

PLANNING STATEMENT

Former Buzz Bingo Site, Bolton Road, Banbury, OX16 0TH

*Redevelopment for 80 retirement living apartments including communal facilities, access,
car parking and landscaping.*

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EXECUTIVE SUMMARY

- i. This Planning Statement has been prepared in support of a detailed planning application for a proposed retirement living development at the former Buzz Bingo site, Bolton Road, Banbury. The application proposes redevelopment of the site to form 80 retirement living apartments, together with access, parking and landscaping.
- ii. The UK faces a rapidly growing and ageing population. The Government aims to 'significantly boost the supply of housing'. The PPG is unequivocal in its message that "the need to provide housing for older people is critical".
- iii. Cherwell District is no exception. The SHMA predicts a need of between 696 and 1,436 units of accommodation for older people over the plan period. Evidence prepared for the local plan shows that in Banbury the demand for older people's housing is anticipated to rise significantly between 2015 and 2033 and continues to significantly outstrip the sum of the actual and potential supply. The PPG is clear: "*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.*" Substantial weight should be given to the proposal considering the high levels of specialist housing need identified.
- iv. The proposal is on a brownfield site. In accordance with the NPPF (para 120c) substantial weight should be given to the value of using suitable brownfield land within settlements for homes.
- v. The site is in a highly sustainable location. It offers opportunities for the future residents to walk to local shops and services within the town centre. Substantial weight should be given to delivering development in a highly sustainable location.
- vi. The site is part of the wider Banbury Policy 8 allocation within the Cherwell Local Plan (2015). This seeks to regenerate this part of the town with a mixed development comprising retail, hotel, leisure, 200 dwellings and car parking.
- vii. Within the wider masterplan area, the application site is furthest from the town centre and most suited to residential accommodation. The dwellings will help support the vitality of the town centre in accordance with Policy Banbury 7. The proposals will also help deliver Policy Banbury 8: the application will deliver all the features shown in the urban framework plan of the Banbury SPD for this part of the site; and at the same time act as a catalyst for the regeneration of the wider site, without prejudicing the delivery of other aspects of the policy.
- viii. The Council is unable to demonstrate a 5 year land supply. The relevant policies for the determination of this application are therefore considered out of date in accordance with paragraph 11d of the NPPF, meaning any adverse impacts of development must significantly and demonstrably outweigh the benefits.
- ix. The contribution of 80 dwellings to the housing supply should therefore be afforded substantial weight.

- x. Great weight has been given to enhancing the setting of the Grade II Listed Trelawn House. The proposed design removes all built form from the northern elevation, opening this up and providing a landscaped setting. This will be of significant benefit to the heritage asset and also the public realm on the corner of Castle Street and North Bar Street. The Heritage Statement concludes that although redevelopment of the site would result in a change to the setting of Trelawn House, it would not result in harm to the heritage significance. Through its design and careful layout the scheme would enhance the setting and open up elevations currently blocked. Consequently the listed building would be better understood, experienced and appreciated.
- xi. The proposal removes a negative building, replacing it with a high quality building, which respects and enhances its historic setting. At the same time the scheme makes efficient use of this sustainable brownfield site as required by paragraph 124 of the NPPF.
- xii. The provision of retirement housing releases under occupied family homes back into the housing market. This should be afforded significant weight in the determination of the application. In November 2021, the Housing Minister, Christopher Pincher sought to encourage older people to downsize, highlighting that there were over 3 million people unable to downsize due to lack of suitable housing. The Government is currently looking at ways to remove barriers to the development of the later living sector.
- xiii. There are numerous economic, social and environmental benefits associated with the application. These should individually be afforded substantial weight in the determination of the application.

INTRODUCTION

- 1.1 This Planning Statement has been prepared by Planning Issues Limited, on behalf of Churchill Retirement Living, in support of a detailed planning application for the proposed retirement living development at the former Buzz Bingo site, Bolton Road, Banbury.
- 1.2 This planning application seeks permission to redevelop the site for 80 retirement living apartments including communal facilities, access, car parking and landscaping.
- 1.3 The site contains the former Buzz Bingo building and a few small offices. Buzz Bingo closed in March 2020 and it was formally confirmed that it was not reopening in July 2020.
- 1.4 Trelawn House is a grade II listed building. It is outside the site but the current Buzz Bingo building wraps around and encloses it. It is adjoined on the northern and southern elevations and a separate listed building application has been submitted to deal with the demolition of the Buzz Bingo building and restoration of the party walls.
- 1.5 This statement accompanies a detailed planning application. It should be read in conjunction with the following supporting documents which accompany the application:
 - Design and Access Statement
 - Drainage Statement
 - Transport Statement
 - Landscaping Strategy
 - Ecological Assessment
 - Ground Investigation Report
 - Affordable Housing Viability Assessment
 - Statement of Community Involvement
 - Sustainability Report
 - Noise Report
 - Air Quality Assessment
 - Heritage Statement
 - Archaeological Assessment
 - Health Impact Assessment
 - Construction Management Plan
 - Urban Form Analysis
- 1.6 The application includes the following plans:
 - Location Plan
 - Site Plan
 - Existing Elevations
 - Existing Floor Plans
 - Ground Floor Plan
 - First Floor Plan
 - Second Floor Plan
 - Third Floor Plan

- Roof Plan
- Castle Street Elevation
- North Bar Street Elevation
- Other Elevations
- Site Section

1.7 This statement briefly explains the concept of retirement living; the national and local planning policy; and contains an analysis of the scheme against the policy context and wider material considerations.

OLDER PEOPLE HOUSING

- 2.1 In 2019 the Government updated the Planning Practice Guidance (PPG) to include a section on '*Housing for older and disabled people*', in order to assist Councils in preparing planning policies on housing for older and disabled people. The Guidance is clear that providing housing for older people is '*critical*'.
- 2.2 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.
- 2.3 The Applicant has specialised in the provision of purpose built apartments for older people since 1998 and has provided development proposals throughout England and Wales.
- 2.4 The accommodation proposed is specifically designed to meet the needs of independent retired people, and provides self-contained apartments for sale. A key aspect of the design is that the units are in a single block. This is essential for control over access, with safety and security being a key concern for individuals as they age. It also provides much greater benefits for social interaction. This is enhanced with the communal space, in particular the owners lounge, coffee bar and terrace.
- 2.5 The type of housing proposed is defined as retirement living or sheltered housing within the PPG. It sets out:

"Retirement living or sheltered housing: This usually consists of 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."
- 2.6 The application is not for a care home, which offers much higher levels of care. The application proposal is for individual accommodation, which has been specifically designed for older people, with help available through a lodge manager and 24 care line if required.
- 2.7 In comparison the tradition model of staying in your own home, which can become unsuitable as people age, with lots of steps, or maintenance requirements, puts additional pressure on social care services to deliver additional care at home, before people move into high dependency care homes.
- 2.8 Providing opportunities for people to downsize into suitable and adaptable accommodation, with support on hand should they need it, meets the Government's agenda of encouraging much greater independence in old age.

2.9 The communal facilities proposed are:

- A lodge manager employed by a Management Company to provide assistance and security for the owners of the apartments;
- A video entry system which is linked to the owners' televisions in their apartments;
- An owners' lounge is provided for use by all residents and their guests within the building;
- Communal lifts are provided for use by residents and visitors;
- A communal toilet for use by residents and visitors;
- A communal landscaped garden area;
- A guest suite for use of relatives of property owners who wish to stay overnight;
- A communal car parking area for use by residents who have a car (unallocated);
- An area for mobility scooters and bicycles to be stored and charged; and
- A communal refuse store.

2.10 The apartments 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. It is suggested that this is secured by the following planning condition.

Each of the apartments hereby permitted shall be occupied only by:

- Persons aged 60 or over; or
- A spouse/or partner (who is themselves over 55 years old) living as part of a single household with such a person or persons; or
- Persons who were living in one of the apartments as part of a single household with a person or persons aged 60 or over who has since died; or
- Any other individual expressly agreed in writing by the Local Planning Authority.

2.11 Notwithstanding the age restriction, the average age of purchasers of the apartments are 78 years old, with the average age of all occupiers being late 80s. Typically 70% of apartments are single occupancy, often occupied by a widow. The decision to purchase this type of development is predominantly needs based, with residents forced to move as their existing property is no longer suitable or they can no longer access the shops or services that they need.

2.12 A recent report 'Too Little, Too Late?' sets out that downsizing is key to tackling the national housing crisis. It acknowledges that under occupation is greatest among the elderly population but current housing stock in the UK limits their options. If more family homes are freed up by downsizing, the benefits would be felt across the housing market, with families being able to 'upsize' and smaller homes becoming available for first time buyers. This is further supported by a report 'Chain Reaction' (August 2020) which finds:

- Circa 3 million older people in the UK aged 65+ want to downsize
- If those that wanted to were able to do so, this would free up nearly 2 million spare bedrooms, predominantly in three bedroom homes with gardens, ideally suited for young families with children.
- The chain impact would be a major boost for first time buyers with roughly 2 in every 3 retirement properties built releasing homes suitable for first time buyers.

2.13 Speaking to the House of Lords Built Environment Committee on 2nd November 2021, Housing Minister, Christopher Pincher said he wants to encourage older people in large

homes to downsize and make way for first time buyers. He stated that four in 10 homes were too big for their owners and that Michael Gove, the Communities Secretary was looking at ways to “identify and remove the barriers to the development of the later living sector”. He reiterated the 3 million people that cant downsize due to the lack of suitable housing. He noted that in the early 1990s something like 31% of properties were under-occupied, now that percentage is 38%.

- 2.14 A report by Knight Frank acknowledges that whilst there is an increase in the number older people’s housing units being developed, this rate is still dwarfed by the rapidly ageing population. By 2037, population projections suggest that one in four of us will be over 65. Thus even while delivery of older people’s housing may increase, in real terms the numbers of older people housing units per 1,000 individuals is expected to drop. Thus a **step change in new delivery** is required if the huge imbalance between need and supply is to be addressed.
- 2.15 In addition, the majority of existing retirement housing is within the social rented sector, thus only available for those in need of affordable housing. A large proportion of older people are owner occupiers, and particularly own without a mortgage. They are therefore unable to apply for social rented housing, and in many cases wish to retain equity and so would be looking for a property to buy.

THE SITE AND PLANNING HISTORY

The Site

- 3.1 The site comprises the former Buzz Bingo Hall, associated offices and parking area. It is on the junction of Castle Street and North Bar Street. Bolton Road is to its eastern boundary.
- 3.2 The site surrounds but does not include Trelawn House, which is a grade II listed building. The existing Buzz Bingo building currently adjoins Trelawn House and hence a listed building application has been submitted alongside this application to address the demolition and restoration of the party walls.
- 3.3 The site is part of the wider Banbury Policy 8 allocation within the Cherwell Local Plan (2015). This seeks to regenerate this part of the town with a mixed development comprising retail, hotel, leisure, 200 dwellings and car parking. Further detail for this redevelopment is set out within the Banbury Vision and Masterplan SPD (2016).
- 3.4 The application site does not include the Land and Tyre Services building. The occupiers of the site are currently tied into a long lease making the comprehensive redevelopment of the policy allocation presently unachievable.

Planning History

- 3.5 There is no significant planning history on the site. Planning applications were made in 2007 for minor modifications to the Bingo Hall and advertisement consent in 2015.
- 3.6 A pre application submission was made on 23rd August 2021. A meeting was held with the Council on 2nd November, with the written response received on 17th November 2021. In summary the pre app response sets out:
 - The redevelopment of the site for a care home can be considered to accord with Policies Banbury 7 and 8 in principle. (In this context a 'care home' is taken to mean the retirement living apartments C3 use put forward as part of the pre app, rather than a traditional C2 use care home).
 - The proposal provides potential for regeneration. Further information regarding job losses and new jobs should be provided.
 - The Council cannot demonstrate a 5 year land supply. The proposal will assist with this but falls short on the number set out in the policy and will not provide market or much needed affordable family housing.
 - Policy Banbury 8 explains that a comprehensive approach is preferred but that a phased approach may be permitted provided the proposals lead to a coherent development. A comprehensive masterplan is therefore required to demonstrate how the proposals would not prejudice the remainder of the site, including the allocation for a total of 200 dwellings.
 - Proposals require careful consideration of the conservation and enhancement of the historic environment. The Banbury Conservation Area comprises mainly traditional buildings forming strong frontages of burgage plots using a limited palette of materials, form and scale. A heritage report and CGIs must accompany the application.

- Reinstating a garden/yard to Trelawn House would help redress the harm of the existing inappropriate development.
- The proposed buildings would have an adverse impact on the setting and historical integrity of Trelawn House. The scale and massing of the proposed buildings must be given further consideration. It is essential the proposals do not overwhelm or diminish the historical integrity of the retained structure.
- The site is part of an important and visually prominent urban block within the centre of Banbury. Redevelopment gives great opportunity to improve this prominent junction with high quality, well designed landmark buildings which respect the historic core.
- The site can also potentially act as an important catalyst for the remainder of Policy Banbury 8 being brought forward.
- The Banbury Vision and Masterplan SPD advises that 3 to 4 storeys might be appropriate on this part of the site. However consideration must be given to the raised ground levels and perhaps stepping the development down adjacent to Trelawn House and stepping up in height eastwards along Castle Street. It is further noted that the Banbury Vision and Masterplan indicates that a 4 storey block may be appropriate on the corner of Castle Street and Bolton Road, however the building proposed is unduly prominent and too narrow as a single block. This landmark building must be locally distinctive.
- Dormers are not a feature of the traditional local vernacular.
- The proposed new buildings should have a strong vertical emphasis and sliding sash windows.
- Another key aspiration of the Banbury Vision and Masterplan SPD is the provision of a 7m landscape set back to Castle Street. It is not clear however how this vision might be realised.
- Increased connectivity required, including direct access onto North Bar and Castle Street.
- Landmark feature required at the crossroads.
- Minimal amenity space provided.
- Residents lounge and patio immediate adjacent to the main car park. This must be reconsidered.

PLANNING POLICY FRAMEWORK

- 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 considerations indicates otherwise.
- 4.2 The development plan comprises the Cherwell Local Plan (Part 1) (adopted July 2015), the Partial Review Local Plan – Oxford’s unmet Housing Need (September 2020) and the saved polices from the Cherwell Local Plan (1996).
- 4.3 Material considerations include the National Planning Policy Framework and the Planning Practice Guidance (PPG). The emerging Oxfordshire Plan 2050 is also a material consideration, however this has yet to be submitted for examination. The Council is in the very early stages of the Cherwell Local Plan Review 2040, with the ‘Developing our Options Consultation’ running between September 2021 and November 2021.

National Planning Policy Framework (2021)

- 4.4 The overriding message in the NPPF is one of sustainable development. The relevant paragraphs from the NPPF are included in Appendix A and analysed in section 5.

Planning Practice Guidance

- 4.5 The Planning Practice Guidance (PPG) is a material consideration when taking decisions on planning applications. The PPG provides guidance on how policies in the Framework should be implemented.
- 4.6 In June 2019 the PPG was updated to include a section on Housing for Older and Disabled People, recognising its importance. Paragraph 001¹ states:

“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” (emphasis added).

- 4.7 Paragraph 003² recognises that “*the health and lifestyles of older people will differ greatly, as will their housing needs, which can range from accessible and adaptable general needs housing to specialist housing with high levels of care and support.*” Thus a range of provision needs to be planned for.

¹ *Planning Practice Guidance, Paragraph: 001 Reference ID: 63-001-20190626. Available here: <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>*

² *Planning Practice Guidance, Paragraph: 001 Reference ID: 63-003-20190626. Available here: <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>*

- 4.8 Paragraph 006³ sets out “plan-making authorities should set clear policies to address the housing needs of groups with particular needs such as older and disabled people. These policies can set out how the plan-making authority will consider proposals for the different types of housing that these groups are likely to require.” Therefore, recognising that housing for older people has its own requirements and cannot be successfully considered against criteria for general family housing.
- 4.9 Paragraph: 016⁴ sets out that “Decision makers should consider the location and viability of a development when assessing planning applications for specialist housing for older people”. It goes on to clearly state: “**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**” (emphasis added).

The Development Plan

Adopted Cherwell Local Plan 2011-2031

- 4.10 The relevant policies include:

PSD1: Presumption in favour of sustainable development
BSC1: District Wide Housing Distribution
BSC2: The Effective and Efficient use of land
BSC3: Affordable Housing
BSC4: Housing Mix
ESD1: Mitigating and Adapting to Climate Change
ESD2: Energy Hierarchy and Allowable Solutions
ESD3: Sustainable Construction
ESD7: Sustainable Drainage Systems
ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
ESD15: The Character of the Built and Historic Environment
ESD17: Green Infrastructure
Policy Banbury 7: Strengthening Banbury Town Centre
Policy Banbury 8: Bolton Road Development Area

Cherwell Local Plan 1996

- 4.11 The relevant saved policies comprise:

C28:Layout, Design and external appearance of new development
 C30:Design Control

- 4.12 Other relevant Supplementary Planning Documents include:

Banbury Vision and Masterplan SPD
 Cherwell Residential Design Guide SPD (July 2018)
 Developer Contributions SPD (Feb 2018)

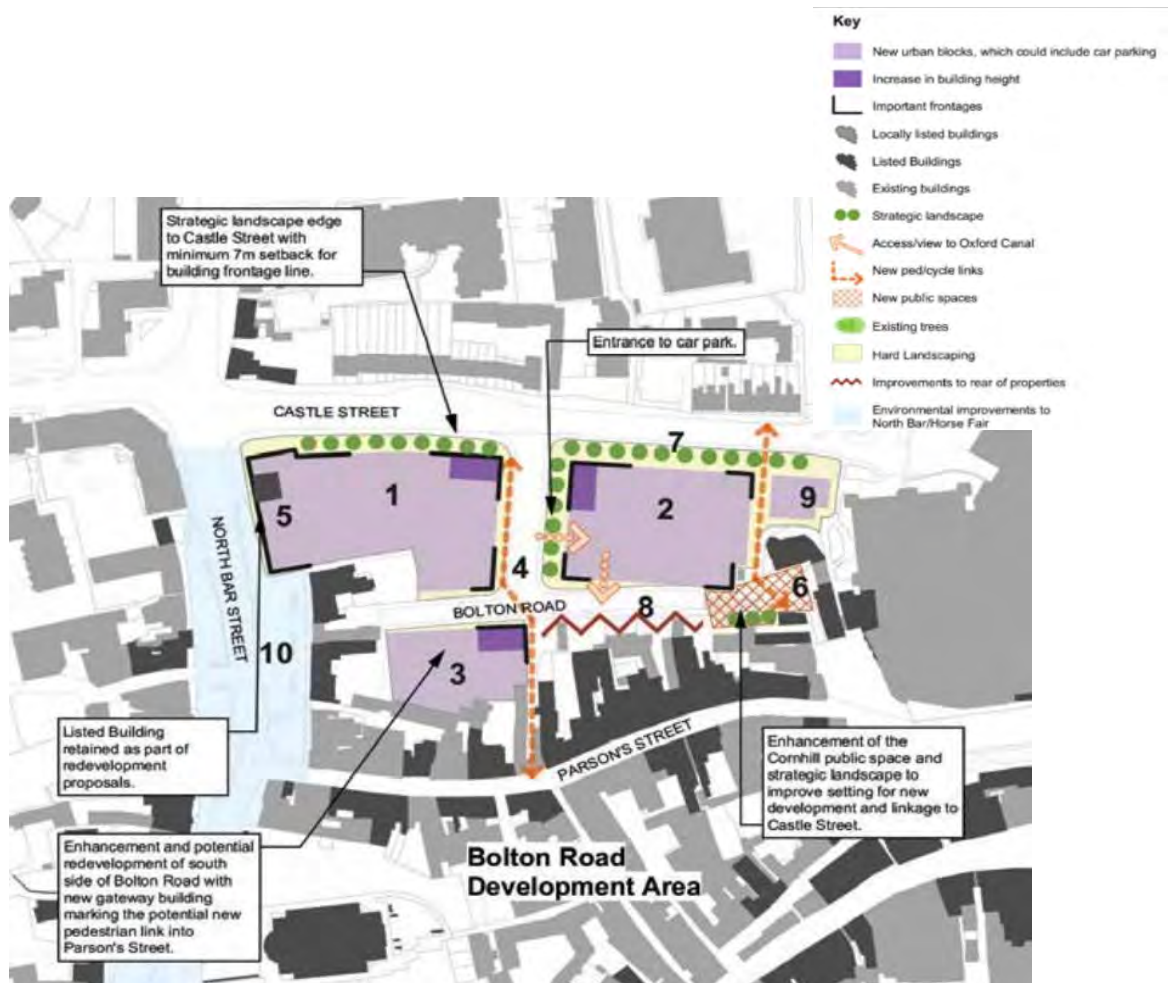
³ *Planning Practice Guidance, Paragraph: 001 Reference ID: 63-006-20190626. Available here: <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>*

⁴ *Planning Practice Guidance, Paragraph: 001 Reference ID: 63-016-20190626. Available here: <https://www.gov.uk/guidance/housing-for-older-and-disabled-people>*

PLANNING CONSIDERATIONS

Principle of Development

- 5.1 Cherwell Local Plan policy BSC1 seeks to focus new development in the towns of Banbury and Bicester. The plan seeks to secure the redevelopment of a number of major previously developed sites, including the application site under Policy Banbury 8.
- 5.2 The site is within the Banbury Town Centre (Policy Banbury 7). This policy seeks to strengthen the town centre and supports shopping, leisure, and other main town centre uses together with residential development in appropriate locations. Policy 7 goes on to say that the change of use of a site for residential development will normally be permitted if proposals contribute significantly to the regeneration of the town centre.
- 5.3 Policy Banbury 8 seeks to redevelop the area to include a range of town centre and high quality residential uses that will regenerate and enliven this part of the town centre. The uses include retail, hotel, leisure, residential and car parking. The allocation includes for 200 residential units to come forward across the wider site. It is notable that this policy was adopted in 2015 yet there has not been any sign of development on this site so far.
- 5.4 The Bolton Road urban framework plan set out within the Banbury Vision and Masterplan SPD is set out below. The application site is identified by block 1 with the key urban design principles setting out “area 1 on the west to provide three/four storey mixed use development for residential and town centre uses. Existing modern buildings will need to be removed if Area 1 comes forward for redevelopment”.
- 5.5 Number 4 refers to a new pedestrian/cycle link through to the rear of Parson’s Street properties to connect the Bolton Road development and car park to retail activity on Parson’s Street.
- 5.6 Number 5 refers to the existing listed building on Parson’s Street and North Bar Street to be retained a part of the comprehensive regeneration of the site. All development proposals should seek to preserve and enhance listed buildings and the conservation area.
- 5.7 Number 7 refers to an improved frontage onto Castle Street with strategic landscaping.



5.8 Churchill initially considered an element of retail on the site. However there is a covenant across the majority of the site restricting the sale of liquor. This will prevent any café or restaurant wanting to locate here. In addition, emails were sent to numerous supermarkets to establish if there was any interest in a local corner shop on the site. However all the responses expressed that the competition was too great in the area with the existing stores.

5.9 In addition, the evidence base has changed since the policy was drafted. The global pandemic has accelerated the move to shopping online. This has left many town centre premises vacant. This site is located on the very edge of the town centre boundary and is considered the most suitable location for the residential aspect of policy Banbury 8. This will focus new retail uses within the core of the town centre rather than spreading them out further. In addition, as set out below, retirement living accommodation will contribute to the regeneration of the town centre. A scheme of 80 units will provide an estimated £1.4 million in resident expenditure per annum; the majority of which will be within the town centre.

5.10 As acknowledged above, Policy Banbury 8 requires the inclusion of a 7m landscape buffer fronting Castle Street. The proposed design includes this, which is set out clearly on the proposed landscape strategy. The proposals include street, ornamental and fruit trees. The sloping ground will remain and will be planted up with ornamental shrub and herbaceous planting. Some wild flower areas will be included to enhance biodiversity.

- 5.11 On the corner of Castle Street a public garden is proposed. This will include a piece of public art, as required by policy Banbury 8. It will act as a meeting point or for people to sit for a coffee or sandwich. It will include native trees and planting. We would welcome the opportunity to discuss this feature with the Council during the application.
- 5.12 Policy Banbury 8 sets out that a comprehensive approach to the site is preferred, although acknowledges that a phased approach may be permitted provided that it is clearly demonstrated that the proposals will contribute towards the creation of a coherent development.
- 5.13 In order to demonstrate this, a masterplan has been prepared independently and submitted with this application. This clearly shows an example of how the wider site could be developed and shows how the delivery of 80 units on this part of the site will not prejudice the delivery of 200 homes across the wider masterplan area. The masterplan document shows the connections onto Parsons Street can still be provided, as well as wider connections around the site.
- 5.14 Policy Banbury 8 was adopted by the Council in July 2015. The proposed policy was included in the Proposed Submission Local Plan as far back as August 2012. The Banbury Vision and Masterplan SPD was adopted in December 2016. This policy aspiration has therefore been around for a while with, until this point, no signs of delivery. This application will help meet the Council's aspirations for this part of the site as well as acting as an important catalyst for the remainder of the land within Policy Banbury 8 being brought forward for development.
- 5.15 The adjacent land, currently in use by Tyre Land Services has a long lease and so is currently unavailable for development. As acknowledged in the Council's pre app response the remainder of the site is owned by the Council and so can be brought forward as soon as the Council wish.
- 5.16 It is considered that the redevelopment of the site accords with Policies Banbury 7 and Banbury 8 and that the principle of residential development on the site is acceptable.
- 5.17 The redevelopment of the site is consistent with Policy BSC2 which states that the Council will encourage the re-use of previously developed land. The NPPF is clear that decision makers should give substantial weight to the value of using suitable brownfield land within settlements (para 120c).

Increasing Housing Delivery

- 5.18 There is a significant national drive to increase housing delivery. Para 60 of the NPPF is clear, the Government intends to **significantly boost the supply of new homes**. There is an intention to deliver 300,000 new homes a year.
- 5.19 The recently published Building Back Britain report (November 2021) acknowledges that *"we are currently falling well short of building enough housing to meet the Government's present target of 300,000 homes a year, despite significant progress in recent years"*.
- 5.20 The planning system has a clear role in ensuring it delivers homes where they are most needed. As set out in para 119 of the NPPF this means **making as much use as**

possible of previously developed land. The Government is championing the take up of brownfield land by encouraging the remediation of degraded or contaminated spaces, promoting the development of under-utilised land and opening up opportunities to build upward.

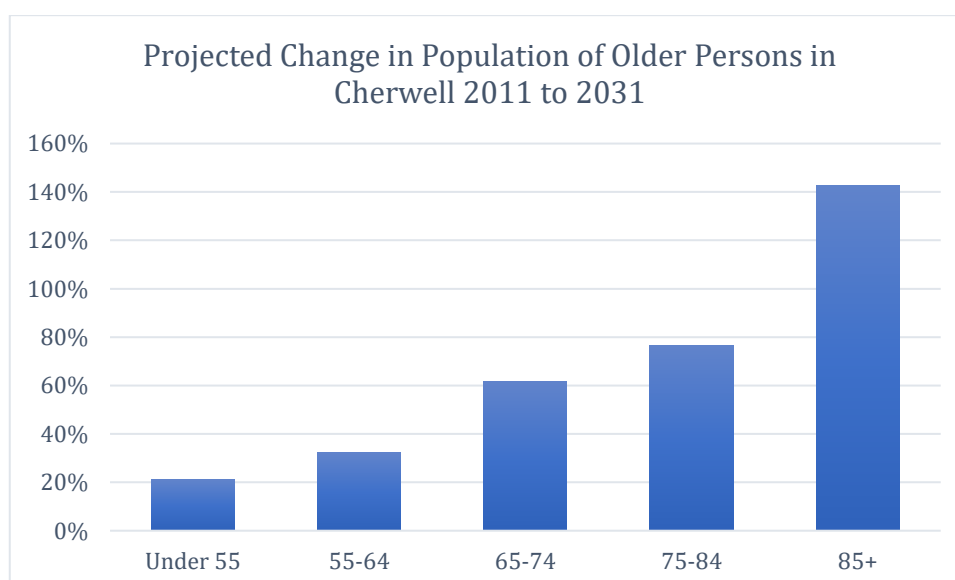
- 5.21 Cherwell is a high growth area and demand for housing is high. The recently prepared Oxfordshire Growth Needs Assessment Report (July 2021), considers the future housing needs for the wider Oxfordshire area. At the moment 3 options are being considered, delivering either 3,386, 4,113 or 5,093 dwellings per annum across Oxfordshire until 2050. Although the specific requirements for Cherwell are yet to be determined, either way there is a clear need for future housing growth within the area.
- 5.22 The Council's pre app response confirms that they are currently unable to demonstrate a 5 year land supply for the period 2021 to 2026. Thus there is an overriding housing need in the District and the tilted balance applies, meaning the application should be approved unless the impacts significantly and demonstrably outweigh the benefits. This was confirmed in a number of recent appeal decisions in Adderbury (September 2021) and Land at Bretch Hill, Banbury (June 2021).
- 5.23 Brownfield sites such as the application site are essential in bringing forward much needed houses in Cherwell. Para 69 of the NPPF acknowledges the benefits in terms of delivery offered by small and medium sized sites and encourages authorities to give **great weight to the benefits of using suitable sites within settlements for homes.**
- 5.24 It is noted that the pre app response sets out that the scheme does not provide market or much needed affordable family housing. However as set out in Section 2 above, the lack of options available for older people means that many continue to under occupy large family housing until their care needs increase so much as they are forced into high dependency residential care. On 2nd November the Housing Minister, Christopher Pincher clearly set out that he wants to encourage older people to downsize to make way for first time buyers. He stated that Michael Gove, the Communities Secretary was looking at ways to remove barriers to the development of the later living sector, reiterating that 3 million people can't downsize due to the lack of suitable housing.
- 5.25 Using statistics from the 'Chain Reaction' Report (August 2020) that the proposed development will therefore free up around 53 family homes throughout the housing chain.
- 5.26 In addition, the remaining 120 homes as part of the wider Policy Banbury 8 allocation would likely come forward as housing for other needs groups.
- 5.27 Regarding affordable housing, an offsite contribution will be provided in accordance with policy BSC3. More detail on the reason for this is set out below.
- 5.28 Overall it is considered that the proposed development of older people housing, which will be delivered within the next five years, will significantly assist the Council in meeting its housing targets and should be given substantial weight in the planning balance.

Older People Housing Need

- 5.29 It is well documented that the UK faces an ageing population. Life expectancy is greater than it used to be and as set out above by 2032 the number of people in the UK aged over 80 is set to increase from 3.2 million to five million (ONS mid 2018 population estimates).
- 5.30 The Homes for Later Living Report notes the need to deliver **30,000 retirement and extra care houses a year** in the UK to keep pace with demand (September 2019).
- 5.31 Currently in the UK, we build around 8,000 retirement properties a year. This is despite the PPG setting out that the need to provide housing for older people is 'critical'. This is distinctly below the level of need and demand.
- 5.32 Cherwell is no exception to this ageing population. Between 2001 and 2020 the percentage increase in those aged 65+ was 52.1%, compared to an average across all age groups of only 15.1%:

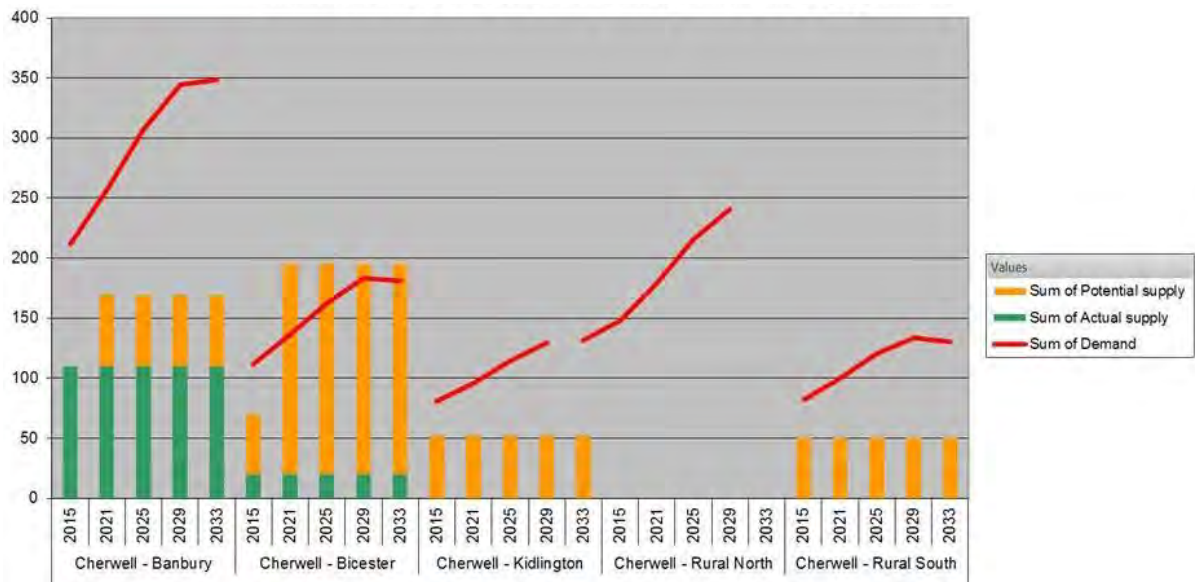
| Age | Percentage Increase |
|----------|---------------------|
| Under 16 | 10.8% |
| 16-64 | 8.8% |
| 65+ | 52.1% |
| All Ages | 15.1% |

- 5.33 The recently prepared Oxfordshire Growth Needs Assessment Report (July 2021), shows that in comparison to all the other Oxfordshire Districts, Cherwell has seen the greatest increase in the proportion of the population aged 65 plus between 2011 and 2018.
- 5.34 Looking forward, the Oxfordshire SHMA (2014) projects the growth in the older population in Cherwell between 2011 and 2031. The population aged 55+ in Cherwell will increase by 58% which is the highest of the Oxfordshire districts. It further shows a significant 142% increase in those aged over 85 between 2011 and 2031.



- 5.35 The SHMA acknowledges the need to provide housing for older people as part of achieving a good mix of housing but recognising that many older people are able to exercise choice and control over housing options (e.g. owner occupiers with equity in their homes). This is reemphasised in the recent Cherwell Local Plan Review Options Paper, with Key Objective 20 seeking to provide the homes for an ageing population.
- 5.36 The SHMA projects a need for housing for older people in Cherwell somewhere between 696 units @ 133 units per 1000 (Oxfordshire average supply) and 1,436 units @170 units per 1000 (national average).
- 5.37 The Cherwell Housing Strategy 2019-2024 acknowledges that not only is the population of Cherwell growing, the rate it is growing is above the UK growth rate and the rate of population growth in Oxfordshire as a whole. The life expectancy of people in Cherwell is higher than the national average and the district is expected to see a substantial increase in the older person population. The Housing Strategy acknowledges the specific increase in those aged over 85 resulting in a significant increase in the demand for accommodation that is suited to an older population.
- 5.38 Whilst slightly dated, the Local Plan Background Paper - extra care/elderly accommodation (Feb 2013) provides a useful analysis. The graph below sets out the sum of the actual and potential supply of extra care and sheltered housing against the sum of demand. As can be seen for Banbury, the demand is anticipated to rise significantly between 2015 and 2033, yet continues to outstrip the sum of the actual and potential supply.

Cherwell District Council Extra Care/Sheltered Housing demand and supply estimate



- 5.39 Cherwell's previous Housing Strategy for Older People (2010-2015) makes assumptions about the amount of accommodation needed in the district. This has not been updated in the recent strategy, however at the time it was prepared there was a need for an additional 898 Sheltered Housing units for sale in Cherwell to 2026 above the existing supply.

| Category | Current provision | Provision needed to 2016 | Provision needed to 2021 | Provision needed to 2026 | Provision per 1000 population over 75 agreed | Norm ratio from MCGV* |
|--|-------------------|-------------------------------|--------------------------|--------------------------|--|---|
| Sheltered Housing for Rent | 1261 | 519 (-742 from current) | 623 (-638 from current) | 865 (-396 from current) | If 50 | 50 |
| Sheltered Housing for Sale | 399 | 779 (+380 from current) | 935 (+536 from current) | 1297 (+898) | If 75 | 75 |
| Enhanced Sheltered and Extra care Housing for rent | 9 | 259 (+202 units from current) | 312 (+255 from current) | *432 (+375) | If 25 | 20 shared between rent and sale |
| Enhanced Sheltered and extra care Housing for sale inc S/O | 94 | 311 (+205 from current) | 486 (+380 from current) | *519 (+413) | If 30 | 25 |
| Of which Housing Provision for dementia | 0 | 103 | 125 | 173 | If 10 | 10 (inc within enhanced and extra care provision) |

(Source: Cherwell's Older People Housing Strategy 2010-2015)

- 5.40 The existing supply of 399 sheltered housing for sale units only represents 30% of the 1297 units needed by 2026. Thus the delivery of Sheltered Housing for Sale needs to dramatically increase to meet the needs of our rapidly ageing population.
- 5.41 The Housing Strategy is clear, demand for appropriate accommodation that can meet the needs of this growing ageing population is evident. Extra care and sheltered accommodation will form part of the makeup of housing which CDC together with its partners will seek to provide.
- 5.42 The Cherwell Local Plan aims to *“extend choice, to provide high quality homes and development, and to secure a mix of house types, size and tenure that meets housing need. This includes meeting the requirements of an ageing population through the provision of extra care, supported and sheltered housing”*.
- 5.43 Policy BSC4 sets out that opportunities for the provision of extra care, specialist housing for older and/or disabled people **“will be encouraged in suitable locations close to services and facilities”**. Paragraph B.121 states that there is a need to provide a mix of housing in Cherwell that reflects the needs of an ageing population. The proposal is considered to comply with policy BSC4.
- 5.44 It is noted that there are no allocated sites within Cherwell for the delivery of older people's housing. This needs to come forward on suitably located windfall sites.
- 5.45 Paragraph 001 of the PPG on Housing for older and disabled people is unequivocal in its message that **“the need to provide housing for older people is critical”** and **“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.”** In

this context, **the benefits of this scheme in delivering older people's housing against the identified needs must be given substantial weight in the determination of this application.**

Design and Heritage Considerations

- 5.46 The site is partly within and adjacent to the Banbury Conservation Area. As set out above, Trelawn House is a grade II listed building. This building is outside but surrounded on three sides by the application site. The site is also in the setting of a number of other listed buildings on North Bar Street. Further detail on the heritage setting is set out within the Heritage Statement accompanying the application.
- 5.47 The site currently comprises a building of no visual interest and poor public realm. The Heritage Statement accompanying the application concludes that the site is void of any heritage interest or elements which positively contribute to or enhance the streetscape or surrounding townscape which forms part of the Banbury Conservation Area and its setting. The Buzz Bingo building is identified as a negative landmark within the Conservation Area with the crossroads of Castle Street and North Bar Street as a point of disorientation.
- 5.48 The proposal will significantly open up the setting of Trelawn House to the north. This will give the building space and enhance its setting in accordance with policy ESD15. The pre app response suggests reinstating a garden/yard to Trelawn House would help redress the harm of the existing inappropriate development. The landscape setting to the north of Trelawn House will help provide this open setting. A much closer relationship is proposed for the rear and southern elevations in order to continue the strong building lines and intimate built form, which is identified as a positive feature of the Conservation Area.
- 5.49 Following the comments during the pre app, the building has been designed to reflect the narrow historical burgage plots. The proportions of the fenestration have been altered to reflect the historical grain of the surrounding area and the strong vertical emphasis. A limited palette of materials has been proposed to reflect the historical character.
- 5.50 It is noted that the pre app requested sliding sash windows. These windows are not suitable for the proposed residents, who have often moved in because of reduced mobility. The majority are physically unable to push up and pull down sash windows, often whilst holding onto a walking stick. Instead side opening casements are proposed which are not considered out of character for the area and are suitable for residents to open.
- 5.51 The proposed block on the corner of Castle Street and Bolton Road has been widened, following comments at pre app that it was too narrow as a single block. The design evolution is set out within the Design and Access Statement. The block has taken design inspiration from the grand town houses of the medieval core, such as those along Parson's Street. It will include parapets and high stone banding.
- 5.52 Chimney detailing has been added on North Bar Street to reflect the existing street character. Further design details are set out within the Design and Access Statement.
- 5.53 The form, scale and massing has been reduced from the pre app and is considered to respect the historical character of Trelawn House and the wider conservation area.

A site section across Castle Street, together with further street context on the elevations both demonstrate that the proposals are of an appropriate scale for their setting. Three storey is considered characteristic for the surrounding area, with four storeys on the corner in accordance with the Banbury Vision and Masterplan SPD. The section shows an appropriate separation distance to the properties on the other side of Castle Street. At the closest point they are 32.28m away from the proposed development. This is significantly greater than typical separation distances and is not an unusual characteristic for a town centre location such as this.

5.54 The number of dormers has been significantly reduced from the pre app proposals, leaving only a few on Castle Street. The ridge height on North Bar Street and on Castle Street closest to Trelawn House has been reduced. However, as discussed at the pre app, the character of North Bar Street is of a gradual stepping up as you move further south along the street. The ridge height is therefore higher than Trelawn House to reflect this characteristic. This proposed scale is not considered to diminish the character or historical integrity of Trelawn House. Instead, Trelawn House will sit prominently in a landscaped setting on the corner of Castle Street and North Bar Street, with the proposed development providing a high quality setting to this listed building.

5.55 In a recent appeal decision for Churchill Retirement Living for a scheme in Basingstoke (June 2021), the Inspector considered at paragraph 26 that:

“In contrast to the existing buildings on site, the proposed development would be of a greater height and scale and would therefore be more prominent within the street scene. Furthermore, with the replacement of the single storey aspects of the existing building with a four-storey development, the building would have a greater visual presence. That said, the increase in prominence and visual presence of development on the site does not, in my view, automatically translate into a form of development which would harm the BTCA” [Basingstoke Town Conservation Area].

5.56 Whilst this is a different site, in a different context, the Inspector is clear with the principle that an increase in prominence and visual presence does not automatically translate into harm for the Conservation Area. A copy of the decision is included in Appendix B.

5.57 Similarly, in an appeal decision for Renaissance Retirement Limited (June 2021) the main issues were the effects of the proposed development on the significance of Lymington Conservation Area and the Grade II Listed buildings and the effect of the appeal scheme on the character and appearance of the area. The appeal site was in the setting of a Conservation Area and six Grade II Listed Buildings.

5.58 The Inspector acknowledged that the proposed building would be of greater scale than the dwellings currently on the appeal site, however the proposed building would be set back, behind landscaping. The Inspector considered that the proposed development would not materially erode any ‘designated views’ from the listed buildings and would thus avoid harm to their significance.

5.59 It is not considered the application proposal will materially erode any views identified in Figures 14 and 18 within the Conservation Area Appraisal. Instead the views are considered to be enhanced. A copy of the Lymington appeal decision is included in Appendix C.

- 5.60 The Heritage Statement supporting the application sets out that the redevelopment of the site will enhance the Banbury Conservation Area (and designated and non-designated heritage assets located within it) through the removal of a building which currently provides a negative contribution and the proposed improvements to Trelawn House and the streetscene. Although the redevelopment presents change, such change would not diminish our understanding of the historic environment, those key elements which contribute to it, or the ability to understand and experience it.
- 5.61 In relation to Trelawn House, the Heritage Statement considers that although the proposal will introduce a building which is taller, it would be observed in the context of other tall buildings, and with variations in roof heights, the overall perceived height will be reduced. Although redevelopment of the site would result in a change to the setting of Trelawn House, it would not result in harm to the heritage significance. Through its design and careful layout the scheme would enhance the setting and open up elevations currently blocked. Consequently the listed building would be better understood, experienced and appreciated.
- 5.62 At the same time the proposal balances the need to deliver an efficient use of land as required by the NPPF and policy ESD15; and deliver the required housing allocation under policy Banbury 8.
- 5.63 If the Council found the application to result in less than substantial harm to the nearby designated heritage assets, in line with paragraph 202 of the NPPF, this harm should be weighed against the public benefits of the proposal. It is strongly considered that if this exercise were undertaken, the benefits arising from the development proposals would outweigh any identified harm.
- 5.64 Paragraph 206 of the NPPF sets out that Local Planning Authorities should look for opportunities for new development within Conservation Areas and within the setting of heritage assets, to enhance or better reveal their significance. As set out above, it is considered that pulling the proposed building back and opening up the setting of Trelawn House will help reveal its significance. **The NPPF is clear that proposals which make a positive contribution to the heritage asset or which better reveal its significance should be treated favourably.**

Active Frontages

- 5.65 Policy ESD15 requires proposals to integrate with existing streets and for buildings to be configured to create clearly defined active public frontages. The scheme proposes ground floor apartments along Castle Street and North Bar Street. These apartments contain doors with patio areas for residents to sit out if desired. Following the pre app, increased accessibility has been proposed, with footpaths for the residents directly onto North Bar Street, Castle Street and Bolton Road. This is considered to comply with the requirements of policy ESD15.
- 5.66 In an appeal decision for Churchill Retirement Living in Fleet, Hampshire, the Inspector considered the role of active frontages in relation to a Churchill development. A copy of the appeal decision is included in Appendix D. The Inspector states at para 33:

“the importance of active frontages is overstated by the Council.....Where the NPPF, the National Design Guide and Building for a Healthy Life do mention active frontages, they do so as a way of integrating buildings into their surroundings...the purpose on

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 grading standards in the NPPF or otherwise for appropriate or inappropriate active frontages”.

- 5.67 It is considered that the design and nature of the scheme, together with the inclusion of entrances onto Castle Street, Bolton Road and North Bar Street will create a building that integrates well into its surrounds. There will be at least 80 residents in this development, who will use the local shops and services on a daily basis.

Amenity Space

- 5.68 Following the pre app, the level of green amenity space around the site has increased. Parking has been removed from directly adjacent to the owners lounge, creating a landscaped setting to the owners lounge and patio. The applicant has considerable experience in delivering retirement developments nationwide. This has given a clear understanding of the use of and need for amenity space.
- 5.69 The quality of amenity space is important to prospective residents. Churchill Retirement Living have won awards for excellence for their landscaped amenity areas.



Tregolls Court, Truro
Award winning
landscaping.

- 5.70 Typical purchasers are 78 year old widows. The move into retirement living accommodation is usually a needs based move, with the main drivers being the death of a partner, companionship, downsizing as the family property is too large to manage or not suited to mobility needs, and to be closer to shops and services.
- 5.71 The experience of the applicant is that high quality amenity space is far more important than quantity. Residents wish to have a pleasant outlook, with high quality planting, and value this far more than large areas of green space. Residents use the space in a passive way. Active use of external amenity space tends to be relatively limited and mainly involves sitting out for those few residents who occasionally choose to do so, and perhaps tending a few small flower pots immediately outside of ground floor apartments where access is provided to individual apartments. Large grassed areas of external amenity space are just not required.

- 5.72 A landscape strategy is submitted in support of this application which shows the landscaping and planting that will be provided on the site. Native species will be used to enhance biodiversity. Borders are included with species chosen to add visual interest but also to encourage pollinators.
- 5.73 In addition there is the internal communal lounge, coffee bar and patio. This is a hugely valued space, where residents often meet for coffee or to play card games and is useable all year round. Film nights, book clubs, wine and cheese evenings as well as summer parties are also organised.
- 5.74 Experience has shown that older people derive considerable pleasure and enjoyment from interacting with others as a community in the communal lounges and terraces. This is not everyone's preference, but is something residents chose to buy into when they purchase a property.
- 5.75 Whilst it was acknowledged at the pre app that there are a number of north facing apartments, with small patios fronting onto Castle Street, it is emphasised that the owners all have access to the south facing communal lounge and patio. This is within the quietest part of the site and will provide an attractive environment for residents to enjoy socialising or sitting in the sun.
- 5.76 Overall, given the balance of achieving efficient use of land as set out in para 124 of the NPPF combined with a clear understand of the needs of the residents and the emphasis on high quality landscaping, it is strongly considered that the proposed amenity space will meet the needs of the residents in accordance with policy ESD10. In addition to this, the site is within 200m of People's Park and less than 400m from Spiceball Country Park.
- 5.77 Paragraph 127 of the NPPF requires that developments function well and add to the overall quality of the area; are visually attractive; are sympathetic to the local character and history; establish or maintain a strong sense of place; optimise the potential of the site; and create places which are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. It is considered that the proposal balances all these needs and will positively contribute to the character and appearance of the area.

Economic Considerations

- 5.78 The application site predominantly comprises a vacant Bingo Hall. Two small offices within the site are currently occupied by Brown & Co and Pertempts. Brown & Co currently have around 20 employees and Pertempts have 5 employees. It is not intended for either existing employment use to be lost as a result of this application, rather they will relocate to another office within Banbury. Evidence of current available office space within Banbury and Bicester is included within Appendix E. This shows a total of 6,704.87 sqm of office space currently available in Banbury. In addition there is a further 2,151.40 sqm of office space currently available within Bicester.
- 5.79 Of the 6,704.87 sqm available in Banbury, 1,122.17 sqm is available within the town centre, with the rest of the space elsewhere around the town. Some of this office space has been available for 6 years, with the majority available for 1 or 2 years. Overall there is considered sufficient available employment space within Banbury that the current employment provided within the site will not be lost from the town.

Indeed the current occupiers have indicated that they will move somewhere else within Banbury.

5.80 In terms of number of jobs created, the Infographic contained at Appendix F sets out that the proposed development will create:

- 6 direct jobs
- 14 supported jobs (from increased expenditure in the local area)
- 77 construction jobs; and
- 86 supply chain jobs during the construction period.

5.81 Recent evidence within a report 'Silver Saviours of the High Street' has shown the significant economic benefits that retirement living developments can have on local high streets. The residents are 'basket shoppers', often walking into town on a daily basis to get the shopping they need. They will also utilise the high street during the week, when it's typically at its quietest. Through downsizing residents often have more disposable income and more time to use local facilities. The analysis by consultancy Lichfields predicts that this development of 80 units will generate around £1.4 million in resident expenditure per annum in local shops and services. This is a significant economic benefit.

5.82 There is significant evidence linking poor health with unsuitable living conditions. 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). Residents generally remain in better health, both physically and mentally, in comparison to being in unsuitable accommodation and for many being isolated. Doctors, nurses, and care workers can visit several occupiers at once.

5.83 With 80 units proposed, there is estimated to be fiscal savings to the NHS of £367,500 per annum directly from the proposed development, in comparison to mainstream housing. This is a significant economic benefit.

5.84 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. The infographic estimates the proposed development will open up 53 existing family homes within the housing market. The proposal will therefore assist with meeting wider family housing needs within the district.

5.85 **Substantial weight should be afforded to these economic benefits.**

Social Considerations

5.86 Specifically designed housing for older people enables 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.

- 5.87 There are huge benefits from new found friends and companions. Loneliness is linked with damaging health impacts such as heart disease, strokes, depression and Alzheimer's. Loneliness and isolation have become even more apparent in older generations through the lockdowns faced during the COVID 19 pandemic. However residents within existing Churchill Retirement Living schemes have expressed huge praise for their Lodge Managers in looking after them and helping with food shopping.
- 5.88 Churchill developments offer a formal coffee morning as well as a number of informal coffee gatherings. Residents often organise bridge clubs and weekly film nights in the communal lounge. There are also group trips into the town centre for coffee and shopping. Even just saying hello to neighbours in the corridor or a quick conversation with the Lodge Manager can significantly help. Churchill also organise a number of events each year such as summer parties, cheese and wine nights, musical nights with tribute acts.
- 5.89 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.
- 5.90 The requirement of the NPPF at paragraph 92 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.
- 5.91 **Substantial weight should be afforded to these social benefits**

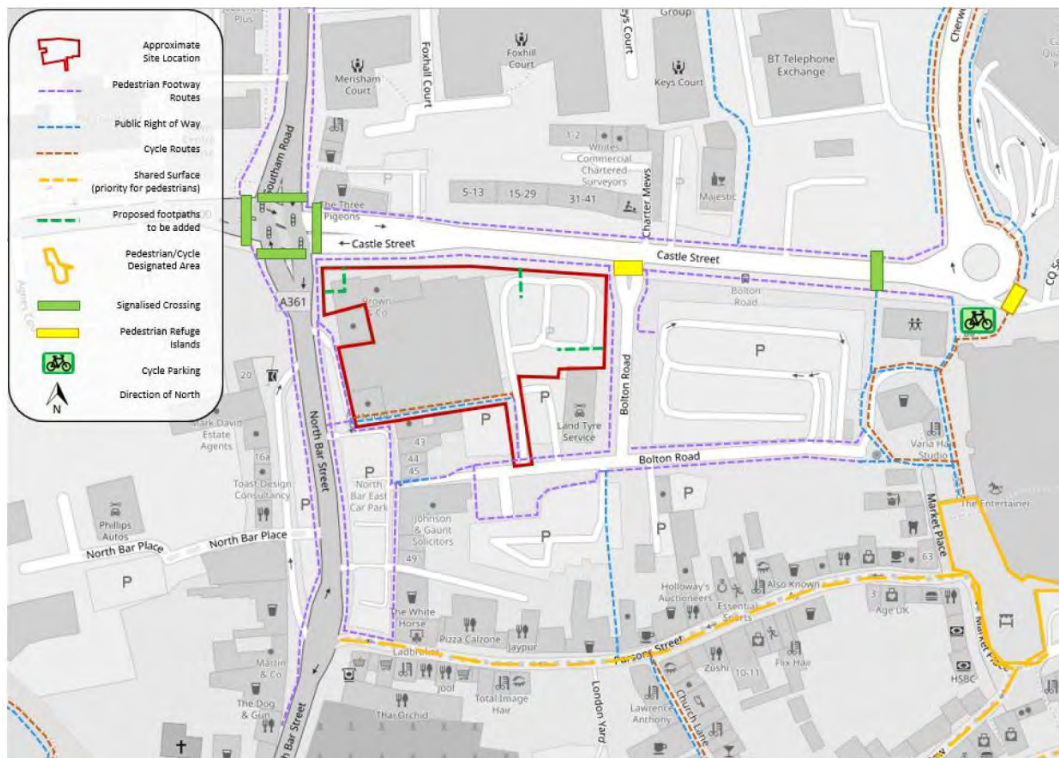
Environmental Considerations

- 5.92 The proposal will make more efficient use of brownfield land thereby reducing the need to use limited land resources for housing, in accordance with policies ESD1 and BSC2.
- 5.93 The site is in a highly sustainable location. Shops and services can easily be accessed on foot thereby reducing the need for travel by means which consume energy and create emissions, in accordance with policy ESD1. Providing shared facilities for a large number of residents in a single building makes more efficient use of material and energy resources. The proposal will be constructed with an energy efficient fabric and building services specification.
- 5.94 The proposal includes renewable technology through the use of solar panels to assist in the reduction of CO₂ emissions, in accordance with policies ESD2 and ESD15. The scheme will also achieve the higher level of water efficiency of 110 litres per person per day in accordance with policy ESD3.
- 5.95 All areas of the building will be lit using low energy lighting and where applicable utilise daylight and movement sensor controls. The scheme will achieve an 11% betterment in energy efficiency over the Building Regulations Part L. Further information on environmental sustainability is set out within the Sustainability Statement accompanying this application.

- 5.96 The pre app response refers to the need to consider district heating in accordance with policy EDS4. Further detail is set out on this within the Sustainability Statement, however in summary, 200 homes across the wider masterplan is not large enough for a scheme to be adopted within the Heat Trust guidelines, thereby exposing future homeowners to uncapped or unregulated energy costs.
- 5.97 Any district CHP should not be fuelled by a combustion process as it is unlikely to deliver compliance with Part L or the Future Homes Standards. Part L requires a heating system efficiency of 89.5%, with the draft Future Homes Standards assuming an efficiency of 250%. however energy generated from the combustion of a fuel or incineration of waste typically has a combined heat and power efficiency in the region of 80-85%. This leaves a commercial grade heat pump network, fuelled by grid electricity. However there are no clear benefits to a heat pump network over small scale electric systems servicing individual homes. Heat networks would suffer from heat loss in distribution. At the present time Churchill have been advised against the installation of a district network at the application site.
- 5.98 The proposals which include electric heating and on site renewable energy generation is compliant with the Building Regulations and is zero carbon ready. Further information is contained within the Sustainability Statement.
- 5.99 An extended Phase I habitat survey and Preliminary Bat Roost Assessment of the site has been undertaken. The site is considered to contain negligible bat roosting potential, and is also on a busy, well-lit, road junction, which is sub optimal for bats. There are very limited existing habitats on site, which are considered to be of negligible ecological importance.
- 5.100 Policy ESD10 seeks to increase the number of trees within the District which this proposal will deliver, with a high quality landscape frontage to Castle Street, as well as high quality landscaping within the site. This is in accordance with paragraph 131 of the NPPF which supports new tree planting. The submitted landscape strategy demonstrates that landscaping is an integral part of the development and which will help support improvements to biodiversity. Following the comments during the pre app, significantly more planting has been included, particularly around the car parking area.
- 5.101 Based on the current landscape strategy the proposed development is considered to deliver a **352% biodiversity net gain for habitat units and a 100% net gain for hedgerow units**. This is a significant benefit of the scheme and is fully in accordance with the NPPF and policy ESD10.
- 5.102 Policy ESD17 seeks to enhance the green infrastructure network. The landscape feature fronting Castle Street is a requirement of the Banbury Vision and Masterplan SPD but will also significantly enhance the green infrastructure in this part of the town. Wider opportunities for Green Infrastructure are also set out within the masterplan document.
- 5.103 **Significant weight should be afforded to these environmental benefits.**

Access and Parking

- 5.104 The site is in a very sustainable and accessible location. It is on the edge of the Town Centre boundary, in close proximity to a range of shops and services.
- 5.105 Policy Banbury 8 encourages pedestrian and cycle linkages that enable a high degree of connectivity with existing networks, particularly Parsons Street, North Bar Street and Castle Street. Similarly Policy ESD15 encourages accessible and easily understandable places by creating spaces that connect with each other, are easy to move through and have recognisable landmark features.
- 5.106 The nature of retirement living accommodation is to provide safety and security for residents. They often move in due to a fear of crime and insecurity within their existing property. Therefore it would not meet the residents' needs to allow the application site to be opened up internally with wider pedestrian connectivity across the private residential area. However pedestrians can walk around all four sides of the site on Castle Street, Bolton Road and North Bar Street. The proposal will maintain the pedestrian public right of way to the south of the site. The reduced width of the building fronting this right of way, compared to the Buzz Bingo building, together with the proposed landscaping inside the site will enhance the openness and appearance of this footpath; with the proposed development enhancing the natural surveillance of it.
- 5.107 Further permeability surrounding the site is shown within the Transport Statement and replicated below.



- 5.108 In addition to this, the masterplan document provides examples of further permeability if the rest of the site within policy Banbury 8 was to come forward for development. The current application proposal will not prejudice these being delivered at a later date.

- 5.109 Overall the proposal is considered to promote pedestrian movement and connectivity in accordance with policies Banbury 8 and ESD15.
- 5.110 Oxfordshire County Council's transport for New Developments Parking Standards for New Residential Developments sets out parking standards of a maximum of 1.2 spaces per unit for unallocated 1 bed units and 1.4 spaces per unit for 2 bed units.
- 5.111 The proposal offers 27 parking spaces. This is below the maximum limits and so in keeping with the parking standards. The proposal offers 0.34 spaces per unit.
- 5.112 As set out in the Transport Statement, the experience of Churchill is that 0.3 spaces per apartment meets the required demand. Parking surveys show a demand for 0.28 spaces per unit (these are attached to the Transport Statement).
- 5.113 This is because residents often move into a retirement development so they are closer to local services and facilities and so can give up reliance on their cars. The typical pattern is that residents move in and then give up their car within 6 months as they no longer need it. Many no longer wish to drive and others find the cost of taxing, insuring and maintaining it unnecessary for the occasional trip, especially given public transport is available. Residents are close to local shops and services and so are able to walk or use a mobility scooter to get all they need.
- 5.114 The NPPF promotes sustainable transport and developers should not be expected to provide more parking than required unless there are clear and compelling justifications, taking into consideration the accessibility, type, mix and use of the development.
- 5.115 From a sales perspective, Churchill would not want to provide a development with insufficient parking as it would upset residents and deter future purchasers. As such a thorough understanding has been obtained from existing schemes to ensure the appropriate number of spaces are provided.
- 5.116 In terms of access, suitable visibility splays can be achieved as set out within the accompanying Transport Statement.
- 5.117 The NPPF is clear that 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.

Refuse

- 5.118 The development proposal has a communal refuse store which can be accessed internally. Double doors are provided to prevent odour.
- 5.119 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.
- 5.120 Tracking of the refuse vehicle shows it can enter and turn within the site, in order to collect the bins from the refuse room. The doors will be unlocked by the lodge manager on the day of collection.

- 5.121 Churchill have developed a detailed understanding of the typical waste requirements based on experience of their existing lodges. The majority of flats are single occupancy and the owners are daily basket shoppers with a low carbon footprint who generate small amounts of waste. Experience has indicated there is a total waste generation of 110l per week for a 1 bed apartment and 170l per week for a 2 bed apartment. This is a combined total for waste and recycling. The total capacity required is therefore 9,250l. The proposed refuse room includes capacity for 9 x 1100l bins (total capacity of 9,900l). These will be divided into recyclable and non recyclable waste. This will be suitable to meet the required needs.

Flood Risk and Drainage

- 5.122 The site is in Flood Zone 1 with a low risk of flooding. To ensure the development is safe throughout its lifetime, the surface water strategy accounts for runoff in up to the 1 in 100 year return period.
- 5.123 The proposed development safeguards against climate change (40%), providing betterment over the existing conditions, where the rate and volume of runoff would continue to increase with climate change.
- 5.124 The existing ground conditions preclude the use of soakaways. Instead storm water runoff will be attenuated on-site and will discharge via the existing site connection to the TW stormwater sewer to the north of the site within Castle Street.
- 5.125 Foul drainage will be served by a new private gravity network, with new connections proposed.

Noise

- 5.126 The site is potentially affected by noise from road traffic using Castle Street and North Bar Street, as well as some operational noise from Land Tyre Service.
- 5.127 An acoustic gate has been proposed across the entrance to the site. This will ensure the noise levels for the main external amenity area meet the required levels identified in the British Standard 8233. The area fronting Castle Street will be subject to greater noise levels, however the provision of the internal owners lounge and the communal external amenity area and patio will ensure residents have access to high quality amenity space that meets the required noise levels.
- 5.128 On the elevations facing towards Castle Street and North Bar Street it will be necessary to include acoustic glazing and in some areas an alternative means of ventilation in order to achieve acceptable internal noise levels.
- 5.129 Overall an appropriate acoustic environment can be achieved both internally and externally.

Air Quality

- 5.130 The proposed development lies adjacent to the Air Quality Management Area (AQMA) no. 2. This is located along North Bar Street.

- 5.131 The submitted air quality report shows that the air quality conditions for future residents will be acceptable, with concentrations expected to be below the air quality objectives throughout the site.
- 5.132 During the construction phase there is the potential for dust emissions, however measures set out within the submitted Construction Management Plan will minimise these.
- 5.133 Traffic flows generated by the development will be less than for the Buzz Bingo and also below published screening criteria. The operation of the development is not considered to have a significant impact on local roadside air quality.
- 5.134 The proposed development will be provided with heat and hot water by Photovoltaic Panels (PVs) on the roof; there will be no centralised combustion plant and thus no significant point sources of emissions.
- 5.135 The overall operational air quality effects of the proposed development are considered to be 'not significant'.

Archaeology

- 5.136 The site is located within the medieval town of Banbury and is likely to have been developed from the thirteenth century onwards. Historic mapping identifies that the site remained in residential use until the mid-twentieth century. Subsequently the majority of the post-medieval buildings (excluding Trelawn House) have been demolished and the site redeveloped.
- 5.137 It is anticipated that the site will have been subject to a degree of previous disturbance as a result of the redevelopment during the 1970s and 1980s. However the site has potential to contain archaeological remains. A programme of trial trench evaluation is suggested. In response to the pre app response a Written Scheme of Investigation is also submitted.

Geotechnical

- 5.138 A Site Investigation Report has been undertaken by Crossfield Consulting.
- 5.139 This has identified that there are no valid contaminant linkages in relation to human health, controlled waters or ground gas emissions. Thus it is concluded that remediation works should not be necessary for the proposed development.
- 5.140 It is recommended that suitable topsoil is imported for the landscaping areas.
- 5.141 Based on the presence of low permeability strata beneath the site, relatively deep Made-Ground and evidence of shallow groundwater, it is considered that soakaway drainage is not suitable for the proposed development.

Affordable Housing

- 5.142 Policy BSC3 sets out that in Banbury, schemes for more than 11 units will be required to provide 30% on site affordable housing. The policy acknowledges that financial contributions will be acceptable in exceptional circumstances. Where this

requirement would make the scheme unviable, an open book financial analysis will be required.

- 5.143 A viability report accompanies the application. There are additional costs associated with delivering retirement housing as opposed to standard open market housing. Around 25% of floor space is for communal facilities such as the owner's lounge and guest accommodation. This is unsaleable floor area which therefore reduces income. Local Plan viability assessments do not take these factors into account.
- 5.144 In addition, retirement accommodation has a reduced sales rate, due to the smaller section of the market that is eligible, increasing borrowing and empty property costs. Further detail is set out in the viability report accompanying the application.
- 5.145 The scheme will provide a financial contribution to the delivery of affordable housing within the District.

Recent Appeal Decision Former Fleet Police Station, 13 Crookham Road, Fleet (APP/N1730/W/20/3261194) (May 2021)

- 5.146 The weight to be attached to the planning benefits of specialised accommodation for older persons has recently been considered at a site in Fleet, Hampshire, by the Planning Inspectorate. The appeal was allowed for 31 retirement apartments by Churchill Retirement Living.
- 5.147 In weighing up the planning balance the Inspector set out at para 70:

“The following benefits would arise: (i) much needed housing for older people...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 appellants payment to the delivery of affordable housing would be a significant benefit (substantial weight); (vii) there is a benefit releasing under occupied housing stock (substantial weight); (viii) the site would provide economic benefits by generating jobs, in the construction and operation phases of the development and by residents spending locally (substantial weight); (ix) there would be social benefits in specialised age friendly housing (substantial weight); (x) the environmental benefits of the scheme are a clear benefit (moderate weight). Cumulatively, these 10 benefits weight 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 PPG and at a local level.”

- 5.148 The Inspector goes on to state at para 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 the appeal should be allowed”.

5.149 A copy of the decision is included at Appendix D.

Appeal Decision Basingstoke Police Station, London Road, Basingstoke RG21 4AD (APP/H1705/W/20/3248204) (June 2021)

5.150 This appeal decision in Basingstoke was allowed for 56 retirement apartments. In considering the planning balance, the Inspector sets out:

“The proposal would provide much needed housing for older people. In this respect, I note from the evidence that there is a shortfall within the Borough for the provision of this type of accommodation and that there are no specific allocations for such development. Therefore, the Council is reliant on windfalls for their delivery. Such provision of specialist housing also allows for the release of under-occupied housing stock.....In light of the advice contained within Paragraph 59 of the Framework to significantly boost the supply of homes, and to meet the needs of groups with specific housing requirements, it is appropriate to give significant weight to these benefits.

The proposal would involve the re-development of previously developed land, which is located within close proximity to the town centre and all the associated services and facilities that this has, thereby making the site sustainable in this respect. It is therefore appropriate to attach substantial weight to these benefits.

The proposal would provide economic benefits through the generation of jobs, during both the construction, but also once the development has been completed. Further benefits would also be delivered through increased spending by residents locally. Given the scale of the development proposed, it is appropriate to attached substantial weight to these benefits.

Further benefits would also be delivered through the optimum use of the site for new development, along with some environmental improvements through the reduction in hardstanding within the site. It is appropriate to afford these benefits moderate weight.”

5.151 The Inspector goes on to conclude:

“In this instance, there is clear and convincing evidence with regards to the suitability of the proposal. The delivery of specialist housing weighs substantially in favour of the appeal scheme, especially given the critical need identified at national level in both the Framework and the National Planning Practice Guidance (NPPG), along with the identified shortfall in terms of the delivery at local level. As a result, even if I had reached a different conclusion in relation to the heritage issues and found there to be harm to the identified designated heritage assets, any harm would have been clearly outweighed by the significant public benefits of the scheme. Therefore, in this case, I find no reasons to withhold planning permission”.

5.152 A copy of the decision is included in Appendix B.

Planning Balance

5.153 The Council have confirmed that they cannot demonstrate a 5 year land supply. In accordance with paragraph 11d of the NPPF, the relevant policies for determining the application are considered out of date. Thus planning permission should be granted unless:

- i. The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
 - 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.
- 5.154 For part 11di, the site is partly within a Conservation Area, and adjacent to Grade II listed Trelawn House. However, as set out above, it is considered that the scheme has been designed to respect and enhance these heritage assets. It will provide a high quality design as well as significantly open up the setting of Trelawn House. There is considered to be no harm to these existing heritage assets from the proposals. It is therefore not considered that part di would apply.
- 5.155 For part dii, it is not considered that there are any adverse impacts so great as to significantly and demonstrably outweigh the benefits associated with the application.
- 5.156 It is considered that the approach of the Inspectors in the above appeals equally applies to the current application proposal. In summary:

| Planning Benefits of current proposal | Weight to be given |
|---|--------------------|
| Provision of much needed housing for older people | Significant weight |
| Development of previously developed land | Substantial weight |
| Development in a sustainable location | Substantial weight |
| Efficient use of land | Moderate weight |
| Provision of 80 market dwellings | Substantial weight |
| Freeing up under occupied local housing stock | Substantial weight |
| Economic benefits of the proposed scheme | Substantial weight |
| Social benefits of the proposed scheme | Substantial weight |
| Environmental benefits of the proposed scheme | Significant weight |

- 5.157 Overall the scheme is considered to meet the requirements of the development plan. The Council cannot demonstrate a 5 year land supply and the tilted balance is therefore engaged. There are numerous and significant benefits associated with the application which should be afforded substantial weight in its determination. It is considered that in the event that the Council identify some adverse impact from the proposed scheme, then it is not so 'significant and demonstrably' to outweigh the benefits of the proposed scheme listed above.

CONCLUSION

- 6.1 The UK faces a rapidly growing and ageing population. The Government aims to **'significantly boost the supply of housing'**. The PPG *is unequivocal in its message that "the need to provide housing for older people is critical"*.
- 6.2 The population aged 55+ in Cherwell will increase by 58% between 2011 and 2031. This is the highest of the Oxfordshire Districts. For those aged 85 + the increase is even bigger at 142%. The SHMA predicts a need of between 696 and 1,436 units of accommodation for older people over the plan period. Evidence prepared for the local plan shows that in Banbury the demand for older people's housing is anticipated to rise significantly between 2015 and 2033 and continues to significantly outstrip the sum of the actual and potential supply.
- 6.3 The PPG is clear: "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." **Substantial weight should be given to the proposal considering the high levels of housing and specialist housing needs.**
- 6.4 The proposal seeks to deliver 80 no. retirement apartments on a brownfield site. In accordance with the NPPF (para 120c) **substantial weight should be given to the value of using suitable brownfield land within settlements for homes.**
- 6.5 The site is in a highly sustainable location. It offers opportunities for the future residents to walk to a range of services and facilities within the town centre. This is particularly important as people age, with many having to give up driving. **Substantial weight should be given to delivering development in a highly sustainable location.**
- 6.6 The principle of development is considered acceptable. The proposal is considered to comply with policy Banbury 7 and Banbury 8. The masterplan submitted with the application demonstrates that the scheme will not prejudice the delivery of the wider allocation.
- 6.7 The scheme has been designed to respond to and enhance the setting of the adjacent heritage assets. It will significantly open up the setting of Trelawn House and enhance the character of the Conservation Area. **Moderate weight should be afforded to the efficient use of land.**
- 6.8 The scheme will provide 80 retirement dwellings. The NPPF is clear that the Government's intention is to 'significantly boost the housing supply'. The Council are unable to demonstrate a 5 year land supply. **This contribution to the housing supply should be afforded significant weight.**
- 6.9 The provision of retirement housing releases under occupied family homes back into the housing market. This in turn enables moves throughout the whole housing market, benefiting everyone including first time buyers. **Freeing up under occupied local housing stock should be afforded significant weight in the determination of this application.**

- 6.10 The economic benefits associated with the application include:
- Savings to the NHS and social care services of £3,500 per person per year in retirement living accommodation, totalling £367,500 per annum for 80 units.
 - Increased spending in local shops and services of around £1.4m per annum
 - Creation of 77 construction jobs, 86 supply chain jobs, 6 direct jobs and 14 supported jobs from increased expenditure in the local area.
- 6.11 **These benefits should be afforded substantial weight in the determination of this application.**
- 6.12 The social benefits of the proposed development include:
- Encouraging independence in later life with suitably designed housing. Reducing reliance on residential and nursing care.
 - Providing safety and security and reducing management and maintenance concerns.
 - Companionship, reducing loneliness and social isolation.
 - Entertainment and social gatherings
- 6.13 These social benefits are vital for mental health and quality of life as people age. **They should be afforded substantial weight in the determination of this application.**
- 6.14 The environmental benefits include:
- Efficient use of brownfield land, reducing the need for greenfield release
 - Close proximity to shops and facilities encouraging residents to walk
 - Shared facilities for residents in a single building makes efficient use of energy and resources.
 - Use of solar panels to assist in the reduction of CO₂ emissions
 - An improvement of 11% over Part L of the Building Regulations
 - Water efficiency standards of 110 litres per person per day.
 - The scheme will deliver a 352% biodiversity net gain for habitats and a 100% net gain for hedgerow units.
- 6.15 **These environmental benefits should be afforded significant weight in the determination of this application.**
- 6.16 There are numerous and significant benefits associated with the application which must be considered within the planning balance.
- 6.17 Overall the scheme is considered to meet the requirements of the development plan when read as a whole. In accordance with paragraph 11d of the NPPF, it is not considered that there are any adverse impacts so great as to significantly and demonstrably outweigh the benefits associated with the application.

APPENDIX A

RELEVANT EXTRACTS FROM THE NPPF

- 4.1 Paragraph 8 of the revised NPPF highlights three dimensions to sustainable development being economic, social and environmental objectives.
- 4.2 The revised NPPF 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, 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*
- 4.3 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.
- 4.4 The Government’s policy, as set out in the revised NPPF, is to boost significantly, the supply of housing. Paragraph 60 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.”*
- 4.5 The revised NPPF looks at delivering a sufficient supply of homes, Paragraph 62 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.
- 4.6 Paragraph 69 of the revised NPPF 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.
- 4.7 The revised NPPF identifies at Paragraph 120(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.

- 4.8 The Government recognises at Paragraph 124 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.*
- 4.9 In respect of heritage, the NPPF at paragraph 189 states that heritages assets “...are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations”.
- 4.10 When considering the impact of a proposal upon the significance of a designated heritage asset the “*great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*”
- 4.11 Paragraph 197 of the NPPF sets out that in determining planning applications, local authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
- 4.12 If a proposal would lead to less than substantial harm of a heritage asset, Paragraph 202 advises that “*this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.*”
- 4.13 Paragraph 203 goes on to state “*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*”
- 4.14 Paragraph 206 states “*Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.*”
- 4.15 The overriding message in the NPPF is one of sustainable development.

APPENDIX B

APPEAL DECISION, FORMER BASINGSTOKE
POLICE STATION, BASINGSTOKE, RG21 4AD
APP/H1705/W/20/3248204



Appeal Decision

Hearing Held on 27 April 2021 and 18 May 2021

Site visit made on 29 April 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2021

Appeal Ref: APP/H1705/W/20/3248204

Former Basingstoke Police Station, London Road, Basingstoke RG21 4AD

- 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 Churchill Retirement Living against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 19/01822/FUL, dated 28 June 2019, was refused by notice dated 27 February 2020.
 - The development proposed is demolition of existing buildings and erection of 56 No retirement apartments, guest apartment, communal facilities, vehicular access, car parking and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and erection of 56 No retirement apartments, guest apartment, communal facilities, vehicular access, car parking and landscaping on land at Former Basingstoke Police Station, London Road, Basingstoke RG21 4AD, in accordance with planning application Ref 19/01822/FUL, dated 28 June 2019, subject to the conditions in the attached schedule.

Application for costs

2. At the Hearing an application for costs was made by Churchill Retirement Living against Basingstoke & Deane Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. For reasons of precision and clarity, I have taken the description of **development from the Council's decision notice.**
4. The appellant has included revised plans and information as part of their appeal. Whilst not before the Council at the time of their decision, they were submitted at the outset of the appeal, therefore parties have had the opportunity to comment. Having reviewed the original proposal and the revised plans, I do not consider that the main elements of the scheme have materially altered from that originally submitted and upon which consultation took place. Against this backdrop, I consider that no-one would be prejudiced if I were to consider the revisions as part of the appeal, taking account of the principles established in the Wheatcroft case. Therefore, I have determined the appeal on this basis.

5. The proposal is supported by a planning obligation in the form of a Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990. I have had regard to it in reaching my decision. As agreed between the parties, a completed version was submitted shortly after the hearing closed.
6. The appeal hearing was conducted as a Virtual Hearing.

Main issues

7. The main issues in this appeal are:
 - The effect of the proposal upon the character and appearance of the area, in particular, whether the siting, layout, design, scale, bulk and appearance of the development would appear as an incongruous form of development having regard to the pattern and character of the surroundings;
 - Whether the proposal would preserve or enhance the character or appearance of the Basingstoke Town Conservation Area and whether it would preserve the setting of the White Hart Public House, a Grade II listed building;
 - Whether the proposed development makes adequate provision for safe and secure cycle parking;
 - Whether the proposed development makes adequate provision for the storage of refuse and recycling; and
 - Whether the proposal makes adequate provision for local infrastructure, in particular the provision of affordable housing and open space provision.

Reasons

Character and appearance

8. The appeal site lies to the east of Basingstoke Town Centre, on the northern side of London Road. The site comprises the vacant former police station and associated surface car parking and ancillary outbuildings, which are located to the rear. Fronting onto London Road, the existing building is predominantly single storey across the frontage, with a taller, 4-storey central section, which extends back into the site. The building is set back from London Road, where there are a number of trees, grassed areas, along with a number of former car parking spaces between it and the footway.
9. The surrounding area comprises a mix of modern and historic developments. Due to the uses of a number of surrounding buildings, the area forms the core of civic activity within the town, with uses including Council Offices, Registry Office and Basingstoke Magistrates' Court. Immediately to the east is Lauriston Court, which is a 3-4 storey residential block, that extends back, away from the road. Further to the east, the area is predominantly residential and is more sub-urban in character, with dwellings comprising a mix of detached and semi-detached properties.
10. A particular characteristic of the area is that all the buildings are distinct and individual, sitting within their own plots with space around them. However, whilst the buildings on the northern side of London Road are set back behind landscaping, those on the southern side are positioned close to the carriageway edge. As a result, the northern side has a verdant character.

11. The appeal site lies within Basingstoke Town Conservation Area (BTCA), and there are a number of nearby listed buildings, including The White Hart Public House, Goldings and Eastlands, all of which are Grade II.
12. Policy EM1 of the Basingstoke and Deane Local Plan (BDLP) states that development will be permitted only where it can be demonstrated that the proposals are sympathetic to the character and visual quality of the area concerned and must respect, enhance and not be detrimental to the character or visual amenity of the landscape likely to be affected.
13. Policy EM10 of the BDLP states that proposals will be required to respect the local environment, contribute to the streetscene and be visually attractive. Policy EM10 advocates a high quality and robust design-led approach to new development. In particular, the policy requires that development must **'positively contribute to the appearance and use of streets' (criteria 1b), 'respond to the local context' (criteria 1c), contribute 'to a sense of place' (criteria 2a) and have 'due regard to' the density, scale, layout and appearance of the surrounding area (criteria 2c).**
14. In contrast to the existing main building, the proposed four storey development would extend across the full width of the plot and, due to its height, would be of considerably greater scale, bulk and mass. The building would be positioned closer to London Road, which, in combination with its additional size, would increase the presence and visual prominence of development on the site. Although in this respect, I note that it would be in line with the adjoining Lauriston Court development. Furthermore, a reasonable amount of open and undeveloped space would be provided to the front and around the sides of the building, albeit less than that around the existing police station.
15. In my view the local character of the area is varied, with no particular style of building, footprint, scale, building line or materials being particularly prevalent. Building heights are also varied, however given the rise in levels towards the towns centre, due to their position in relation to London Road, those on the southern side appear more prominent.
16. As a result, whilst the building would be larger than the existing development on the site, it would still appear as its own building, which due to the detailing of the elevations and the use of contrasting materials, would ensure that it would retain an identity of its own. In this respect, whilst being modern in design and appearance, the proposal would be similar in its overall pattern and characteristics to surrounding developments.
17. Furthermore, when travelling along London Road, towards the appeal site and beyond, the nature and character of surrounding development changes from a more suburban feel, to a more dense, urban environment. This provides a sense of arrival within the town centre. The overall scale and design of the building would be in keeping with this change in character and would help to support and maintain that sense of arrival and a perception of entry into the town centre.
18. At the hearing, there was considerable debate with regard to the existing plane trees which are located to the front of the site. It was put to me by the Council that the existing trees represent important features within the BTCA and the street scene and, as a result, form a key element of the open and verdant

character of the northern side of London Street. Having visited the site, I would concur with this view.

19. From the evidence, it is clear that these trees would be retained, although some works would be required to them to enable the development to take place. However, due to their relationship with the proposed building, they would result in some shading to a number of the dwellings which would front onto London Road. This, **in the Council's view**, would result in substantial pressure for these trees to be removed in the future. In response, it was put to me by the appellant that, unlike traditional open market housing, residents of retirement living apartments often seek properties with views of trees and therefore it was their intention to retain and manage them.
20. I accept that due to the relationship of the building with the trees, it would result in some shadowing to a number of the dwellings located to the front of the building. However, on the basis of the evidence before me, I am satisfied that sufficient measures would be in place to ensure the long-term retention and management of these trees.
21. Pulling all these elements together, I conclude on this main issue that the proposal would deliver a quality design, which, in combination with the retention of the existing landscaped front of the site, would not materially harm the character and appearance of the area.
22. For the above reasons, I therefore conclude that the proposed development would not harm the character and appearance of the area and, in this respect, accords with Policies EM1 and EM10 of BDLP, the Design and Sustainability Supplementary Planning Document (SPD) and the National Planning Policy Framework (the Framework).

Designated Heritage Assets

Basingstoke Town Conservation Area

23. The BTCA covers the historic core of Basingstoke and is divided into five Character Areas, with the appeal site falling into Character Area Three, Goldings and Parkland. The Basingstoke Town Conservation Area Appraisal and Management Plan Supplementary Planning Document 2015 (CAA) defines the area as being dominated by the formality of the 18th century fronted house and the relationship with its former parkland.
24. The predominant character is defined by existing development, principally large civic and administrative buildings, which are located at the western end of London Road. These buildings are prominent within the streetscape and contrast in scale to the two-storey former historic residential buildings of Goldings and Eastlands. On the northern side, the buildings are set back from the road, but are positioned along the pavement edge on the southern side. Buildings are varied in appearance, therefore there is no particular architectural style which dominates the Character Area.
25. Section 72(1) of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 identifies the desirability of preserving or enhancing the character or appearance of the Conservation Area. This is reflected in Policy EM11 of the BDLP, which establishes that proposals must conserve or enhance the quality of the borough's heritage assets, which includes Conservation Areas. EM11 states that proposals will be permitted

- where they demonstrate an understanding of the character and setting of Conservation Areas and respect historic interest and local character and ensure the use of appropriate materials, design and detailing.
26. In contrast to the existing building on site, the proposed development would be of a greater height and scale and would therefore be more prominent within the street scene. Furthermore, with the replacement of the single storey aspects of the existing building with a four-storey development, the building would have a greater visual presence. That said, the increase in prominence and visual presence of development on the site does not, in my view, automatically translate into a form of development which would harm the BTCA.
 27. The Council were of the view that the development of the site required a **building to exhibit a 'Pavilion' style, so as to respond to surrounding** developments. However, on this matter, I agree with the appellant that using the accepted interpretation of the term, none of the surrounding buildings could be described to fully meet this style. To my mind, the reference to Pavilion in this context relates more to the provision of, and a sense of space around the building, allowing it to be fully appreciated, rather than a building which is also ornate and unique in its architectural detailing.
 28. In this respect, whilst the building would be positioned closer to London Road, it would be set within a landscaped context, with retained trees along the site frontage and space provided both either side and within the site. The footprint of the building would also respect the overall shape and pattern of the existing police station, with a frontage and a central core extending into the site. As such, the proposal would respect the existing grain and character of the BTCA.
 29. Whilst being four-storeys in height, due to the surrounding topography, the ridgeline of the proposed building would be lower than Eastlands and would be of a comparable height to the buildings on the opposite side of London Road. Furthermore, whilst being set further forward, the front of the building would mirror that of the adjoining Lauriston Court. This, along with the retention of the existing trees and associated landscaping, would maintain a substantial element of the verdant character of the northern side of London Road. As a result, the proposed building would be in keeping with surrounding development and would not appear overly dominant within the street scene.
 30. With regards to the existing building, there were differing views from the parties in terms of its quality and the overall contribution it makes to the BTCA. In my opinion, the existing building, due to its distinctive design and appearance, is, at best, a noteworthy feature within the BTCA, with its former use being **reflective of the 'civic' nature of surrounding land uses**. However, overall, I find that the existing building makes no positive contribution to the BTCA. Neither do I consider, nor find evidence to support, **the Council's** submission that the existing building serves as a **'bookend' to the BTCA**.
 31. Drawing these aspects together, the proposal would not harm the architectural interest of the BTCA. It would remove a building that, whilst not harmful to the BTCA, in my view makes no positive contribution to it, and would replace it with a building that would be in keeping with its surroundings, with its design and siting complementing surrounding buildings. Furthermore, whilst it would be more prominent due to its scale, it would not appear as a dominant form of development. Existing trees along the frontage would be retained, along with

an element of landscaped frontage. As such, the proposal would preserve the overall character and appearance of the BTCA.

32. I have had regard to my duty under S72(1) of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 as to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Accordingly, I conclude that the appeal scheme would not harm and would preserve the character and appearance of the BTCA and therefore accords with Policy EM11 of the BDLP, Section 4 and 7 of the SPD and Section 16 of the Framework.

White Hart Public House

33. The White Hart Public House is a Grade II listed building and is located on the opposite side of London Road. The building dates to the eighteenth century with a nineteenth century addition to the east. From the evidence, the building served as an important public house and inn on one of the main routes into the historic core of Basingstoke. The heritage significance of the building is therefore defined by both its age and its architectural detailing, along with its historical importance as a roadside inn. To some degree however, the overall significance of the building has been reduced over the years by surrounding modern development.
34. I have already concluded that the existing police station makes no positive contribution to the BTCA and, for the same reasons, I conclude that it makes no contribution to the setting of the White Hart Public House. That said, the presence of the existing trees and the verdant frontage of the appeal site, do however make some contribution to the appreciation of the listed building, in particular when viewing the building along London Road in both directions. In this respect, the retention of the majority of the trees, and the potential for additional landscaping in this area, would preserve the overall setting of the listed building in this respect.
35. Views of the building along London Road would still be retained, allowing the former historic role and function of the building to be appreciated, although these would be seen within the context of the new development on the appeal site. The prominence of the White Hart Public House would therefore not be harmed by the proposal.
36. In respect to the overall design of the proposed building, whilst being modern, it would reflect and respond to surrounding local character and architectural detailing, which is characteristic of this part of the streetscape. As a result, it would not harm the setting of the listed building when seen from surrounding viewpoints.
37. Whilst the proposal would result in the provision of a new building that would be of a greater scale than the existing Police Station, given the separation distance between it and the listed building, I do not find that the ability to appreciate the listed building would be altered, to such a degree, as to harm the significance of the building. Furthermore, given the separation provided by London Road, and the fact that the proposal would retain a substantial element of the existing landscaped frontage, this would be sufficient to ensure that the proposal would not be overbearing to the listed building.

38. As a consequence, whilst the proposed building would be taller and located closer to the listed building than the existing development on site, I find that the overall historic significance of the listed building would not be harmed.
39. I have had regard to my duty under S66(1) of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 as to the listed building. Accordingly, I conclude that the appeal scheme would preserve the setting of the White Hart Public House and would not harm its significance. Therefore, the proposal accords with Policy EM11 of the BDLP, Section 4 and 7 of the SPD and Section 16 of the Framework.
40. In summary, I conclude that the proposal would cause no harm to the designated heritage assets.

Cycle parking provision

41. The Parking Supplementary Planning Document July 2018 (PSPD), sets out the **Council's standards with regards to** the level of cycle parking provision necessary within new developments. Where cycle parking is provided the PSPD requires it to be secure and covered, conveniently located adjacent to entrances/exits to buildings, enjoy good natural observation, be easily accessible from roads and/or cycle routes and be well lit. In terms of the level of cycle parking to be provided, the PSPD does not set out specific requirements in relation to cycle parking for retirement housing, but instead, requires provision to be determined on a case by case basis.
42. Through the submission of the updated plan, the appeal proposal would make provision for six cycle stands, which would be located in a covered shelter at the end of the refuse/recycling building. In total this would provide sufficient space for 12 cycles.
43. In support of the level of provision, evidence was presented to me by the appellant, including levels of use from other similar developments, to support the case that due to the nature of the development and the age of the intended occupants, the total level of cycle use would be low, and would be mainly related to staff use, rather than residents. At the hearing, the Council maintained a position that the level of provision was insufficient.
44. Having reviewed the evidence, I find the survey data and the case put forward by the appellant to be compelling and, in this instance, provides strong justification to support the overall proposed level of provision on site. Furthermore, I note that the nature of the provision would meet the requirements set out in the PSPD. Therefore, given the nature and type of the development proposed, I consider that the proposal would make adequate provision for cycle parking to meet the needs of both residents and staff.
45. For the above reasons, I therefore conclude that the proposed development would make adequate provision for safe and secure cycle parking and, in this respect, accords with Policies CN9 and EM10 of the BDLP, the PSPD and Section 9 of The Framework.

Waste and recycling provision

46. The Design and Sustainability Supplementary Planning Document July 2018 (DSSPD), sets out the **Council's** requirements with regard to a range of

- development standards, including the provision of adequate waste and recycling facilities.
47. Using the DSSPD, based on the size of the scheme, the Council considers that the proposed development would require the provision of 18 x 1100 litre containers for waste and recycling and 9 x 240 litre glass recycling containers.
 48. Through the provision of the amended plan, the proposal would provide 12 x 1100 litre and 9 x 240 litre glass recycling containers, to be within a bin store located adjacent to the site entrance.
 49. At the Hearing, the view of the Council was that, despite the amended plan, the level of provision was still well below the required level and, as a result further additional bins would be required in the future, which, due to the limited size of the bin store, would have to be provided externally. In the view of the Council, this would represent visual harm to the area. On the other hand, evidence was presented by the appellant in the form of data from other similar developments to show that, whilst the overall provision was less than **the Council's DSSPD, the level of bins** to be provided on site, accorded with their experience of the waste and recycling that arose from other similar developments.
 50. I agree with the Council that, given the location of the site, the proliferation of external bins would harm the character and appearance of the area. However, given the evidence provided by the appellant, it is clear that, due to the nature of the development proposed, the level of waste from the proposed use would be less than that which would be generated from a general needs housing development of a similar scale.
 51. On this basis, I am therefore satisfied that due to the nature of the development, the amount, level and location of the bin stores provided as part of the scheme are sufficient to meet the overall needs that would arise from the development.
 52. For the above reasons, I therefore conclude that the proposed development would make adequate provision for the storage of refuse and recycling and, in this respect, accords with Policies CN9 and EM10 of the BDLP, the DSSPD and the Framework.

Provision of Infrastructure

53. The appeal is supported by a Planning Obligation in the form of a Unilateral Undertaking, which sets out contributions to be provided for both open space and affordable housing.
54. At the Hearing, the parties were in agreement with regards to the total level of contributions that the development could make to ensure it remained viable. However, there was disagreement with regards to the split of these contributions, with the Council seeking a considerable proportion of the monies to be spent on improvements to nearby open space.
55. To address this, the appellant, through the Unilateral Undertaking provided two options for the contributions as set out in Schedules A and B of the Undertaking. Schedule A included their preferred level of contribution, with the focus being on affordable housing. Whereas schedule B, **reflected the Council's** position.

56. Paragraph 56 of the Framework and Regulation 122 of the CIL Regulations make it clear that Planning Obligations should only be sought where they meet all of the identified tests, namely (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.
57. It was agreed between the parties that an open space contribution would meet tests (a) and (b). However, in the view of the appellant, the level sought for open space was not fairly and reasonably related in scale and kind.
58. In justifying their figure, the Council referred to their adopted standards and clarified that the sum was based on identified need across the Borough for open space provision. Furthermore, in calculating the requirement, they did not consider that the on-site provision was suitable and therefore required the total of provision to be provided off-site.
59. On the other hand, it was put to me by the appellant that, due to the type of housing proposed, the open space requirements of the proposal would be different to that which would be expected from general open market housing. In their experience, residents would make more use of internal spaces in the form of the residents' lounge and use the communal gardens in a different way.
60. Turning to the proportion of contributions, I am not convinced by the case put forward by the Council with regard to the need for a substantial element of the contribution to be used towards open space provision within the area. Whilst I do not doubt that future residents of the proposed development would indeed wish to access nearby open spaces, in particular War Memorial Park, given the nature of the proposed use, I would envisage this to be limited to more general visits for walking or sitting, rather than any more specific purpose. I also consider that some acknowledgment has to be made of the on-site provision. Whilst this may not be extensive, it would, no doubt, meet the needs of particular residents, who may not wish, or even be able to access local parks.
61. On this basis, I do not find that the level of contribution for open space sought by the Council to be fairly and reasonably related in scale and kind. Furthermore, in terms of affordable housing, my attention was drawn to the significant needs across all types of housing across the Borough, with the appellant describing the shortfall as acute. From the evidence, I would concur with this position. In light of this position, it would therefore appear fair and reasonable to require the substantial element of the contributions to be made towards the provision of affordable housing.
62. For the above reasons, I therefore conclude that the proposal, through Schedule A of the Unilateral Undertaking, would make adequate provision for local infrastructure, in particular the provision of affordable housing and open space provision and, in this respect, accords with Policies CN1, CN4, CN6 and EM5 of the BDLP, the Planning Obligations for Infrastructure Supplementary Planning Document and the Framework.

Planning Balance

63. It is acknowledged by the Council that, at this moment in time, they are unable to demonstrate a 5 year supply of housing land. On the basis of the information before me, I see no reason to disagree with this position and I have therefore determined the appeal on this basis.

64. Paragraph 11 of The Framework states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as whole or where specific policies in the NPPF, indicate that development should be restricted. Furthermore, I have found no conflict with the Framework in respect of heritage issues. As a result, I find that the tilted balance as identified in Paragraph 11d of the Framework is engaged in this case.
65. I have found that the proposed development would not harm the character and appearance of the area and accords with the relevant policies in the development plan and the Framework. There would be no harm arising from the proposal to nearby designated heritage assets, with the proposal preserving the character of the BTCA and the setting of the nearby listed White Hart Public House. Furthermore, I have concluded that the proposal provides adequate cycle parking, refuse storage and policy compliant levels of contributions to both affordable housing and public open space. These weigh heavily in favour of the proposal.
66. A number of benefits were also put to me by the appellant. The Council did not take issue with these benefits, but, in their view, considered that they did not attract sufficient weight to overcome the harm they considered would be caused by the conflict with the development plan and the Framework.
67. The proposal would provide much needed housing for older people. In this respect, I note from the evidence that there is a shortfall within the Borough for the provision of this type of accommodation and that there are no specific allocations for such development. Therefore, the Council is reliant on windfalls for their delivery. Such provision of specialist housing also allows for the release of under-occupied housing stock. Furthermore, the proposal would make a substantial contribution to the provision of affordable housing within the Borough. In light of the advice contained within Paragraph 59 of the Framework to significantly boost the supply of homes, and to meet the needs of groups with specific housing requirements, it is appropriate to give significant weight to these benefits.
68. The proposal would involve the re-development of previously developed land, which is located within close proximity to the town centre and all the associated services and facilities that this has, thereby making the site sustainable in this respect. It is therefore appropriate to attach substantial weight to these benefits.
69. The proposal would provide economic benefits through the generation of jobs, during both the construction, but also once the development has been completed. Further benefits would also be delivered through increased spending by residents locally. Given the scale of the development proposed, it is appropriate to attached substantial weight to these benefits.
70. Further benefits would also be delivered through the optimum use of the site for new development, along with some environmental improvements through the reduction in hardstanding within the site. It is appropriate to afford these benefits moderate weight.
71. In summary, I have found no conflict with any of the relevant development plan policies and therefore conclude that the appeal proposal accords with the

development plan. As the Council are unable to demonstrate a 5-year land supply, Paragraph 11d of the Framework provides that applications should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

72. In this instance, there is clear and convincing evidence with regards to the suitability of the proposal. The delivery of specialist housing weighs substantially in favour of the appeal scheme, especially given the critical need identified at national level in both the Framework and the National Planning Practice Guidance (NPPG), along with the identified shortfall in terms of the delivery at local level. As a result, even if I had reached a different conclusion in relation to the heritage issues and found there to be harm to the identified designated heritage assets, any harm would have been clearly outweighed by the significant public benefits of the scheme. Therefore, in this case, I find no reasons to withhold planning permission.

Planning Conditions

73. At the hearing, a number of minor changes to the conditions were suggested, to ensure that the correct plan references were included within the conditions. As such, and in light of my conclusion in the Preliminary Matters section of this decision, I have made the requisite amendments in the interests of clarity and precision.
74. The suggested conditions have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. A standard implementation condition, along with a requirement to implement the scheme in accordance with the approved plans is necessary.
75. To ensure the external appearance of the building it is necessary to require the submission of details of proposed materials and finishes. For the same reason, it is appropriate to attach a condition requiring the details of all hard and paved surfaces to be approved.
76. To protect the character and appearance of the area, it is appropriate to attach a condition requiring the submission of a landscaping scheme, along with a management plan for its continued maintenance.
77. To ensure bio-diversity enhancement is delivered, it is necessary to attach a condition requiring the submission of a habitat enhancement scheme. For the same reasons, it is necessary to require the submission of details of any proposed external lighting.
78. To protect the living conditions of surrounding residents it is necessary to require the submission of a noise assessment, along with restrictions on noise levels to be generated from construction activities. For the same reason, it is necessary to attach a condition to ensure no piling methods are used in the construction and to require the submission a measured site survey.
79. To ensure that risks from contaminated land to the future users of the site and adjoining land are minimised, it is necessary to require the submission of a desk top study and that a verification report to show that any risks have be mitigated.

80. In the interests of highway safety, it is necessary to require the provision of adequate visibility splays. For the same reason, it is appropriate to require the access to be constructed from suitable material and to ensure that the car parking is laid out and available prior to the use of the site
81. In the interests of local residents, businesses and also in the interest of highway safety, it is necessary to attach a condition requiring the submission of a Construction and Environmental Method Statement.
82. Considering the presence of existing trees on the site, it is necessary to attach a condition requiring the submission of tree protection measures. For the same reason, it is necessary to require the submission of details of all existing and proposed utilities.
83. To prevent the risk of flooding, it is necessary to attach a condition requiring the submission of a surface water drainage strategy.
84. Given the nature of the development, it is necessary to attach a condition to restrict the occupancy of the dwellings.

Conclusion

85. For the above reasons, the appeal is allowed, subject to the conditions as set out in the attached schedule.

Adrian Hunter

INSPECTOR

APPEARANCES

FOR THE APPELLANT

| | |
|-----------------|---------------------|
| Neil Cameron QC | Landmark Chambers |
| Robert Jackson | Planning Issues Ltd |
| Matthew Shellum | Planning Issues Ltd |
| James MacKay | Alder King |
| Paul White | Ecus Ltd |

*FOR THE LOCAL PLANNING
AUTHORITY*

| | |
|-------------------|---------------------------------------|
| Nicola Williams | Basingstoke and Deane Borough Council |
| John Dawson | Basingstoke and Deane Borough Council |
| Daniel Ayre | Basingstoke and Deane Borough Council |
| Terry Martin | Basingstoke and Deane Borough Council |
| Tom Roworth | Basingstoke and Deane Borough Council |
| Sooh Boocock | Basingstoke and Deane Borough Council |
| Parminder Dosanjh | Aspinall Verdi |
| Matthew Olive | Aspinall Verdi |

Schedule of Conditions

1. The development hereby permitted shall be commenced within three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (drawing 10101BS PA100 Rev A); Proposed site plan (drawing 10101BS PA101 Rev D); Ground floor plan (drawing 10101BS PA102 Rev B); First floor plan (drawing 10101BS PA103 Rev A); Second floor plan (drawing 10101BS PA104 Rev A); Third floor plan (drawing 10101BS PA105 Rev A); Proposed elevation 1 (drawing 10101BS PA107 Rev A); Proposed elevation 2 (drawing 10101BS PA108 Rev A); Proposed elevation 3 (drawing 10101BS PA109 Rev A); Proposed elevation 4-6 (drawing 10101BS PA110 Rev B); Proposed roof plan (drawing 10101BS PA106 Rev A); Proposed elevations of outbuilding (drawing 10101BS PA111 Rev A).
3. Notwithstanding the approved plans, no development above ground floor slab level shall commence until details of materials and finishes have been submitted to and approved in writing by the Local Planning Authority. The submitted details should include samples, including on-site sample panels as applicable. These requirements include the provision of information relating to:
 - the size, texture, colour and source of bricks including specials;
 - the bonding and coursing of brickwork;
 - the material, texture and colour of any tiles/slates;
 - mortar mixes;
 - the material, texture and colour of any other materials such as cladding, string courses, coping and balustrades; and
 - Windows and doors.

The development shall be carried out and thereafter maintained in accordance with the details so approved.

4. Notwithstanding the details submitted, no development above ground slab level shall occur until the following drawings have been submitted to and approved in writing by the Local Planning Authority:
 - Scaled drawings at a scale of 1:10 including string courses, window cills and headers, the depth of window reveals, windows and doors and parapet.

The development shall be carried out in accordance with the approved details and retained thereafter.

5. No development above ground floor slab level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted (including replacement trees where appropriate). The works approved shall be carried out in the first planting and seeding seasons following the first occupation of the building(s) or when the use hereby permitted is commenced. In addition, a maintenance programme

- detailing all operations to be carried out in order to allow successful establishment of planting, shall be submitted to and approved in writing by the Local Planning Authority before development takes place above ground floor slab level. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, to be agreed in writing by the Local Planning Authority.
6. No development shall take place above ground floor slab level of the building until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscape management and maintenance detailing, as a minimum, an implementation timetable for all landscaping works and a landscape management programme, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas. The development shall be carried out in accordance with the approved details.
 7. No development above ground floor slab level shall take place on site until details of the materials to be used for hard and paved surfacing have been submitted to and approved in writing by the Local Planning Authority. The approved surfacing shall be completed before the adjoining buildings are first occupied and thereafter maintained.
 8. No development above ground floor slab level shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls/fences/hedges to be erected. The approved screen walls/fences/hedges shall be erected before the building hereby approved is commenced and shall subsequently be maintained. Any hedging, trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, details of which shall be agreed in writing by the Local Planning Authority before replacement occurs.
 9. No development shall take place until details of the habitat enhancement scheme have been submitted to and approved by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the details so approved.
 10. Details of any proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to installation. The development shall be carried out and thereafter maintained in accordance with the details so approved.
 11. No development above ground floor slab level should take place until a noise assessment has been submitted to and approved in writing by the Local Planning Authority. The noise assessment should, if found necessary, provide a noise mitigation scheme for protecting the proposed dwellings from neighbouring commercial land uses. Should a scheme of noise mitigation be required no dwelling should be occupied until a post completion noise survey has been carried out by a suitably qualified acoustic consultant and a report has been submitted to, and approved in writing by the Local Planning Authority.

12. The rating level of sound emitted from any fixed plant associated with the development shall not exceed background sound levels between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest sound sensitive premises) and shall be no greater than 5dB below the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest noise sensitive premises). All measurements shall be made in accordance with the methodology of BS4142: 2014 Methods for rating and assessing industrial and commercial sound and/or its subsequent amendments.

Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.

13. No works pursuant to this permission, including demolition, shall commence until there has been submitted to and approved in writing by the Local Planning Authority: -

A desk top study carried out by a competent person documenting all potential sources of contamination on the site in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175: 2011

And

With the exception of the demolition of existing buildings and removal of existing hardstanding no works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority: -

- (a) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as being **appropriate by the Council's Environmental Health team and in accordance with BS10175: 2011 - Investigation of Potentially Contaminated Sites - Code of Practice;**

and, unless otherwise agreed in writing by the Local Planning Authority,

- (b) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants/or gases when the site is developed. The scheme must include a timetable of works and site management procedures and the nomination of a competent person to oversee the implementation of the works. The scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 and include if necessary proposals for future maintenance and monitoring.

If during any works contamination is encountered which has not been previously identified it should be reported immediately to the Local Planning Authority. The additional contamination shall be fully assessed and an appropriate remediation scheme, agreed in writing with the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11'.

14. The development hereby permitted shall not be occupied/brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of condition 13(b) that any remediation scheme required and approved under the provisions of condition 13(b) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the Local Planning Authority such verification shall comprise;

- as built drawings of the implemented scheme;
- photographs of the remediation works in progress; and
- Certificates demonstrating that imported and/or material left in situ is free of contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 16(b), unless otherwise agreed in writing by the Local Planning Authority.

15. Prior to construction of development commencing visibility splays of 2.4m. x 43m. shall be provided at the entrance. These splays shall have all obstructions removed between 1m and 2m. above the level of the adjacent carriageway and shall be maintained thereafter.

16. Prior to occupation the works to the access including the first 6m measured from the nearside edge of carriageway shall be surfaced in a non-migratory material. This area shall be maintained in this condition thereafter.

17. No development or other operations (including demolition, site preparation or groundworks) shall commence on site until a Construction and Environmental Method Statement that demonstrates safe and coordinated systems of work affecting or likely to affect the public highway and or all motorised and or non-motorised highway users, has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting and shall be adhered to throughout the construction period. The Statement shall include for:

- Means of direct access (temporary or permanent) to the site from the adjoining maintainable public highway;
- The parking and turning of vehicles of site operatives and visitors off carriageway (all to be established within one week of the commencement of construction works (including ground works) pursuant to the development hereby approved);
- Loading and unloading of plant and materials away from the maintainable public highway;
- Storage of plant and materials used in constructing the development away from the maintainable public highway;

- Wheel washing facilities or an explanation why they are not necessary;
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - Measures to control the emission of dust and dirt during construction;
 - A scheme for recycling and disposing of waste resulting from construction work and the management and coordination of deliveries of plant and materials and the disposing of waste resulting from construction activities so as to avoid undue interference with the operation of the public highway, particularly during the Monday to Friday AM peak (06.30 to 09.30) and PM peak (16.00 to 18.30) periods;
 - The routes to be used by construction traffic to access and egress the site so as to avoid undue interference with the safety and operation of the public highway and adjacent roads, including construction traffic holding areas both on and off the site as necessary;
 - Procedures for maintaining good public relations including complaint management, public consultation and liaison;
 - **Arrangements for liaison with the Council's Environmental Protection Team;**
 - All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 0730 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays;
 - Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above;
 - Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works; and
 - Procedures for emergency deviation of the agreed working hours;
18. The building shall not be occupied until the proposed car parking facilities have been laid out in accordance with the approved site plan. The car parking provided shall thereafter be kept available at all times for the intended use.
19. Notwithstanding the arboricultural information already provided within the Barrell Tree Consultancy arboricultural assessment & method statement, ref: 17356-AA4-PB, 04/07/19., no development or other operations (including demolition, site preparation or groundworks) shall commence on site, until a revised scheme of tree protection has been submitted to and approved in writing by Local Planning Authority. In addition to other trees on the site, the revised scheme shall include the retention and maintenance of the 4 London plane trees to the front of the site. The scheme of protection shall include temporary fencing, ground protection, supervision and special engineering solutions designed to ensure the successful retention of trees. The development shall proceed in accordance with the approved tree protection scheme.
20. No development including site clearance, demolition, ground preparation, temporary access construction/widening, material storage or construction

works shall commence on site until a plan showing the location of all existing and proposed utility services has been submitted to and approved in writing by the Local Planning Authority. This shall include gas, electricity, communications, water and drainage. No development or other operations shall take place other than in complete accordance with the utility services plan.

21. No development shall take place until a detailed surface water drainage strategy has been provided to the Lead Local Flood Authority, containing the following elements:
 - Any proposals for such systems must be supported by an assessment of the risks to controlled waters.
 - Where infiltration is used for drainage, evidence that a suitable number of infiltration tests have been completed. These need to be across the whole site; within different geologies and to a similar depth to the proposed infiltration devices. Tests must be completed according to the BRE 365 method or another recognised method including British Standard BS 5930: 2015. The development shall be carried out in accordance with the approved details.
22. Piling using penetrative methods shall not be carried out other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.
23. No works shall take place on site until a measured survey of the site has been undertaken and a plan prepared to a scale of not less than 1:500 showing details of existing and intended final ground levels and finished floor levels in relation to a nearby datum point which shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed and thereafter maintained in accordance with the approved details.
24. Each dwelling hereby permitted shall be occupied only by;
 - (i) A person aged 60 years or over;
 - (ii) A person aged 55 years or older living as part of a single household with the above person in (i); or
 - (iii) A person aged 55 years or older who were living as part of a single household with the person identified in (i) who has since died.

APPENDIX C

APPEAL DECISION, STANFORD HILL,
LYMINGTON, SO41 8DE
APP/B1740/W/20/3265937



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: 8th June 2021

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.
-

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 adopted¹ a Mitigation for Recreational Impacts on New Forest European Sites Supplementary Planning Document (the Mitigation SPD), which supplants the guidance² 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**

¹ On 5 May 2021

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

elevation 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); No2; 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 19th 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 mapping³ 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 20th Century.

³ 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 18th 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 20th 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 advice⁴.
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 clear⁵ 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 SPD⁶ 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.

⁴ 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)

⁵ At paragraph 1.2

⁶ At page 95

25. Nevertheless, the Distinctiveness SPD, makes it clear⁷ 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 Framework⁸ 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"**⁹. 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.

⁷ At paragraph 1.3

⁸ At paragraph 126

⁹ 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 development¹⁰. 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 homes¹¹; and that where there is an existing shortage of land for meeting identified housing needs (a matter of

¹⁰ Set out on page 95

¹¹ 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 site¹². 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 Framework¹³ 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"**¹⁴. Consequently, at the Inquiry no substantive evidence was forthcoming sufficient to undermine **the appellant's** conclusion¹⁵, 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"**¹⁶ 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 indicates¹⁷ that the tilted balance is engaged. In arriving at this

¹² At paragraph 123

¹³ At paragraph 130

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

¹⁵ 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)

¹⁶ *Ibid* at paragraph 10.2

¹⁷ At paragraph 11(d)

view, I acknowledge that the Council has met the most recent Housing Delivery Test – however, the Framework is clear¹⁸ 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 need¹⁹ 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) advises²⁰ that the need to provide housing for older people is critical.
38. I am mindful of views of interested parties²¹ 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 schemes²² 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 parties²³, **the appeal scheme’s delivery of**

¹⁸ At Footnote 7

¹⁹ Per paragraph 6.24 of the Local Plan

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

²¹ Including Lymington and Pennington Town Council (ID3) and the Lymington Society (ID11)

²² At Appendix 3 of the **appellant’s Planning rebuttal to proof of evidence by Mr James Gilfillan** (CD8.35)

²³ *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 services²⁴.
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**"²⁵. In the light of these considerations, **the Framework's** support for the effective²⁶ and efficient²⁷ 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 places²⁸.
45. The PPG sets out²⁹ 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 appellant³⁰, 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 programme³¹ - 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

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.

²⁴ Expressed at paragraph 6.27 of the Local Plan

²⁵ At Figure 2.5

²⁶ At paragraph 117

²⁷ At paragraph 122

²⁸ Set out in *Fixing our broken housing market* Cm9352 CD7.8

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

³⁰ *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

³¹ 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 growth³².

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 Ground³³ **and the appellant's** Proof of Evidence in respect of Ecology and Nature Conservation³⁴ 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

³² At paragraph 80

³³ CD7.12 at paragraph 3.8

³⁴ 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 2021³⁵. I am also mindful of **Natural England's position**³⁶ 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 requirement³⁷ 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 legal³⁸ and national policy tests³⁹. In these terms, I am satisfied that I can take these planning obligations into account and that they would provide an effective mechanism

³⁵ CD7.18

³⁶ Set out in its consultation response on the planning application dated 24 June 2020

³⁷ Established by Reg 63(3) of the Habitats Regulations

³⁸ Per Regulation 122(2) of the Community Infrastructure Regulations 2010 (as amended)

³⁹ 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 period⁴⁰. 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 effects⁴¹ 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 confirmed⁴² 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 response⁴³ 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 requirement⁴⁴ 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

⁴⁰ 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)

⁴¹ Ibid paragraph 3.13

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

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

⁴⁴ 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)⁴⁵, 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 PPG⁴⁶ 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 tests⁴⁷. 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

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

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

⁴⁷ 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 merits⁴⁸.

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 dwellings⁴⁹ – 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

⁴⁸Clause 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

⁴⁹ *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 plans⁵⁰ for the Bucklers Mews properties indicate relate to kitchens and shower rooms. Moreover, I am mindful that the noise report submitted by the appellant⁵¹, 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.

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

⁵¹ 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 reviewed⁵² 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.

⁵² 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 appellant⁵³, 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 PPG⁵⁴, 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)⁵⁵ or the Framework⁵⁶ 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**⁵⁷.
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 it⁵⁸. Conditions requiring the implementation and maintenance of an appropriate drainage system have been

⁵³ *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)

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

⁵⁵ Regulation 122(2)

⁵⁶ At paragraph 57

⁵⁷ 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

⁵⁸ 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 out⁵⁹ 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 clarity⁶⁰. Where conditions require compliance with them prior to the commencement of the proposed development, the appellant has supplied their written agreement⁶¹ to their terms⁶².
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.

⁵⁹ At paragraph 55

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

⁶¹ ID9 *Agreement to pre-commencement conditions*

⁶² 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*⁶³ 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

⁶³ 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** report⁶⁴.
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 worded⁶⁵.

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

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

⁶⁵ *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

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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 D

APPEAL DECISION, FORMER FLEET POLICE
STATION, FLEET, GU51 5QQ
APP/N1730/W/20/3261194



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

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.
-

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).¹ 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

¹ 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 SANG² land at Queen Elizabeth Barracks, Sandy Lane, Church Crookham and provision of a SAMM³ 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.*

² Suitable Alternative Natural Greenspace

³ 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.⁴ 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.

⁴ 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.⁵ 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 Hart⁶ 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.⁷ 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

⁵ Paragraphs 128-131 of HLP32

⁶ Paragraph 137 of HLP32

⁷ 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 HLP32.⁸ 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.⁹
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.

⁸ Inset Map 10.1

⁹ 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 NPPF¹⁰ 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.¹¹ Furthermore, the Council **accepted that the relevant UCDS's** guidance¹² 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.¹³ 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

¹⁰ Paragraph 16

¹¹ Mr Moorhouse Appendix 1

¹² Appendix 1, page 12

¹³ 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.¹⁴ 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

¹⁴ 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'**¹⁵ 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 development¹⁶ but, following the submission of a Shadow Habitats Regulations Assessment,¹⁷ 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.¹⁸ 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.

¹⁵ CD3.6

¹⁶ Mr Moorhouse's Appendix 4

¹⁷ D 2.7

¹⁸ 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 party¹⁹ 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 party²⁰ as set out in the s106 Agreement and by making the SAMM payment.²¹ 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.

¹⁹ Taylor Wimpey Developments Limited

²⁰ Ibid

²¹ 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.²² Regulation 122 of the CIL Regulations, as amended by the 2011 and 2019 Regulations, and paragraph 56 of the NPPF

²² 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 SHMA²³ 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 stock²⁴ (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 locally²⁵ (substantial weight); (ix) there would be social benefits in specialised age friendly housing²⁶ (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.

²³ Figures 14.8 and 14.10 page 212

²⁴ NPPF paragraph 118(d) and paragraph 131 of HLP32

²⁵ NPPF paragraph 80

²⁶ 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 CI 10103FL PA07
Proposed Elevation C - St James Rd 10103FL PA08
Proposed Elevation D - St James CI 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

APPENDIX E

LIST OF AVIALBLE OFFICE SPACE IN BANBURY AND BICESTER

| Town | Address | Sq ft | Sq m | Vacant yrs | Town Centre | Grade* |
|----------|--------------------------------------|---------------|------------------------------------|--|-------------|--------|
| Banbury | Cherwell Business Village | 3,934 | 365.48 | 6 | No | C |
| | Pembroke House | 16,514 | 1,534.19 | 1 | No | A |
| | Prodrive Offices | 5,630 | 523.04 | 2 | No | B |
| | 7 Canada Close | 2,588 | 240.43 | 2 | Yes | C |
| | Borough House Suites | 1,229 | 114.18 | 2 | Yes | B |
| | Unit 6 Manor Park | 4,154 | 385.92 | 6 | No | B |
| | Grimsbury Manor | 5,567 | 517.19 | 3 | No | B |
| | Charter House, 25 High Street | 1,410 | 130.99 | 2 | Yes | B |
| | Unit 7 Manor Park | 3,798 | 352.85 | 6 months | No | B |
| | 9 & 10 Somerville Court | 4,329 | 402.17 | 0.75 | No | B |
| | 8 Somerville Court, BBP | 3,406 | 316.43 | 2.5 | No | B |
| | 3 Somerville Court, BBP | 1,563 | 145.20 | 1.5 | No | B |
| | 64-65 High Street | 981 | 91.14 | 1 | Yes | B |
| | 2 nd Floor Blenheim Court | 3,410 | 316.80 | 6 | Yes | A |
| | Finance House | 11,197 | 1,040.23 | 3 | No | B |
| | Suite 5 38 The Green | 600 | 55.74 | n/a | Yes | C |
| | First Floor 12A Marlborough | 489 | 45.43 | n/a | Yes | C |
| | White Lion Walk | 392 | 36.42 | n/a | Yes | C |
| | South Bar Street Serviced Offices | 980 total | 91.04 | | | |
| | TOTAL | | 72,171 (69,384)** | 6,704.87 (6,445.93)** | | |
| Bicester | Bicester Innovation Centre | 1,000 | 92.90 | n/a | No | B |
| | Unit 13 Talisman Business Centre | 5,968 | 554.44 | n/a | No | B |
| | St Edburgs Hall, London Road | 2,155 | 200.20 | 0.3 | No | A |
| | Eco Business Centre, Elmsbrook | 500 | 46.45 | n/a | No | A |
| | The Old Bakery, Victoria Road | 500 | 46.45 | n/a | Yes | C |
| | Falcon House, Bicester Business | 1,854 | 172.24 | n/a | No | B |
| | Bicester Business Park, Telford | 710 | 65.96 | n/a | No | B |
| | Jubilee Suite, Bicester Business | 913 | 84.82 | n/a | No | B |
| | 7 Avonbury Bus Park | 3,464 | 321.81 | Sept 21 | No | B |
| | 4A Lower Farm Barns | 816 | 75.80 | Oct 21 | No | C |
| | Sb Lower Farm Barns | 1,198 | 111.29 | Oct 21 | No | B |
| | Telford Road | 1,985 | 184.41 | Oct 21 | No | B |
| | Meridian House Weston Green | 2,095 | 194.63 | Aug 21 | No | C |
| | TOTAL | | 23,158 | 2,151.40 | | |
| Brackley | Unit 7 Oxford Court | 1,508 | 140.09 | 1 | No | B |
| | TOTAL | 1,508 | 140.09 | | | |
| | TOTAL AVAILABILITY | 96,837 | 8,996.36 | | | |

As At November 2021, provided by White Commercial, a commercial letting agent based in Banbury.

APPENDIX F

ECONOMIC BENEFITS OF THE PROPOSED DEVELOPMENT

The economic benefits of the proposed development at Bolton Road, Banbury

The proposed development at Bolton Road, Banbury will provide a new retirement development. This will stimulate economic growth and assist in meeting Cherwell's housing requirements and add to the authority's revenues.

The proposal



80
Retirement Units

Other details:

The proposed development at Bolton Road will bring on underused brownfield site back into productive use through the provision of a new retirement development, and enrich the quality of the surrounding environment.



Construction benefits



£8.1m
Construction value
(total construction cost)



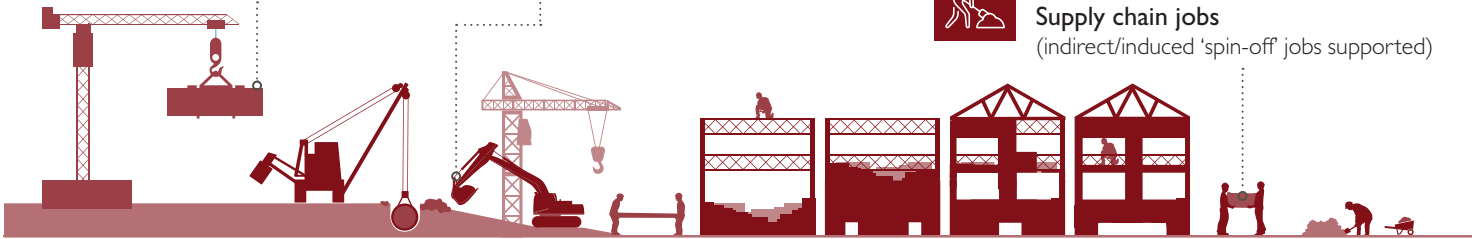
£13.5m GVA
Economic output
(additional GVA p.a.)



77 Jobs
Construction jobs
(temporary jobs over 1.4 year build period)



86 Jobs
Supply chain jobs
(indirect/induced 'spin-off' jobs supported)



Operational and expenditure benefits



6 Direct jobs
(additional jobs supported
by the new retirement
development)



£1.4m
Resident expenditure
(within local shops and
services p.a.)



**14 Supported
jobs**
(from increased expenditure
in local area)



£171,000
Economic output
(additional GVA p.a.)



Wider benefits



Contribution to Local Infrastructure



53
Potential existing homes
(released for other buyers)



£367,500
Fiscal savings
contribution p.a.
(to the NHS)



Support the vitality of the high street

LICHFIELDS

