s Opening
- ID3 – Lymington and Pennington Town Council Statement
- ID4 – Note to the Inspector on the overarching agreement and the unilateral undertaking
- ID5 – Secretary of State Decision Letter on APP/P1133/W/18/3205558 Land at Wolborough Barton, Coach Road, Newton Abbot TQ12 1EJ
- ID6 – Mitigation for Recreational Impact on New Forest European Sites Supplementary Planning Document
- ID7 – List of Suggested Conditions
- ID8 – Note on the current availability of Market Retirement Accommodation in New Forest District Council
- ID9 – Appellant’s agreement to pre-commencement conditions
- ID10 – Appeal Decision APP/N1730/W/20/3261194
- ID11 – Statement of the Lymington Society
- ID12 – Chris Cox Rebuttal Clarification
- ID13 – Closing Submissions on behalf of the Council
- ID14 – *Hallam Land Management Ltd v Secretary of State for Communities and Local Government and Eastleigh Borough Council* [2017] EWHC 2865 (Admin)
- ID15 – Closing Submissions on behalf of the appellant

**DOCUMENTS SUBMITTED BY AGREEMENT AFTER THE INQUIRY:**

- 1 - Unilateral Undertaking relating to Nitrates Mitigation: Dated 20 May 2021
- 2 - Unilateral Undertaking relating to Health Contributions: Dated 20 May 2021
- 3 - Section 106 planning obligations relating to mitigation of recreation impacts and air quality: Dated 26 May 2021

**APPENDIX 2 – Appeal Decision Reference: 3261194  
(Churchill Retirement Living)**

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## Appeal Decision

Inquiry Held on 16-18 March 2021

Site visit made on 19 March 2021

**by Harold Stephens BA MPhil Dip TP MRTPI FRSA**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 May 2021**

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**Appeal Ref: APP/N1730/W/20/3261194**

**Former Fleet Police Station, 13 Crookham Road, Fleet GU51 5QQ**

- 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 Churchill Retirement Living Ltd against Hart District Council.
  - The application Ref 19/02659/FUL, is dated 15 November 2019.
  - The development proposed is demolition of existing building and redevelopment of the site to form 31 retirement apartments including communal facilities, retention of existing access, car parking and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing building and redevelopment of the site to form 31 retirement apartments including communal facilities, retention of existing access, car parking and landscaping at the former Fleet Police Station, 13 Crookham Road, Fleet GU51 5QQ in accordance with the terms of the application, Ref 19/02659/FUL, dated 15 November 2019, and the plans submitted with it, subject to the conditions set out in the Schedule attached to this decision.

### Procedural Matters

2. The appeal was lodged against the non-determination of the planning application. The application was reported to the Council's Planning Committee on 11 November 2020 to inform the Planning Committee of the submission of the non-determination planning appeal and to establish what the decision of the Planning Committee would have been had it determined the application. The Planning Committee resolved that it would have refused the application for the following three reasons which are contained in the Planning Statement of Common Ground (SoCG).<sup>1</sup> In summary these are: (i) the proposed development would not provide an adequate level of affordable housing; (ii) the proposed development would not achieve a high-quality design or positively contribute to the overall appearance of the area; and (iii) the proposed development, either alone or in combination with other plans or projects, would be likely to have a significant adverse effect on the Special Protection Area.
3. The application was supported by a number of plans, reports, and technical information. A full list of the plans on which the appeal is to be determined is

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<sup>1</sup> Paragraph 2.9

set out at paragraph 2.11 of the Planning SoCG which was agreed by the main parties. The application was also submitted with supporting statements and information which is set out at paragraph 2.12 of the Planning SoCG. The proposal was supported by a Design and Access Statement (DAS), a Planning Statement, information on Greenfield Runoff Rates, a Transport Statement, an Ecological Desk Study, a Shadow Habitats Regulation Assessment, a Ground Investigation Report, an Affordable Housing Viability Statement, a Statement of Community Involvement, a Thames Basin Heath Statement, a Sustainability and Energy Statement and a Planning Statement Addendum.

4. I held a Case Management Conference (CMC) on 11 January 2021. At the CMC the main issues were identified, how the evidence would be dealt with at the Inquiry and timings. In the weeks following the CMC both main parties continued discussions on the appeal to ensure that matters of dispute were clear and that all matters of agreement (non-disputed matters) were documented in either Statements of Common Ground or in draft Planning Conditions such that time on these matters was minimised at the Inquiry. It follows that there are two Statements of Common Ground in this case:
  - Planning Statement of Common Ground – 26/01/21
  - Viability Statement of Common Ground – 26/01/21.
5. At the Inquiry a Planning Obligation was submitted. The Planning Obligation is made by an Agreement between the Appellant, HSBC UK Bank Plc and Hart District Council under s106 of the TCPA 1990. The Planning Obligation secures the following: (i) an off-site financial contribution in lieu of on-site affordable housing provision of £500,000; (ii) provision of SANG<sup>2</sup> land at Queen Elizabeth Barracks, Sandy Lane, Church Crookham and provision of a SAMM<sup>3</sup> payment of £14,585. The s106 Agreement is signed and dated 10 May 2021 and is a material consideration in this case. A Community Infrastructure Levy (CIL) Compliance Statement was also submitted in support of the Planning Obligation. I return to the Planning Obligation later in this decision.
6. In relation to putative RfR1 (affordable housing), it is clear that agreement has now been reached in relation to an off-site financial contribution towards affordable housing that is secured through a s106 Agreement. Therefore, it is agreed that having regard to development viability, the appeal proposal would provide an adequate level of affordable housing provision. This matter is no longer in dispute and did not form part of the Council's or the Appellant's evidence.

## **Main Issues**

7. In the light of the above I consider the main issues are:
  - (i) *The effect of the design of the proposed development on the character and appearance of the area; and*
  - (ii) *The effect of the proposed development on the Thames Basin Heaths Special Protection Area.*

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<sup>2</sup> Suitable Alternative Natural Greenspace

<sup>3</sup> Strategic Access Management and Monitoring

## Reasons

### *The Appeal Site*

8. The appeal site is an L shaped plot of land of approximately 0.29ha. The site slopes down from Crookham Road to the back of the site. The site is currently vacant being formerly a police station. The police station building (now demolished) was constructed in red brick and was located centrally within the site. On the south boundary is a single storey garage block. A tarmac surfaced car park associated with the police station use occupies the north west part of the site with access gained from Crookham Road. A secondary vehicular access is located to the south east from St James Road. The police station building was two storeys in height with a part pitched and part flat roof. An underground fuel tank is recorded on site.
9. To the south west of the site is Walton Close which incorporates three residential properties, separating the site from Walton Close is a brick wall. To the north west is Crookham Road and on the opposite side of the road is Grace Gardens and Fraynes Croft, both incorporate residential properties. To the north east is St James Road and on the opposite side are residential properties which were built in approximately 2010. To the south east is the access road to the Fleet Bowls Club clubhouse and residential dwellings to the rear. The properties in the immediate area range from single storey to three stories in height with the majority being of a brick construction. The site is not within a conservation area.

### *Description of Development*

10. The description of development of the appeal is:

*"Demolition of existing building and redevelopment of the site to form 31 retirement apartments including communal facilities, retention of existing access, car parking and landscaping."*

11. The proposed apartments would consist of 19 x one-bedroom apartments and 12 x two-bedroom apartments. These would be supported by communal facilities including a one bedroom guest suite, lobby, residents' lounge, and rear garden. The proposal would fall within Use Class C3 (Dwelling Houses).

12. The submitted Planning Statement (para. 2.10) states:

*"The developments consist of 1- and 2-bedroom apartments and are sold by the Applicant with a lease containing an age restriction which ensures that only people of 60 years or over, or those of 60 years or over with a spouse or partner of at least 55, can live in the development."*

13. The development would have a lodge manager who would be on call during normal working hours and would have an office. There is no warden living on site and no specialist medical support would be provided.
14. The scheme would consist of a single three storey building fronting Crookham Road. The main entrance to the building would be to the west and would also provide access to a car park for 20 vehicles. Vehicular access would be from Crookham Road as per the arrangement for the former police station.

### *Planning Policy*

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. The parties are agreed that the statutory development plan includes the following documents: (i) The South East Plan (SEP) Saved Policy NRM6; the Hart Local Plan (Replacement) 1996-2006 Saved Policies (HLP06); (iii) the Hart Local Plan (Strategy and Sites) 2032 (HLP32) and the Fleet Neighbourhood Plan (FNP) 2019. The parties are agreed that the policies relevant to this appeal are in these documents and they are listed at paragraphs 3.5-3.8 on page 11 of the Planning SoCG.
16. The development plan identifies the appeal site to be within the Fleet Settlement boundary and approximately 50m south west of the Fleet Town Centre boundary. For the purposes of FNP Policy 10A, the appeal site is identified as being within the Fleet Town Centre Character Area.
17. It is common ground in this case that the development plan is up-to-date. The relevant policies are also agreed and are set out in the Planning SoCG. I shall assess which policies are supportive, neutral or in conflict with the proposed development and the weighting that can be attached to various policies. Then I shall assess taking the plan as a whole, whether or not the appeal scheme complies with the development plan. Then in the light of compliance or breach whether there are material considerations which would outweigh that determination in accordance with the development plan.
18. Both parties are agreed that relevant policy and guidance is contained in the following documents:
  - Building for a Healthy Life (2020)
  - Government's Technical Housing Standards - Nationally Described Space Standard (2015)
  - Hart, Rushmoor and Surrey Heath Strategic Housing Market Assessment 2014 -2032 (2016)
  - Hart District Council Urban Characterisation and Density Study (2010)
  - Hart District Council Parking Provision Interim Guidance (2008)
  - Hart District Council Five Year Housing Land Supply from 1 April 2020 (September 2020)
  - Thames Basin Heaths Special Protection Area Delivery Framework (2009)
  - Hart Council Community Infrastructure Policy (August 2014)
  - Whole Plan and CIL Viability Study December (2016)
19. There is no dispute that the proposal complies with the vision and objectives of the plan in that it gives priority to the redevelopment of previously developed land and that it provides more accommodation for the elderly.<sup>4</sup> There is also agreement that the proposal complies with the following key policies. Firstly, it is agreed that Policy SD1, which deals with sustainable development, is not breached by the proposal. Policy SD1 is the overarching policy in the plan and must be given significant weight.

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<sup>4</sup> HLP32 page 32

20. Secondly, there is no dispute that Policy SS1, which sets out the spatial strategy and the distribution of growth, is supportive of the development. The appeal scheme is located in the most sustainable settlement in Hart and is on previously developed land. I note that in meeting the housing requirement of the District, criteria (b) identifies permitting further development within the defined settlement boundaries where this proposal is located. Compliance with Policy SS1 must therefore be given significant weight.
21. Thirdly, both sides accept that Policy H1 (a-c) supports the proposal. The appeal scheme would provide an appropriate mix of dwelling types and sizes having regard to the evidence in the SHMA about housing needs and the size, location and characteristics of the surroundings; it would also provide homes that are accessible and adaptable and it would provide homes that would be made for specialist accommodation having regard to the SHMA.<sup>5</sup> Collectively the proposal complies with Policy H1 and should be given significant weight.
22. Fourthly, Policy H2 is met by the s106 contributions. There is an accepted significant need for further affordable housing in Hart<sup>6</sup> and the policy compliance should be given significant weight. Fifthly, Policy H4 is also supportive of the proposal seeking the provision of specialist accommodation for older persons on sites within settlement boundaries.<sup>7</sup> Significant weight should be given to this policy. Sixthly, the parties agree that the proposal complies with Policy H6 in meeting nationally described internal space standards. Again, significant weight should be given to this policy compliance.

***First Issue - the effect of the design of the proposed development on the character and appearance of the area***

23. The appeal scheme proposes a three storey L shaped building with the long frontages to Crookham Road (north west) and Walton Close (south west). A communal amenity garden would be provided to the rear of the building on the east part of the site and a car park to the south, accessed from Crookham Road. The main access to the building would be from the access road to the south west. The proposed building would feature a pitched roof, gables, dormer windows and balconies. The predominant elevation material would be red brick, light cream render and brick accents are also proposed. The roof would consist of grey tiling.
24. The Council maintains that the proposed development would result in a poor design response through its failure to integrate and interact successfully with Crookham Road and St James Close; that the proposed elevations lack detail and quality; and that the scheme fails to respond positively to urban design policies and guidance. It is argued that the proposal would not meet the requirements of Policy NBE9 of HLP32, Policy GEN1 of HLP06 or Policy 10 or 10A of the FNP. It is contended that these design policies are highly significant and sufficient in themselves to justify dismissing the appeal. Reference is

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<sup>5</sup> Paragraphs 128-131 of HLP32

<sup>6</sup> Paragraph 137 of HLP32

<sup>7</sup> Paragraph 156 of HLP32

made to the Government's increasing emphasis on the need for high quality design and placemaking which is evident from the NPPF, the Planning Practice Guidance, the National Design Guide and Building for a Healthy Life.

25. There was some discussion at the Inquiry about the status of the site and whether it is located within Fleet Town Centre. From the documents that are before me, I consider that the appeal site is not within the Fleet Town Centre for the purposes of the HLP32.<sup>8</sup> However, it is within the Fleet Town Centre Neighbourhood Area for the purposes of the FNP and to which the Urban Characterisation and Density Study (UCDS) and Townscape Analysis Map apply. Although both the HLP32 and the FNP form part of the statutory development plan any conflict in policy must be resolved in favour of the policy which is contained in the last document to become part of the development plan.<sup>9</sup>
26. Both sides agree that the UCDS is a material consideration and it identifies the site to be in Area D: Fleet Road of the Fleet Town Centre Neighbourhood Area. A number of locally listed and positive buildings are identified in the sub area on the Townscape Analysis Map. The UCDS identifies Area D as sensitive to change and identifies a number of characteristics that apply. Policy 10A of the FNP makes clear that proposals will be supported where they have appropriate regard to the design characteristics for the relevant land use in that character area.
27. Although the Council opened its case on the basis that the massing and appearance of the proposed development was in dispute between the parties, no material evidence was led by the Council on that point. The Council confirmed that the points of particular concern in relation to the design of the scheme were the lack of active frontages and local character.
28. As a preliminary point, I note that the site has been vacant for about six years but nowhere has the Council sought to impose a site specific design solution through the development plan nor has it set down a list of requirements for this site or the general area. Instead the Council relies on alleged conflict with Policies NBE9 of HLP32, GEN1 of HLP06 and Policies 10 and 10A of the FNP all of which are generic in nature.
29. With regard to Policy NBE9 of HLP32 the proposal is alleged to conflict with criteria (b) and (g) because of the lack of active elevation. However, there are 10 criteria in the policy and only two are said to be breached. Therefore, even on the Council's case 8 of the criteria are effectively complied with so that overall, the policy is complied with taking the policy as a whole. Secondly, neither criteria (b) or (g) expressly mention active frontage. The Council accepted that neither criteria in the policy mentioned active elevation.

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<sup>8</sup> Inset Map 10.1

<sup>9</sup> Section 38(5) of the PCPA 2004 refers. The HLP32 was the last document to become part of the development plan being adopted in April 2020

30. The Council argued that the aims of Policy NBE9 (b) and (g) cannot be met without active elevation. However, I consider the language in HLP32 is clear where the Council considers active frontages are necessary, such as in Policy ED5 and in the area in the Fleet Town Centre in Inset Map 10.1. I cannot accept that criteria (b) and (g) do actually deal with active frontages. Criteria (b) relates to the contribution of the building to public spaces and also access routes and public rights of way. It cannot be inferred that active frontages are implicit in that and the NPPF<sup>10</sup> states that policies must be clearly written and unambiguous. Exactly the same points can be made about criteria (g). This is all about crime and preventing anti-social behaviour. It cannot be inferred that active frontages are implicit here.
31. With regard to Policy GEN1 of HLP06, criteria (i), the Council accepted that this policy is generic in nature and has no express requirement for active elevation here. Moreover, there are numerous criteria in this policy and only one is alleged to be breached. With regard to Policies 10 and 10A of the FNP, I note that this policy was described by the examiner in 2019 as a generic design policy.<sup>11</sup> Furthermore, the Council accepted that the relevant UCDS's guidance<sup>12</sup> for new developments in Area D of the Fleet Town Centre was limited to developments being of two or three storeys and that there were various opportunities for public realm and traffic management opportunities.
32. Overall, it is clear to me that there is no express requirement for active frontages in any of these policies. The development plan simply does not require active frontages on the appeal site.
33. Additionally, the importance of active frontages is overstated by the Council. None of the documents cited in support of the pre-eminence of active frontages affords active frontages the weight given to them by Dr Kruczkowski.<sup>13</sup> Where the NPPF, the National Design Guide and Building for a Healthy Life do mention active frontages, they do so as ways of integrating buildings into their surroundings. This is recognised in the guidance that Dr Kruczkowski, cited at paragraph 2.3 of the Rebuttal PoE: the purpose of an active frontage is to add interest, life, and vitality to the public realm. In my view the proposed design does this, and the proposed development would be fully occupied on a full time basis by 31 occupants at least who would be resident and using the high street on a daily basis. There are no requirements or grading standards in the NPPF or otherwise for appropriate or inappropriate active frontages and, as I saw on my site visit, the activity afforded by the other frontages in the area is limited.
34. Turning to the alleged impact of the proposed development, I note that the proposed building would be set back about 5m from Crookham Road and about 1m below the level of Crookham Road. The Council's principal criticism

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<sup>10</sup> Paragraph 16

<sup>11</sup> Mr Moorhouse Appendix 1

<sup>12</sup> Appendix 1, page 12

<sup>13</sup> Dr Kruczkowski's POE paragraph 2.53-2.54

with the proposed development is that its principal façade does not face Crookham Road because the front door does not face Crookham Road, meaning that the frontage to the building could only ever achieve a “Grade D” standard for active frontages. I disagree.

35. It is wrong to say the principal elevation in the building would not be on Crookham Road. The principal elevation is defined by the massing of the proposed development and the location of the main road, which means that the development’s principal façade would be the elevation facing Crookham Road. As Mr Jackson confirmed the building would be easily legible and understood by anyone coming to the site and there would be no harm in having the main entrance to the side of the building.
36. The appeal scheme would offer a high degree of social interaction between residents of the development and those walking by it. Some 39 openings face Crookham Road over a frontage of 54 metres. The openings on the building increase the interface of the building with the public realm given that five of the ground floor flats have doors, leading onto patios, which would be used by residents. A further six of the first and second floor flats have Juliette balconies with fully opening doors. The Council’s approach highlights a lack of understanding of how to design a scheme which works for the provision of accommodation for older persons. The design which the Council appears to want would not be architecturally workable given the need for a level access to the building and level access internally.
37. In addition, the suggestion that the building could be level with Crookham Road is impractical because of the need for a platform lift and this would decrease the level of interaction with the public realm, as ground floor residents would be level with a busy road so less likely to use or sit on the six patios at the front of the building. Dr Kruczkowski’s evidence in chief was that “an active frontage is not made active by having doors”. The level of usage by a front door on Crookham Road would be limited in any event. The location of the car park at the rear means that even if there were a front door on the Crookham Road elevation of the building, it would not be regularly used. This is illustrated by the properties in St James’ Close. In my view there would be no material harm arising from the design of the appeal scheme.
38. I now turn to the alleged harm to local character. It was very difficult to discern from the Council’s evidence what the actual current character of the locality is. There is the guidance in the UCDS’s Area D: Fleet Road of the Fleet Town Centre Neighbourhood Area and the locally distinctive character of the site which the Council identified as coming from the Townscape Analysis Map. However, it is clear that not all of the characteristics that apply to the Area D character area are relevant to the appeal site.<sup>14</sup> Indeed, almost none of the characteristics of this area can be seen from the site or are relevant to the immediate surroundings. There is no retail adjacent, there is no Edwardian

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<sup>14</sup> UCDS Appendix 1 page 10 Area D: Fleet Road

character, there are no locally listed buildings within view, there is no common building line and there is no view of a 1960's shopping centre. The only points of relevance are that buildings are two-three storeys and that there is a negative building on the proposed site where sensitive development would be welcomed.

39. In my view the local character is highly varied and different with no dominant style, typology, massing, building line, footprint, scale, use or material. The scale and height of the site context is two to three storeys. The site context is mixed and includes detached houses, terraced houses, semi-detached houses, bungalows, and large flatted developments as well as commercial properties. It is obviously wrong to look at character based on a plan alone, which should actually be determined by the context of the site. The appearance of buildings and building materials used in the site context is also mixed. Plainly the site is in a location where the urban transitions into the suburban. In the context of the site, the scheme proposed by the Appellant offers high quality design, which is cohesive with Crookham Road and its surroundings. I cannot agree with the Council that the measured, polite, and benign elevations of this building would be so materially harmful to the existing character as to justify refusal on design grounds.
40. Where Dr Kruczkowski did identify buildings, which made 'positive contributions', that is all he did. He did not identify any characteristics which make them positive, for example in his description of Royal Parade. Dr Kruczkowski failed to identify any local characteristics from the Townscape Analysis Map which the proposal does not comply with save for that the character is about relationships with the street. That is, effectively, a repeat of the Council's case on active frontages which I have already dealt with above.
41. The proposed design would enliven the Crookham Road street scene. The proposed amenity space would be set down and back from the road which would allow some privacy and separation from traffic but would also allow some interaction between the public realm and residents. The boundary treatment is set at a height to allow passing pedestrians visual connection with residents at the front of the building. The setting down of the building is key to dealing with the sloping site levels of about 2m across the site, making the building accessible to all at a single level. The most appropriate location for practical entry to the building is at the south west elevation as designed, where it could be seen from both Crookham Road and the car park and can provide level access to the building.
42. The appeal scheme provides a high quality design. The context analysis within the DAS has identified this site as a transition site between the more urban grain development to the north and the suburban development to the south. The building would be set down into the site, to both create a level access to all points and reduce the height of the building to neighbouring dwellings. The proposal has similar eaves heights to St James Close. The roof would be stepped to break down into elements thereby reducing the overall mass.

Dormers would further visually break up the roof mass. The height, scale and mass are all appropriate for this site and its context. Gables with limited articulation are a feature of the immediate context. The DAS covers a detailed analysis of the materials and features of buildings in the local context. The proposed design therefore positively responds to all aspects of paragraph 127 of the NPPF and is high quality.

43. Drawing all of these threads together I conclude on the first issue that the proposed development is a high quality design which would positively contribute to the overall character and appearance of the area. The proposal would accord with aforementioned development plan policies NBE9 of HLP 32, GEN1 of HLP 06 and Policy 10 and 10A of FNP and with other relevant policy and guidance including that contained in the NPPF.

### ***Second Issue - Effect on Thames Basin Heaths SPA***

#### *Assessment of likely significant effects*

44. The appeal site is located in proximity to the Thames Basin Heaths Special Protection Area (TBHSPA). It is within the 5 kms SPA Buffer Zone but outside of the 400m 'inner exclusion' zone identified within SEP Policy NRM6, HLP32 Policies NBE3 and NBE4 and FNP Policy 17. The TBHSPA is a network of heathland sites which are designated for their ability to provide a habitat for the internationally important bird species of woodlark, nightjar, and Dartford warbler. The area is protected in the UK under the provisions set out in the Conservation of Habitats and Species Regulations 2017 (as amended) (the 'Habitats Regulations'). These bird species are particularly subject to disturbance from walkers, dog walkers and cat predation because they nest on or near the ground.
45. The conservation objectives for the SPA are to ensure that the integrity of the site is maintained or restored as appropriate, and to ensure that the site contributes to achieving the aims of the Habitats Regulations, by maintaining or restoring the extent and distribution of the habitats of the qualifying features; the structure and function of the habitats of the qualifying features; the supporting processes on which the habitats of the qualifying features rely; the population of each of the qualifying features, and, the distribution of the qualifying features within the site. I have had regard to these objectives in undertaking my duties in accordance with the Habitats Regulations.
46. The characteristics of the proposed development coupled with its proximity to the SPA present an increased risk of disturbance to its qualifying features. Natural England (NE) has indicated that it believes that within 5km of the SPA, additional residential development in combination will have significant effects on the Bourley and Long Valley SSSI, which forms part of the TBHSPA. Thus, without mitigation any such proposal is contrary to Habitats Regulations 63 and 64. Mitigation measures in the form of SANG and SAMM contributions are required to be secured to avoid impacts from residents who may recreate upon the SPA. NE also considers that without appropriate mitigation the

proposed development could have an adverse effect on the integrity of the Basingstoke Canal SSI. In order to mitigate these impacts and make the development acceptable foul drainage must be connected to the public sewer.

47. Collectively, SEP Policy NRM6, HLP32 Policies NBE3 and NBE4 and FNP Policy 17 require adequate measures to avoid or mitigate any potential adverse effects on the SPA. The application proposes 31 net additional dwellings (Class C3 use) within the 400m – 5km TBHSPA 'zone of influence'. As such, adequate measures in accordance with the Habitats Regulations and the above development plan policies are required. The Habitats Regulations require the Competent Authority to consider the potential impact that a development may have on a European Protected Site (TBHSPA).
48. The Thames Basin Heaths Joint Strategic Partnership has agreed a 'Thames Basin Heaths Special Protection Area Delivery Framework'<sup>15</sup> to enable the delivery of housing in the vicinity of the TBHSPA without development having a significant effect on the TBHSPA as a whole. The delivery framework is based on avoidance measures and the policy indicates that these measures can take the form of areas of open space (SANG). The delivery framework also states developments can provide SANG or that Local Authorities collect developer contributions towards mitigation measures. This includes the provision of SANG land and joint contributions to the funding of SAMM of the effects of mitigation measures across the TBHSPA.
49. At the application stage, NE originally objected to the proposed development<sup>16</sup> but, following the submission of a Shadow Habitats Regulations Assessment,<sup>17</sup> advised that as long as the Applicant was complying with the requirements of Hart's Avoidance and Mitigation Strategy for the TBHSPA (through a legal agreement securing SANG and SAMM), NE had no objection on the grounds of the impact of the development on the TBHSPA.<sup>18</sup> No such legal agreement was in place at the time the appeal was submitted. As a consequence, the Inspector is now the Competent Authority for the appeal scheme, and it is necessary for me to undertake an Appropriate Assessment (AA).

#### *Appropriate Assessment*

50. This AA is necessary to comply with Regulation 63 (1) of the Conservation of Habitats and Species Regulations 2017. It is accepted by the parties that the characteristics of the proposed development coupled with the proximity to the SPA present a likely significant effect in-combination to its qualifying features. The parties also agree that an appropriate Avoidance Strategy which involves the provision of SANG and a financial contribution towards the SPA wide SAMM project would be necessary and sufficient to address the impacts from the proposed development.

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<sup>15</sup> CD3.6

<sup>16</sup> Mr Moorhouse's Appendix 4

<sup>17</sup> D 2.7

<sup>18</sup> Mr Moorhouse's Appendix 5

51. Following submission of the appeal, the Appellant has provided a s106 Agreement, with a Deed of Covenant appended, relating to the acquisition of SANG land from a third party<sup>19</sup> at Queen Elizabeth Barracks, Sandy Lane, Church Crookham (Naishes Wood SANG). The s106 Agreement secures the appropriate amount of SANG land as mitigation for the appeal scheme and it also secures a financial contribution to the Council for SAMM. The assumed contribution for the SANG land is £186,600 plus VAT based on an assumed 0.43 ha of SANG Land and 31 units. The s106 Agreement also secures a SAMM contribution of £14,585 to be paid by the owner.
52. I consider that the proposed SANG and SAMM mitigation is likely to be effective as the SANG land was specifically designed to persuade visitors away from the SPA. It is reasonable to conclude that SANG is effective as mitigation and dwellings consented within 5kms of the Thames Basin Heaths SPA with accompanying SANG are not likely to result in an increased number of visitors to the SPA. I also consider the amount of SANG proposed in this case is more than adequate to mitigate for the expected contribution of the proposal to the combined visitor pressure impact on the integrity of the SPA and the SAMM contributions are appropriate to secure management and maintenance of the land in perpetuity.
53. The parties are agreed that the Inspector as Competent Authority can and should in this case find that development proposals would accord with the Habitats Regulations on the basis that the Appellant has secured access to the Naishes Wood SANG by entering into a Deed of Covenant with a third party<sup>20</sup> as set out in the s106 Agreement and by making the SAMM payment.<sup>21</sup> The Council considers that at 17 March 2021 there exists sufficient capacity at Naishes Wood SANG to mitigate any harm from the appeal proposals. In this case I found that the appeal scheme is otherwise acceptable by reference to other issues and therefore it is appropriate to consult NE accordingly.
54. On 29 March 2021 a consultation with NE was undertaken in accordance with the Habitats Regulations. The response from NE confirms its opinion that the proposed SAMM mitigation secured by the s106 Agreement is acceptable. NE also confirms that the amount of SANG land proposed and secured by the s106 Agreement and the Deed of Covenant, is acceptable to address the anticipated effects of the development. This response is consistent with NE's earlier consultation response provided for the appeal, in which it is stated that its objection would be removed if a SANG solution was found. Moreover, the SANG in question has already been opened to the public and is operational. I consider this provides absolute certainty that the SANG mitigation would be secured long before occupation.
55. Having had regard to the views of NE and taking into account that I have found all other matters to be acceptable I am content that with the necessary and sufficient measures secured the proposed development would not adversely affect the integrity of the European Site and its relevant features.

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<sup>19</sup> Taylor Wimpey Developments Limited

<sup>20</sup> Ibid

<sup>21</sup> Document 4

56. I am also satisfied on the following matters. Firstly, there is an identified and, prepared SANG at Naishes Wood where access for mitigation purposes will be permitted if permission is to be granted by the Inspector. Secondly, there are no technical impediments to the use of the SANG land. Thirdly, the Council has signed the s106 Agreement. Fourthly, the Appellant is able and willing to pay the amount that is required under the SAMM and SANG arrangements. Finally, there is no evidence to suggest that the capacity which exists at Naishes Wood, is likely to vanish before the transaction is completed and therefore the SANG provision would ensure that the proposal would not give rise to adverse effects to the integrity of the SPA.
57. The Appellant has also confirmed that foul drainage would be connected to the main sewer and has agreed to a condition to ensure that wastewater capacity will be provided to accommodate the additional flows from the development.
58. For all of these reasons therefore I am satisfied that the mitigation described above would be appropriately secured and that it would be sufficient to prevent harmful effects on the integrity and interest features of the TBHSPA so there would be no conflict with the Habitats Regulations. Moreover, there would be no conflict with SEP Policy NRM6, HLP32 Policies NBE3 and NBE4 and FNP Policy 17. On the second issue I conclude there would be no justification to withhold permission.

### **Other Matters**

59. Both parties accept that the proposed development would not result in a material loss of amenity to neighbouring residential occupiers and would meet the requirements of Policy GEN1(ii) of HLP06 and the NPPF paragraph 127(f) in this regard. The quantum of the proposed parking provision at a ratio of 0.65 is appropriate in this instance and would accord with HLP32 Policy INF3d) and FNP Policy 19. Matters relating to ecology and surface drainage can be secured by conditions. There was one objection from a neighbouring occupier on the grounds of noise and disturbance through construction and questioning the need for specialised accommodation for older persons. With regard to noise and disturbance this is a matter that can be dealt with by a planning condition. I have already dealt with the identified need for specialised accommodation for older persons earlier in this decision.

### **Planning Obligation**

60. At the Inquiry, a s106 Planning Obligation was submitted by way of Agreement. The Planning Obligation is made by an Agreement between the Appellant, HSBC Bank PLC, and Hart District Council. A CIL Compliance Statement was submitted with the Planning Obligation. I have considered the Planning Obligation in the light of the CIL Regulations 2010, as amended, the advice in the NPPF and the PPG.
61. Local Planning Authorities should only consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.<sup>22</sup> Regulation 122 of the CIL Regulations, as amended by the 2011 and 2019 Regulations, and paragraph 56 of the NPPF

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<sup>22</sup> NPPF paragraph 54

make clear that Planning Obligations should only be sought where they meet all of the following three tests: (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably related in scale and kind to the development.

62. The s106 Agreement secures a financial contribution of £500,000 to be paid by the owners towards the provision of off-site affordable housing. Securing a financial contribution towards off-site affordable housing is necessary to meet the requirements of HLP32 Policy H2. It is directly related to the development and fairly and reasonably related in scale and kind. The financial contribution has been calculated based on the application site, development proposed and viability. The s106 Agreement requires the total affordable housing contribution to be used towards the provision of off-site affordable housing.
63. The s106 Agreement secures a SAMM contribution of £14,585 to be paid by the owners. The owner also confirms that the requisite amount of SANG on the SANG land has been secured by entering into a SANG Agreement. SEP Saved Policy NRM6, HLP32 Policies NBE3 and NBE4 and FNP Policy 17 require adequate measures to avoid or mitigate any potential adverse effects on the TBHSPA. The Conservation of Habitats and Species Regulations 2017 (as amended) require the 'Competent Authority' to consider the potential impact that a development may have on the TBHSPA. Mitigation of the likely significant effect of the development on the TBHSPA is therefore necessary and directly related to the development of 31 Class C3 residential units.
64. The SAMM contribution is fairly and reasonably related in scale and kind to the development. It is based on the tariffs published by NE and agreed by the Hart District Council Cabinet on 01.10.2020 relating to dwelling size and occupancy. The Appellant has secured SANG from a third party and the associated SANG Agreement is appended to the s106 Agreement. The assumed contribution for the SANG land is £186,600 plus VAT. The SANG is fairly and reasonably related in scale and kind to the development. It secures an area of SANG (0.43 hectares) based on occupancy rates of the scheme.
65. In my view, all of the obligations in the Planning Obligation are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Therefore, they all meet the tests within Regulation 122 of the CIL Regulations and should be taken into account in the decision.

### **Planning Balance**

66. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan unless material planning considerations indicate otherwise. I have identified the relevant policies in this case which are listed at paragraphs 3.5-3.8 of the Planning SoCG. There is no dispute between the parties that the development plan is up-to-date.
67. In all the circumstances of this case I find there is no conflict with any of the development plan policies. I conclude that the appeal proposal accords with the development plan when read as a whole. Paragraph 11c of the NPPF

provides that proposals which accord with an up-to-date development plan should be approved without delay. There is clear evidence before me with regard to the suitability of the site. All the material considerations weigh in favour of the grant of permission.

68. The appeal site is located within the Fleet Settlement boundary. There is no dispute that the proposal complies with the vision and objectives of the plan in that it gives priority to the redevelopment of previously developed land and that it promotes more accommodation for the elderly. It is agreed that the proposal complies with 6 of the key policies in the development plan: HLP32: Policy SD1, Policy SS1, Policy H1 (a-c), Policy H2, Policy H4 and Policy H6. In my view, compliance with these policies can be given very significant weight. The proposal accords with other relevant development plan policies which can be given additional weight. The only conflict which the Council identified with the development plan policies is in respect of design and in particular HLP32: Policy NBE9, HLP06: GEN1 and FNP: Policy 10 and 10A. I have concluded that there would be no breach of any of these policies. The proposed development is a high quality design and accords with the design expectations of the development plan and paragraph 130 of the NPPF which makes clear that design should not be a reason for rejecting the development. There would be no harm arising from the Council's criticism about the frontage of the proposed development or the alleged harm to local character.
69. Moreover, there would be a number of benefits of the appeal scheme which were put forward by the Appellant. These benefits were not undermined to any degree during the Inquiry. I deal with each of these below explaining the weight that I attribute to each shown in the brackets.
70. The following benefits would arise: (i) much needed housing for older people. The Council suggests that the weight to this benefit should be tempered because the residents of the scheme would not be restricted to being aged 85 or over. However, given the needs identified in the SHMA<sup>23</sup> and the average age of residents of the Appellant's development being 79-80, the scheme meets the needs of the Council and significant weight should be given to this benefit. (ii) the development is of previously developed land (substantial weight); (iii) the development would be in a sustainable location (substantial weight); (iv) the development would make optimum use of the site (moderate weight); (v) the development would provide 31 market dwellings and is a clear benefit (substantial weight); (vi) the provision of the Appellant's payment of £500,000 to the delivery of affordable housing would be a significant benefit (substantial weight); (vii) there is a benefit releasing under-occupied housing stock<sup>24</sup> (substantial weight); (viii) the site would provide economic benefits by generating jobs, in the construction and operational phases of the development and by residents spending locally<sup>25</sup> (substantial weight); (ix) there would be social benefits in specialised age friendly housing<sup>26</sup> (substantial weight); (x) the environmental benefits of the scheme are a clear benefit (moderate weight). Cumulatively, these 10 benefits weigh heavily in favour of the appeal scheme especially given the critical need for housing for older people as identified at national level in the NPPF and NPPG and at local level in HLP32.

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<sup>23</sup> Figures 14.8 and 14.10 page 212

<sup>24</sup> NPPF paragraph 118(d) and paragraph 131 of HLP32

<sup>25</sup> NPPF paragraph 80

<sup>26</sup> Appeal Decision APP/G5180/W/16/3155059 POE Mr Shellum Appendix 4 paragraph 25

71. Therefore, even if I had reached a contrary conclusion in terms of this appeal and found that there was a conflict with the development plan, any harm which might be identified as arising from the appeal proposal comes nowhere near significantly and demonstrably outweighing the many and varied benefits of the appeal proposal. There is no reason to withhold planning permission in this case and I conclude that the appeal should be allowed.

### **Planning Conditions**

72. A list of suggested conditions was submitted by the Council at the end of the Inquiry (Doc3). I have considered these draft conditions in the light of the advice in paragraphs 54 and 55 of the NPPF and the Government's PPG on the Use of Planning Conditions. The Appellant has agreed to all of the suggested conditions except for Condition 13 which relates to Car Park Management. The Appellant has also agreed in writing to Pre-commencement Condition 3.
73. Condition 1 is the standard timescale condition. Condition 2 is necessary to ensure that the development is carried out in accordance with the approved plans. Condition 3 is required to protect the amenity of nearby residents. Condition 4 is necessary to ensure appropriate surface water drainage provision. Condition 5 is necessary to ensure safe living conditions for future residents. Condition 6 and Condition 7 are required to ensure that the external appearance of the building is satisfactory. Condition 8 is necessary to ensure that adequate refuse storage is provided. Condition 9 is required to reduce the emission of greenhouse gases.
74. Condition 10 is necessary to deliver a net gain in biodiversity. Condition 11 and Condition 12 are required to prevent on-site and off-site flood risk from increasing from the proposed drainage system. Suggested Condition 13 on Car Park Management is not agreed. In my view Condition 13 is unnecessary and unenforceable. It would also introduce no flexibility in the use of the parking spaces for the development which is unsustainable and counter intuitive to the reason the Council has given for the condition. I have deleted this suggested condition.
75. Condition 14 is required to ensure that the development is carried out in accordance with the application and delivers age restricted housing. Condition 15 is required to ensure that the external appearance of the building is satisfactory. Condition 16 is necessary to ensure that the development is provided with adequate parking to prevent the likelihood of on-street car parking. Condition 17 is necessary to ensure that all new homes within the development meet the water efficiency standard of 110 litres/person/day. Condition 18 is required to protect the amenity of nearby residents.

### **Conclusion**

76. Having considered these and all other matters raised I find nothing of sufficient materiality to lead me to a different conclusion. The appeal is therefore allowed subject to the conditions set out in the attached Schedule.

*Harold Stephens*

INSPECTOR

## **SCHEDULE OF PLANNING CONDITIONS (1-17)**

### Standard Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

### Approved Drawings

- 2) The development hereby approved shall be carried out in accordance with the following plans:

Location Plan 10103FL PA00  
Proposed Site Plan 10103FL PA01 Rev A  
Proposed Ground Floor Plan 10103FL PA02  
Proposed First Floor Plan 10103FL PA03  
Proposed Second Floor Plan 10103FL PA04  
Proposed Roof Plan 10103FL PA05 Rev A  
Proposed Elevation A - Crookham Rd Elevation 10103FL PA06  
Proposed Elevation B - Walton Cl 10103FL PA07  
Proposed Elevation C - St James Rd 10103FL PA08  
Proposed Elevation D - St James Cl 10103FL PA09  
Indicative PV Layout C526-Fleet-Mech  
Soft Landscape Strategy 12773\_TG\_P01 Rev B  
Preliminary Drainage Layout PDL-101 Rev A  
Proposed Lighting Plan 10103FL- SK001  
Parking Swept Path Analysis ATR-101 Rev A

### Pre-commencement Conditions

### Demolition and Construction Management Plan

- 3) No development shall commence until a demolition and construction management plan has been submitted to, and approved in writing by, the Local Planning Authority. The Plan shall include details of:
  1. A programme of demolition and construction works;
  2. Methods and phasing for demolition and construction works;
  3. Locations of temporary site buildings, compounds, construction material and plant storage areas;
  4. Parking of vehicles of site operatives and visitors;
  5. Loading and unloading of plant and materials;
  6. Demolition and construction traffic management;
  7. Wheel washing facilities;
  8. Measures to control the emission of dust and dirt during construction; and
  9. A scheme for recycling/disposing of waste resulting from demolition and construction works.

The development shall take place in accordance with the approved demolition and construction management plan.

### Detailed Surface Water Drainage Strategy

- 4) Excluding demolition, no development shall take place until a detailed surface water drainage strategy based on the principles within drawing no. Preliminary Drainage Layout PDL-101 Rev A has been submitted to, and approved in writing by, the Local Planning Authority. The strategy shall include:
1. A technical summary highlighting any changes to the design from that within the approved preliminary drainage layout;
  2. Detailed drainage layout drawings at an identified scale indicating catchment areas, referenced drainage features, manhole cover and invert levels and pipe diameters, lengths and gradients;
  3. Detailed hydraulic calculations for all rainfall events, including those listed below. The hydraulic calculations should take into account the connectivity of the entire drainage features including discharge location. The results should include design and simulation criteria, network design and results tables, manholes schedules tables and summary of critical results by maximum level during the 1 in 1, 1 in 30, 1 in 100 (plus an allowance for climate change) rainfall events. The drainage features should have the same reference as the submitted drainage layout;
  4. Evidence that urban creep has been considered in the application and that a 10% increase in impermeable area has been used in calculations to account for this.
  5. Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.

The development shall take place and retained in accordance with the approved detailed surface water drainage strategy.

### Contamination Strategy

- 5) Excluding demolition, no development shall take place until a detailed decontamination strategy in relation to the underground fuel tank on the site has been submitted to, and approved in writing by, the Local Planning Authority. The development shall take place in accordance with the approved detailed decontamination strategy.

### Pre-above Ground Works Conditions

#### Materials

- 6) No above ground construction shall take place until details and samples of all external surfaces have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

#### Hard Landscaping

- 7) No above ground works shall take place until full details of hard landscaping have been submitted to, and approved in writing by, the Local Planning Authority.

Hard landscaping details shall include, as appropriate, proposed finished levels and/or contours, means of enclosure, hard surfacing materials, and lighting features. The approved hard landscaping details shall be implemented prior to occupation of any of the dwellings hereby permitted and retained thereafter.

#### Refuse Storage and Management

- 8) No above ground works shall take place until full details of refuse storage and management have been submitted to, and approved in writing, by the Local Planning Authority. Refuse details shall include bin store locations, design details, provision for 4 x 1,100 litre bins for waste and recycling and route(s) to and from the properties for collections. The development shall take place in accordance with the approved refuse storage and management details and retained thereafter.

#### Photovoltaic Panels

- 9) No above ground works shall take place until full details of the proposed photovoltaic panels have been submitted to, and approved in writing, by the Local Planning Authority. The development shall take place in accordance with the approved photovoltaic panel details and retained thereafter.

#### Ecology (Swift Bricks)

- 10) No above ground works shall take place until details of the quantity and location of swift bricks has been submitted to, and approved in writing by, the Local Planning Authority. The development shall take place in accordance with the approved swift brick details and retained thereafter.

#### Pre-occupation Conditions

#### Surface Water Drainage System Maintenance

- 11) No dwellings shall be occupied until details for the maintenance of the surface water drainage system has been submitted to, and approved in writing by, the Local Planning Authority. The details shall include:

1. Maintenance schedules for each drainage feature type and ownership; and
2. Details of protection measures.

The development shall take place in accordance with the approved surface water drainage system maintenance details and retained thereafter.

#### Wastewater

- 12) No dwellings shall be occupied until one of the following has been submitted to, and approved in writing by, the Local Planning Authority:

1. Confirmation that wastewater capacity exists off site to serve the development; or
2. A housing and infrastructure phasing plan agreed with Thames Water; or
3. All wastewater network upgrades required to accommodate the additional flows from the development have been completed.

The development shall take place in accordance with the approved details and retained thereafter.

#### Compliance Conditions

##### Age Restriction

13) The age restricted dwellings hereby permitted shall be occupied only by:

1. Persons of 60 years or over.
2. Persons of 55 years or over living as part of a single household who is a spouse or partner of a persons of 60 years or over.

##### Soft Landscaping

14) Soft landscape shall take place in accordance with drawing no. Soft Landscape Strategy 12773\_TG\_P01 Rev B. Any such vegetation removed without the Local Planning Authority's consent, or which die or become, in the Authority's opinion, seriously damaged or otherwise defective during a period of five years following occupation shall be replaced and/or shall receive remedial action as required by the authority. Such works shall be implemented as soon as is reasonably practicable and, in any case, replacement planting shall be implemented by not later than the end of the following planting season, with planting of such size and species and in such number and positions as may be agreed with the Authority in writing.

##### Parking Provision and Retention

15) The development shall not be occupied until the approved parking for mobility scooters, cycles and vehicles has been provided in accordance with drawing no. Proposed Site Plan 10103FL PA01 Rev A. The parking shall be maintained at all times to allow them to be used as such.

##### Sustainable Water Use

16) All new homes within the development must meet the water efficiency standard of 110 litres/person/day and retained thereafter.

##### Construction Hours

17) No development, working on the site or delivery of materials shall take place at the site except between 0730 hours to 1800 hours weekdays or 0800 to 1300 hours Saturdays. No development, working on the site or delivery of materials shall take place on Sundays, Bank Holidays or Public Holidays.

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ms Saira Kabir Sheikh QC

Instructed by Hart DC

*She called:*

Dr. Stefan Kruczkowski BA (Hons)  
DipTP, PhD, RPUD, FHEA

Director, Urban Design Doctor Ltd

Mr Rob Moorhouse BSc, MSc, MRTPI

Principal Planning Officer, Hart DC

### **FOR THE APPELLANT:**

Mr Sasha White QC  
Ms Evie Barden of Counsel

Both instructed by Stuart Goodwill,  
Planning Issues Ltd

*They called*

Robert Jackson BArch, MArch, RIBA

Design Director, Planning Issues Ltd

Matthew Shellum BA (Hons), Dip TP

Head of Appeals, Planning Issues Ltd

### **DOCUMENTS SUBMITTED AT THE INQUIRY:**

1. Opening Statement on behalf of the Appellant
2. Opening Statement on behalf of the Council
3. Draft Planning Conditions as at 17.03.2021 submitted by the Council
4. Executed Section 106 Planning Obligation dated 10 May 2021
5. Hart DC Community Infrastructure Levy Compliance Statement
6. Appellant's note confirming acceptance of Pre-commencement Condition 3 submitted by Mr Shellum
7. Closing submissions on behalf of the Council
8. Closing submissions on behalf of the Appellant