
AFFORDABLE
HOUSING
STATEMENT

Land at 35 Oakfield,
Sale,
Cheshire,
M33 6NB.

The Planning Bureau Ltd.

1.0 National Planning Policy

- 1.1 National Planning Policy guidance in respect to housing provision can be found within the National Planning Policy Framework (NPPF). First published on 27 March 2012 and updated on 24 July 2018, 19 February 2019, 20 July 2021 and 5th September 2023, the Framework sets out the Government's housing aims and objectives. Paragraph 8 outlines the Government's social objective to support *'strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations'*.
- 1.2 The NPPF supports the Government's objective of significantly boosting the supply of homes and recognises the importance of a sufficient amount and variety of land required and specifically that *'the needs of groups with specific housing requirements are addressed'* (paragraph 60).
- 1.3 The importance of a variety of housing types being recognised in planning policies is highlighted in paragraph 62 which states *'within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, **older people**, students, people with disabilities, service families, travellers' (emphasis added).*
- 1.4 In terms of affordable housing NPPF paragraph 63 specifies where there is an identified affordable housing need *'planning policies and decisions should specify the type of affordable housing required, and expect it to be met on-site unless:*
- *off-site provision or an appropriate financial contribution in lieu can be robustly justified; and*
 - *the agreed approach contributes to the objective of creating mixed and balanced communities.'*
- 1.5 Paragraph 65 states that *'where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership'*, an exemption to this requirement is for sites that provide specialist accommodation for older people.
- 1.6 The Planning Practice Guidance (first published in March 2014) comments on viability in planning and states that:

"Should viability be assessed in decision-taking?"

Where up-to-date policies have set out the contributions expected from development, planning applications that fully comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policy compliant in decision making means that the development fully complies with up to date plan policies. A decision maker can give appropriate weight to emerging policies.

*Such circumstances could include, for example where development is proposed on **unallocated sites of a wholly different type to those used in viability assessment that***

informed the plan; where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent or housing for older people); or where a recession or similar significant economic changes have occurred since the plan was brought into force” [emphasis added].

(Paragraph: 007 Reference ID: 10-007-20190509; Revision date: 9 May 2019)

“How should a viability assessment be treated in decision making?”

Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.

The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.

Any viability assessment should reflect the government’s recommended approach to defining key inputs as set out in National Planning Guidance.”

(Paragraph: 008 Reference ID: 10-008-20190509; Revision date: 9 May 2019)

- 1.7 The ‘Housing for older and disabled people’ section (paragraph: 001 Reference ID: 63-001-20190626 revision date 26th June, 2019), PPG states that:

*“The need to provide housing for older people is **critical**. People are living longer lives and the proportion of older people in the population is increasing” [emphasis added].*

- 1.8 Paragraph: 016 Reference ID: 63-016-20190626 is also of relevance:

“What factors should decision makers consider when assessing planning applications for specialist housing for older people?”

*Decision makers should consider the location and viability of a development when assessing planning applications for specialist housing for older people. Local planning authorities can encourage the development of more affordable models and make use of products like shared ownership. **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).*

- 1.9 To conclude, it is clear from national policy and recent appeal decisions that development viability is a material consideration in the delivery of affordable housing. In addition, the NPPF clearly details the need for housing for older people and expresses that planning policy has a key role in delivering specialist housing to meet an evident housing need.

2.0 Local Planning Policy and Guidance

- 2.1 The existing planning policy framework for Sale consists of:

- The saved policies of the Revised Trafford Unitary Development Plan 2006; and

- Policies set out in the Trafford Local Plan: Core Strategy adopted January 2012.
- 2.2 Policy L1—Land for New Homes states that, *“within the overall supply of land made available for new development, the Council will seek to ensure that an adequate range of sites is made available across the Borough to allow a variety of types of housing, including accommodation that is affordable by all sectors of the local community, to be provided, subject to the capacity of the urban area and infrastructure to accommodate the development and the need to protect the environment”* (emphasis added).
- 2.3 The policy goes on to state that up to 2026 sufficient land to accommodate a minimum of 12,210 new dwellings will be released. Paragraph L1.4 states that *“this will be achieved through new-build, conversion and sub-division of existing properties. The Council will seek to ensure the efficient use of land, concentrating higher density housing development in appropriate and sustainable locations at lowest risk of flooding, where it can be demonstrated that it is consistent with the provisions of L2”*.
- 2.4 Policy L2 is entitled Meeting Housing Needs and paragraph L2.1 states that, *“all new residential development proposals will be assessed for the contribution that will be made to meeting the housing needs of the Borough and the wider aspirations of the Council’s Sustainable Community Strategy”*.
- 2.5 Paragraph L2.2 states that all development will be required to be:
- a) *“On a site of sufficient size to accommodate adequately the proposed use and all necessary ancillary facilities for prospective residents;*
 - b) *Appropriately located in terms of access to existing community facilities and/or delivers complementary improvements to the social infrastructure (schools, health facilities, leisure and retail facilities) to ensure the sustainability of the development;*
 - c) *Not harmful to the character or amenity of the immediately surrounding area; and*
 - d) *To be in accordance with L7 and other relevant policies within the Development Plan for Trafford”*.
- 2.6 Paragraph 2.6 considers dwelling type and mix stating that, *“the proposed mix of dwelling type and size should contribute to meeting the housing needs of the Borough, as set out in the Council’s Housing Strategy and Housing Market Assessment”*.
- 2.7 Affordable housing is considered at paragraphs L2.8 to L2.16. Sale is identified as a ‘moderate’ location where the minimum threshold for qualifying sites is 5 residential units and ‘under normal market conditions’ a 20% affordable housing contribution will be sought. It is relevant to reiterate at this point the aged and out-of-date nature of these assumptions. The Core Strategy was adopted in January 2012 and the evidence base used to inform its policies pre-dates this time (e.g. the May 2009 Economic Viability Study).
- 2.8 Paragraph L2.13 recognises that *“in accordance with Policy L8 of this Plan, where specific issues of viability arise, the Council will consider, on a site by site basis, whether it is appropriate to agree a reduction in the affordable housing contribution”*.
- 2.9 Paragraph 11.11 acknowledges that *“due to the high and continuing demand for affordable housing units, coupled with high land values and site scarcity, the Council’s expected method*

of delivery will be for the affordable housing units to be provided on site. Only in exceptional circumstances will the Council consider an offsite payment being made. The Planning Obligations SPD will provide guidance as to what may constitute exceptional circumstances in this instance” (emphasis added). The language used here does not accord with NPPF paragraph 63 where it refers to the need for off-site financial contributions to be “robustly justified”.

- 2.10 The emerging sub-Regional Strategy, Places for Everyone has reached an advanced stage with the publication in October 2023 of the Main Modifications and Modifications. Merging Policy JP-H2 deals with Affordability of New Housing and states that *“substantial improvements will be sought in the ability of people to access housing at a price they can afford” through a number of measures including:*
- *“Significantly increasing the supply of new housing, in accordance with Policy JP-H 1 'Scale, Distribution and Phasing of New Housing Development', thereby reducing the potential for a shortfall to lead to large house price and rent increases;*
 - *Maximising the delivery of additional affordable homes, including through local plans setting targets for the provision of affordable housing for sale and rent as part of market-led developments based on evidence relating to need and viability;*
 - *Support provision of affordable housing, either on-or off-site, as part of new developments”.*
- 2.11 Trafford Local Plan: Revised Supplementary Planning Document 1 (SPD1) – Planning Obligations (adopted 7th July, 2014 following a 6-week public consultation) provides further detail in respect of affordable housing contributions. Table 3.2 identifies Sale as being within a Moderate Market Location and paragraph 3.12 advises that *“within “moderate” market locations, a 20% affordable housing target will normally be applied, with a flexibility to increase this to a 25% requirement under “good” market conditions and decreased to 10% under “poor” market conditions”.* The November 2018 report by Trebbi for the Council entitled ‘State of the Economy Housing Market Conditions’ concluded that all market areas should be revised from operating under normal market conditions to ‘good’ market conditions, hence the requirement in Sale is 25%.
- 2.12 Paragraphs 3.15 and 3.16 advise that the tenure split is 50:50 between shared ownership and social rented housing. A 5 unit threshold operates in ‘moderate’ market locations such as Sale.
- 2.13 Paragraph 3.28 states that in the case of on-site affordable housing delivery, *“service charges and ground rent charges for dwellings should be set at levels which do not exceed the amounts needed to manage and maintain the properties to housing association standards, and should be fully transparent in their contents and calculation methods”.*
- 2.14 Paragraph 3.31 deals with off-site provision stating that, *“in exceptional circumstances it may not be possible or appropriate to deliver affordable housing on site, so provision may be made on an alternative site, through payment of a commuted financial contribution, or an alternative form of delivery. These circumstances include:*

- *Where the affordable housing can be more effectively secured by bringing existing housing back into use, e.g. empty properties in the private sector;*
- *Where providing the affordable housing elsewhere is more likely to widen housing choice and encourage a better social mix, e.g. providing family homes in other areas of need”.*

- 2.15 In this case the appeal proposals would provide a double benefit in this regard in releasing under occupied larger housing stock for people who move into the retirement properties together with a financial contribution that could be used towards the provision of larger family sized affordable accommodation off-site.
- 2.16 The SPD therefore recognises that there may be circumstances where on-site delivery of affordable housing may not be feasible or off-site provision may be a better option. Service charge levels should be a material consideration and the issue is recognised within the SPD.

3.0 Private Category II type Retirement Housing for the Elderly

- 3.1 In order to clearly understand the difficulties that will arise from trying to mix different types and forms of housing alongside private sheltered housing, it is important to understand what retirement housing is and how it operates.
- 3.2 Retirement housing is a proven housing choice for elderly people who wish to move into accommodation that provides comfort, security and the ability to manage independently to a greater extent. It enables older people to remain living independently within the community and out of institutions, whilst enjoying peace of mind and receiving the support that they need.
- 3.3 However, the specialised communal living environment provided by private Retirement Housing results in the payment of a service charge by the residents, which covers the upkeep and maintenance of all internal communal areas, the external building fabric and the external grounds, including the gardens and car-parking. In addition, the service charge also covers the salary and accommodation costs of the house-manager and the Careline. Following completion of construction, the overall management of the development is retained by McCarthy & Stone and a further residents’ association may be set up by the residents to facilitate liaison with the management company.
- 3.4 When mixing low-cost / heavily subsidised sheltered housing with open market retirement housing, one must bear in mind the significant use of the shared communal facilities within private retirement housing. The level of services provided to the residents of private retirement housing result in the level of service charge being a significantly larger proportion of total living costs than would apply to other forms of accommodation. It would be very difficult to set the service charge at a level that would cover the costs of the type of management that private purchasers expect, yet still be affordable to residents of affordable housing. It would also be difficult for the affordable housing provider to guarantee payment of a service charge in perpetuity that would be liable to change on an annual basis.
- 3.5 Another consequence of trying to mix private retirement housing with low cost/ subsidised housing would be the significant potential for friction and animosity between those residents who pay a significant annual service charge for premium services and those who would occupy low cost or heavily subsidised apartments, but have use of the same services. It is not unreasonable to assume that some residents would resent the fact that their

neighbours are enjoying the same level of services for a fraction of the cost, or that they may perceive themselves to be subsidising others. This situation would only serve to exacerbate management problems and disputes between neighbours and would ultimately undermine the success of the housing development.

- 3.6 Given the above it is not surprising that having written to all 15 Social Landlords/Housing Associations with properties in Trafford, **not one** positive expression of interest in affordable units within the block has been received. A copy of the email seeking expressions of interest is attached at **Appendix A**. The only non-automated response came from Regenda Housing Association stating, *"I have now forwarded your email over to our Development team to look into, if this is off interest to them, one of the team will contact you within 5 working days to discuss further"*. No further response was received. Thus no interest in taking any units within the proposed development has materialised from local social housing providers. In contrast at page 31 of the April 2023 Independent Viability Assessment prepared by Continuum on behalf of the Council, it is claimed that, *"Continuum would highlight that they and TC have spoken to Registered Providers who have stated that they would purchase onsite retirement living affordable housing in Trafford"*. No evidence has been put forward by either the Council or Continuum to substantiate this claim which is at odds with the Appellant's recent contact with local providers.
- 3.7 If attempts are made to try to overcome management, maintenance and service charge issues by splitting the site to have separate blocks for the retirement and affordable accommodation, this introduces further issues. The proposed development site is relatively small and its physical constraints are such that a separate block of affordable housing, with the necessary access, parking and amenity space, would reduce the size of the retirement block by such a degree to make it unviable and inefficient (particularly so in this case given the LPA's reasons for refusal relating to design matters). A further loss of units would derive from the separation of the blocks and provision of sufficient amenity area. The significant reduction in retirement units would mean that fewer elderly purchasers would have to share the fixed cost of the necessary communal facilities associated with sheltered housing and make the market retirement scheme unviable. A commuted sum for the provision of off-site affordable housing would lead to more appropriate and acceptable housing layouts for both the retirement and affordable provision.
- 3.8 Thus an attempt to shoehorn affordable housing within the same site would result in a likely loss of private units leading to an unviable level of provision for both retirement and affordable accommodation.
- 3.9 The inherent difficulties of attempting to integrate other forms of housing within private retirement housing for older people that are detailed above are generally accepted and have been consistently accepted by other local planning authorities in determining planning applications and Inspectors when this matter has been assessed at appeal.
- 3.10 The following is a selection of appeals (there are others which have also reached the same conclusions) dealing with the issue of attempting to provide affordable housing as part of sheltered/retirement developments:
- Fordingbridge August 2000 (paragraph 24)
 - Newbury May 2006 (at paragraphs 24/25)
 - Wigginton June 2006 (at paragraphs 17/19)

- Warminster October 2006 (at paragraph 10)
- Guisley November 2006 (at paragraphs 45/50)

- 3.11 The above decisions (see **Appendix B**) reflect the stance taken by many other Inspectors (and Councils) such that after 2007 it appears that there have not been any appeals on the issues commented above (i.e. the managerial issues having been accepted and settled).
- 3.12 The Appellant's recent appeal (**Appendix C**) within Greater Manchester involved a site in Bramhall, Stockport (LPA ref. DC/071147/PINS ref. APP/C4235/W/20/3256972). At paragraph 11 the Inspector states, *"the appeal scheme on the basis of CS Policy H-3 should seek to achieve 16 affordable units, all of which the Council agreed could be intermediate in this case. However, owing to the specialist nature of the accommodation proposed, the Council has accepted that such provision on the site would be impractical and that a commuted sum is the most appropriate method of securing the affordable housing provision in this instance. On the evidence that is before me I have no reason to form a different view. Moreover, such flexibility in approach reflects the Planning Practice Guidance (PPG) advice to take a positive approach to schemes where there is an identified unmet need for specialist housing"*. This is consistent with the approach taken by other LPA's and Planning Inspectors.

4.0 Viability and Summary

- 4.1 From national and local planning policy it is clear that economics of provision and development viability are a material considerations when seeking the provision of affordable housing. Therefore, the viability of the proposed development and the level of affordable housing provision that could reasonably be provided have been evaluated in the Financial Viability Assessment prepared by Alder King that accompanies this appeal.
- 4.2 The viability appraisal has been carried out using robust inputs. This identifies that the proposed development could provide a contribution of £208,186 towards affordable housing. Given the specialised nature and characteristics of the proposal described above (together with the absence of any interest from registered providers), exceptional circumstances are justified for the provision of a commuted sum for the off-site delivery of affordable housing. This approach is consistent with that taken by other local planning authorities and numerous planning inspectors.

APPENDIX A

From: [Chris R Butt](#)
Bcc: info@adactushousing.co.uk; mail@contourhousing.co.uk; contactcentre@equityhousing.co.uk; lettings@housing21.co.uk; propertyenquiries@jjhousing.co.uk; cat@greatplaces.org.uk; customer.service@guinness.org.uk; enquiry@msvhousing.co.uk; info@regenda.org.uk; enquiries@riverside.org.uk; info@saha.org.uk; oliver.boundy@anchor.org.uk; info@arawakwalton.com; contact@irwellvalley.co.uk; enquiries@arcon.org.uk
Subject: McCarthy & Stone Retirement Lifestyles Ltd - Site at 35 Oakfield, Sale, Cheshire, M33 6NB
Date: 22 September 2023 15:01:00
Attachments: [image001.png](#)
[NO-2860-3-AC-1002 Site Plan.pdf](#)

Good afternoon,

I write in relation to the above development proposal at the site of 35 Oakfield, Sale, Cheshire, M33 6NB.

My client, McCarthy & Stone Retirement Lifestyles Ltd (<https://www.mccarthyandstone.co.uk>), is progressing a scheme for the redevelopment of the above site for age restricted retirement living. A copy of the proposed site plan is included as an attachment and details of the planning application may be found

by clicking on the following link <https://pa.trafford.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RM48MOQLN1400>

In summary the proposal in its entirety is leasehold age restricted to those age 60 or over (or with a partner over 55 years).

It includes the following mix:

- Apartments – 1 beds – 14 units – average 52.87m² apiece
- Apartments – 2 beds – 11 units – average 74.50m² apiece

The proposal includes the provision of a homeowners' lounge, guest suite accommodation as well as high quality external landscaping which would be accessible to all residents. All McCarthy Stone Retirement Living proposals benefit from a house manager on site 5 days a week and all residents must contribute towards the service charge for the development's management and upkeep. The service charge includes:

- Paying for the House Manager;
- All maintenance of the building and grounds, including window cleaning, gardening and upkeep of the building exteriors and communal areas;
- A 24-hour emergency call system;
- Monitored fire alarms and door camera entry security systems;
- Buildings insurance, water and sewerage rates;
- Maintaining lifts; and
- Heating and lighting in communal areas.

The average service charge costs per annum for residents at a number of very recent McCarthy Stone retirement living developments, namely, Queens View, Bramhall (40 apartments), Summer Manor, Burley-in-Wharfedale (42 apartments), Alavana Place, Kendal (55 apartments) and Symonds Grange, Willaston (30 apartments), are 1-bed = £3,523.51 and 2-bed = £5,285.24. The proposed scheme in Sale at 25 apartments is smaller than all of these schemes and due to

economies of scale, the service charge is likely to be higher than these averages. Given the communal nature of such proposals, all residents are required to contribute towards full service charge costs.

The development would be managed by McCarthy Stone's in-house management company Your McCarthy Stone.

As you are aware, Trafford's affordable housing policy starting position is that 40% of the proposed units should be affordable housing which is also applied to this age-restricted development. We are therefore contacting you to seek to ascertain your potential interest in acquiring S106 affordable housing as part of this proposal. If so, we would invite you to set out the terms of your interest based upon the development proposal including your management requirements. The extent of provision will be predicated by viability.

We would be grateful if you could come back to us no later than 5pm on Wednesday 4th October if possible.

I look forward to hearing from you.

Kind regards,

Chris

Chris Butt BA (Hons), BPl, MRTPI

Associate Director

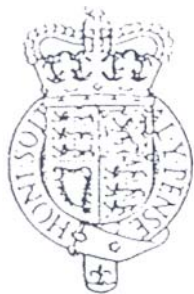
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APPENDIX B



Appeal Decision

Inquiry opened on Tuesday, July 4th 2000

Telegraphic House
Houlton Street
Bristol BS2 9QJ
☎ 0117 987 8927

by R D TISCOX MA(Oxon) Dip LP RIC MRTP1

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

- 3 AUG 2000

Appeal: T/APP/B1740/A/00/1038773/P7

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a failure to determine within the prescribed period an application for planning permission.
- The appeal is brought by McCarthy & Stone (Developments) Ltd. against the New Forest District Council.
- The site is located at the former dairy and land at the rear of Kings Yard, Fordingbridge.
- The application (ref:67546), is dated 5 October 1999.
- The development proposed is demolition of existing buildings and redevelopment to form a Category II type sheltered housing scheme.

Decision: The appeal is allowed and planning permission granted subject to conditions set out in the attached schedule.

Procedural matters

- 1 The inquiry opened on Tuesday July 4th and continued for four days, through July 5th, 6th and 7th.
- 2 Category II sheltered housing was originally defined in the now defunct Ministry of Housing and Local Government Circular 82/69, and more recently re-defined in the Housing Corporation's "Scheme Development Standards (August 1998). Essentially, Category II sheltered housing is designed to meet the needs of the less active elderly and tends to be provided in the form of grouped flatlets/apartments with a range of communal facilities and a resident warden/house manager.
- 3 During negotiations with the Council at the application stage, the scheme was amended a number of times and eventually became one for 41 apartments, plus house manager's accommodation and communal facilities. After this appeal was made, negotiations continued on a duplicate application. As a result one further slight amendment to the site layout was agreed, as shown in drawing PO1-885-04B, which therefore differs from the drawings with the Council when the appeal was made. As this slight amendment does not alter the main issues in this case, I have agreed to accept it as part of the appeal proposals, and an agreed list of drawings that comprise the proposal is included as Document 12.
- 4 An application for costs was made by McCarthy & Stone (Developments) Ltd. against the New Forest District Council. This application is the subject of a separate Decision

The main issues

- 5 The main issues in this case are

firstly, the effect of the proposal upon the possibilities for the development of adjoining land.

secondly whether or not this site is a suitable one for the provision of affordable housing;

thirdly, whether or not the provision for public open space in the proposal is satisfactory,

fourthly, the effect of the proposal on the character and appearance of the area, bearing in mind its location in the Fordingbridge Conservation Area.

The development plan and other policy considerations.

- 6 The development plan for this area comprises the Hampshire County Structure Plan 1996-2011 (Review), adopted in March 2000, together with the New Forest District Local Plan, adopted in November 1999.
- 7 Housing Policies H5 and H7 in the structure plan encourage the use for housing of land vacant, underused, derelict or released from its former use, and aim to provide a range of housing densities, types, sizes and tenures to meet the specific needs of various sectors of the population, including the elderly. Policy H8 sets out the aim of providing affordable housing within new housing developments, the amount on any particular site being determined by the overall level of need for such housing, the local housing market and site suitability. Other policies in the structure plan encourage urban regeneration and the redevelopment of derelict or underused land or buildings.
- 8 In the local plan, in the section dealing with Fordingbridge, the appeal site is part of a larger town centre site allocated in Policy FB-1 for a mixed development of retail/office/business/financial and professional services/residential. The criteria for this site particularly relevant to this appeal proposal include that there should be a comprehensive development scheme, the provision of a pedestrian route from the public car park to Salisbury Street, and a detailed landscape scheme including details of surfacing, street furniture, signing and lighting, and of landscaped public spaces adjacent to shopping frontages. Other objectives of the policy include retention of the primary retail frontage and retention of existing buildings of value to the Conservation Area on the Salisbury Street frontage.
9. Policies AH-1 and AH-2 in the local plan deal with affordable housing. Policy AH-1 states that, in considering schemes for, or including, residential development, the Council will seek to negotiate an element of affordable housing on all suitable sites where 15 or more dwellings are proposed, or where the site is 0.5 hectares or more. Policy AH-2 sets a target to achieve 30% affordable dwellings on sites where an element of affordable housing is to be sought.
10. Policy DW-R3 deals with open space requirements, stating that residential development shall make provision for open space in accordance with the minimum standard of 2.8 hectares per 1000 population. Where this is not feasible on site, or in the immediate locality, a financial contribution will be sought to secure provision elsewhere. In establishing the amount and type of open space or financial contribution required, regard will be had to the population likely to be generated by the proposal, the existing and proposed provision of open space within the settlement, and the likely age structure of the residents and their particular open space needs.

Policy DW-E19 requires that development in Conservation Areas shall not detract from, and shall preserve or enhance, their character and appearance. This is in line with the statutory duty to ensure that the character or appearance of a conservation area is preserved or enhanced as set out in the Planning (Listed Buildings and Conservation Areas) Act, 1990.

- 2 I have also noted the references made to Planning Policy Guidance Note 1 (PPG1), "General Policy and Principles", Planning Policy Guidance Note 3 (PPG3), "Housing", Planning Policy Guidance Note 15 (PPG15), "Planning and the Historic Environment", Planning Policy Guidance Note 17 (PPG17), "Sport and Recreation" and to Circular 6/98, "Planning and Affordable Housing".
- 13 The Council has prepared Supplementary Planning Guidance (SPG) to supplement Policy FB-1 in the local plan, which was adopted in February 2000. This gives more detailed guidance for the development of the overall FB-1 site. The SPG was the subject of public consultation and is a material consideration to which I attach some weight, but less than that accorded to the development plan.

Inspector's reasons

Comprehensive development

14. Policy FB-1 seeks a comprehensive development scheme for the whole of the site identified with the policy. In addition to the appeal site, this includes buildings to the east in and around Kings Yard, buildings to the south-east fronting onto Salisbury Street and Round Hill, buildings to the south and west that were formerly part of the dairy, and also those currently used as a Scout Hall and a Salvation Army Hall. The land ownership of these buildings is complex, entailing 7 freehold interests and 2 leasehold interests.
15. The Council states that there had never been an expectation, in Policy FB-1 or the SPG, that the whole site would be redeveloped contemporaneously, but rather that any proposals should be part of a comprehensive scheme that ensures policy aims for the redevelopment of the rest of the site are not prejudiced. The Council acknowledges that sites in multiple ownership can be difficult to develop comprehensively, and also that this site has been earmarked for redevelopment for some time. In such circumstances, the Council accepted at the application stage that the aim of achieving a comprehensive scheme for the whole site could have been conceded had the appeal proposals met all other requirements of the local plan and the SPG. In the event, the Council believes that these appeal proposals do not meet all other requirements.
16. Of the specific requirements in Policy FB-1, the Council is particularly concerned that the appeal proposals fail to provide a pedestrian route between the public car park and the landscaped amenity area at the southern end of Salisbury Street. The appellant's argument is that it would be an unreasonable burden to expect this pedestrian route to be entirely provided within the appeal site, particularly bearing in mind the requirements for security and privacy within a sheltered housing scheme. The Council argues that failure to do so would place an unreasonable burden upon the owners of adjoining land.
7. The appeal scheme does allow for a pedestrian link into the site from the Round Hill/Salisbury Street junction across an area set aside in the layout for public open space, in the form of a predominantly hard-surfaced courtyard. The appellant has submitted a unilateral legal obligation that would enable the Council to acquire this area for a nominal consideration, and also to purchase an additional strip of land further into the site that

would, together with land in adjoining ownership, enable the provision of a pedestrian route through the FB-1 site from the car park to Salisbury Street.

18. There was some discussion at the inquiry as to whether or not a new pedestrian route through the FB-1 site is needed, and also as to which may be the most desirable route, depending upon the actual proposals that may come forward for adjoining land. While I can appreciate some of the appellant's argument that the historic pedestrian route into the town centre remains along The Hundred immediately beside the FB-1 site, and that an additional route may not be needed, it remains that the provision of a route of some kind is part of the objectives set out in Policy FB-1. Nevertheless, I see no especial reason to expect the whole of the route to be provided in the appeal site, and to my mind, the appellant has made reasonable arrangements to enable the provision of a pedestrian route rather than prejudicing it.
19. The Council is also concerned that, if the appeal proposal were allowed, there is a likelihood that future redevelopment of other parts of the FB-1 site may be adversely affected. On behalf of the appellant, reference is made to extensive negotiations that took place with the Council, both prior to an application being submitted and subsequently at the application stage. These included the submission of sketch schemes for redevelopment on other parts of the Policy FB-1 site, which are considered to demonstrate that the appeal proposals would not physically prejudice proposals for other parts of the site.
20. In my view, the appeal proposals have been carefully designed so as to place little physical constraint upon potential redevelopment of adjoining land. I am also mindful that the appeal site has been vacant for some 10 years. Overall, it seems to me that the pragmatic approach being taken by the Council in the early negotiations with the appellant is the correct one, acknowledging that a comprehensive redevelopment of the whole of the FB-1 site may well not take place and allowing the possibility that partial development may stimulate interest in the remainder. Nevertheless, Policy FB-1 clearly states that a comprehensive scheme for the whole site is required, and this proposal does not do that.

Affordable Housing

21. The Council believes that, in accordance with Policy AH-1 in the local plan, it is entitled to seek to negotiate the inclusion of an element of affordable housing in this scheme as more than 15 dwellings are proposed on this site. The SPG also sets out a requirement for affordable housing on the larger Policy FB-1 site. The Council now accepts that the wording in the SPG may be too prescriptive, but maintains that affordable housing should still be provided for in this scheme in accordance with local plan policies.
22. On behalf of the appellant it is pointed out that Policy AH-1 requires an element of affordable housing on all suitable sites, and argued that the question of whether or not this is a suitable site should be assessed in terms of the guidance in Circular 6/98. It is argued that the Council has been solely guided by the threshold consideration of the number of dwellings proposed, which is only triggered because of the very high density achieved in a sheltered housing scheme on this site of only some 0.32 hectares. As a result, the appellant believes that the Council has not taken account of the wider guidance in Circular 6/98.
23. The Council maintains that it has taken full account of that guidance. The Circular makes it clear that the guidance refers to all types of housing, for example special needs housing and housing built to higher than normal densities. This is acknowledged on behalf of the appellant, but nevertheless argued that this guidance refers to new housing development on

a substantial scale, and to sites which are large enough to accommodate a reasonable mix of types and sizes of housing. The appellant believes that this site is not large enough to accommodate a reasonable mix of types and sizes of housing.

24. Regardless, the Council argues this appeal site is particularly well suited to the provision of affordable housing, being located in the heart of the town and close to shops, facilities and services. Additionally, the Council believes that the provision of affordable housing here should be considered in the context of the whole FB-1 site of some 0.6 hectares, and not just the appeal site in isolation.
25. Having conceded that the partial development of the FB-1 site may be acceptable, I consider that it is not realistic for the Council to seek to take into account the whole of that site when considering the provision of affordable housing. There is no certainty of the amount, if any, of housing that may come forward on the rest of the FB-1 site within the objectives of the policy seeking a mixed development. It seems to me, therefore, that provision of affordable housing must be assessed in terms of this appeal site and the development now proposed for it.
26. The Council maintains that this site is large enough to accommodate a reasonable mix of types and sizes of housing, and refers to interest in the site from a Housing Society that has experience of mixed schemes, including one that mixes privately owned and affordable rented elderly persons' dwellings with shared facilities. The appellant maintains that this would not be practical, and that it would be difficult to secure funding for a mixed scheme of this kind. Regardless, the Council acknowledges that there is at present no identified need for affordable sheltered housing in Fordingbridge, and so any provision of affordable housing would be for general needs.
27. The Council maintains that general needs affordable housing, which in a town centre location such as this would be likely to be 1-bedroom units, could be mixed with a sheltered housing scheme, either in a separate wing of the building or in a separate building. The appellant believes that this raises too many problems of security or management and also that the different car parking and amenity space requirements of general-purpose housing would create insuperable design problems. Further, there is a size threshold below which a Category II type sheltered housing scheme would no longer be viable, in terms of the provision of wardens accommodation and communal facilities, and the appellant maintains that a scheme of significantly less than 40 units would not be viable on this site.
28. Turning back to the guidance in Circular 6/98, the location of the site in terms of local services and facilities is only one of the criteria to be taken into account. A major consideration is whether or not this site is large enough to accommodate a reasonable mix of types and sizes of housing. In my opinion it is not large enough. The sketch schemes prepared for the appellant to show indicative general purpose housing layouts, while of a lower density than could probably be achieved here, nevertheless illustrate that a scheme would be unlikely to achieve 15 or more units on this small and constrained site. This would not give scope for a reasonable mix of both types and sizes of housing within which to provide an affordable element.
29. Other considerations raised on behalf of the appellant, as advised in Circular 6/98, are that there are particular costs associated with this site, in particular the need to pay for access rights through the car park so as to meet the Council's requirements and the need to deal with decontamination. Such considerations reinforce my conclusion that this site is not suitable for the inclusion of an element of affordable housing within the scheme proposed.

30. There has been a great deal of discussion and evidence presented concerning the need for affordable housing, both in the District as a whole and in Fordingbridge. Evidence presented on behalf of the appellant seeks to demonstrate that the Council's recently published Housing Strategy is based on a housing needs survey that was carried out with an unreliable methodology which is, in any case, now over five years old. It is pointed out that there is a considerable discrepancy between the survey prediction that by 2001 over 9000 affordable homes would be needed in the District and the housing register currently showing just over 2000 households in housing need. However, the Council maintains that the housing register would always under-represent the actual number of people in housing need due to social exclusion and people who simply do not understand how to register.
31. Figures for housing need in Fordingbridge, presented by the Council, show over 200 households living in bed and breakfast or other temporary accommodation due to lack of permanent affordable housing. Over half this need is for single bedroom accommodation. The Council also notes that an analysis of the housing register indicates that some 63% of single people in housing need are aged 35 years or more and points out that its concerns for this group are reflected in the publication of Single Persons Housing Strategy. On behalf of the appellant it is acknowledged that there is a general need for affordable housing, but it is argued that the Council does not have reliable data with which to argue that there is an overriding need for it to be provided on this appeal site.
32. Overall, it seems to me that, while the appellant has been able to show that the Council lacks a good statistical basis with which to pursue its affordable housing objectives, the Council has been able to show that there remains a need for affordable housing in Fordingbridge. In that context, the Council has brought forward the possibility that there may be a Housing Society prepared to carry out a development on the site entirely for affordable housing. However, such a possibility is not directly relevant to the decision that has to be taken in considering this appeal. That decision is whether or not this site is suitable for the inclusion of an element of affordable housing within the scheme proposed in this case, and my conclusion remains that it is not suitable.

Open space

33. The Council maintains that this proposal should make provision for open space, or for a financial contribution to secure provision elsewhere, in accordance with the requirements of Policy DW-R3 in the local plan. The Council argues that the first part of the policy sets out the liability, that residential development shall make provision for open space, and that the remainder of the policy deals with the amount or type of provision or financial contribution.
34. Policy FB-1 refers to the provision of landscaped public spaces adjacent to shopping frontages and the SPG indicates that the layout should make adequate provision for open space, which could take the form of predominantly hard-surfaced courtyards, or green spaces, or a combination of the two.
35. On behalf of the appellant, concern is expressed that in the development plan policies, in the SPG, and in the evidence put forward for this appeal, there is a lack of consistency or precision as to whether it is open space, or public open space, that is under consideration at any particular point. While there may be some inconsistencies elsewhere, with regard to Policy DW-R3 requirements, there seems to me to be no doubt that, as this policy lies within a section of the local plan dealing with public open space, it refers to public open space.

36. The argument for the appellant is that Policy DW-R3 should be read as a whole, together with Appendix G6 of the local plan dealing with the application of open space standards, and with those parts of the local plan dealing specifically with public open space in Fordingbridge. It is argued in particular that the Council has failed to take sufficient account of the likely age structure of the residents, as required in Policy DW-R3, or to take account of their particular open space needs, which is repeated in Appendix G6. It is also argued that the Council has failed to take account of the need for public open space in Fordingbridge generally, or provide evidence of a particular need for a particular type of open space.
37. Taking the question of open space in or immediately around the appeal site and the scheme itself, the Council's argument is two-fold – firstly, that elderly persons need informal open space in the same way as any other members of the community, and secondly, that the provision of open space would contribute to the visual amenities of the area. Taking the latter point, this argument is very much tied in with the Council's townscape arguments, and I propose to deal with any townscape justification for additional open space under that heading, and concentrate here on the likely open space needs of the residents of the proposed scheme.
38. The Council takes no issue with the amount of private open space in the scheme, in the enclosed courtyard, and considers this to be adequate for the residents. However, it is argued that the elderly residents would also need public spaces where social interaction can take place outside the home. The scheme provides a mainly hard-landscaped courtyard of public open space to the north of the junction of Round Hill and Salisbury Street, but the Council considers that this is considerably less than the space required.
39. In the appellant's experience, some 60-70% of the occupiers of Category II type sheltered housing are aged 78 years or more, and many have mobility problems or difficulties with everyday tasks. I consider that for most such occupiers, the safe and secure environment of the private enclosed courtyard would provide satisfactory facilities for social interaction outside the home, i.e. outside their own apartments. The public open space provided adjoining Round Hill does, in my opinion, relate very well to the functional needs of the scheme in that it forms part of the pedestrian link to the town centre and provides a place where elderly residents, or others, might linger and socialise away from, but close to, the busier areas. It also has the potential to link with Kings Yard should that be agreed with the adjoining owners. I consider that this public open space is quite adequate to meet the local or on-site needs of the residents of the proposal, particularly bearing in mind townscape constraints as considered in the following section.
40. As well as on-site public open space, the Council is also seeking a financial contribution towards off-site open space provision. A calculation has been made in accordance with the provisions in Appendix G6 in the local plan, and the Council is requesting a contribution of some £25,000. It is argued for the appellant that this is wholly unreasonable as, in view of the age structure of the residents, it would not be directly related to their likely needs, and consequently be contrary to the guidance in Circular 1/97 "Planning Obligations". In addition for the appellant, it is pointed out that the local plan, in the section dealing with Fordingbridge, states that the town is reasonably well provided with amenity open space, but is currently deficient in playing fields. Specific proposals are made for increased provision of playing fields.

- 41 To my mind, it is quite clear that any financial contribution sought should be directly related to the proposed development. In this instance the proposed development is accommodation for less active and less mobile elderly persons. It is likely that many of these residents will be unable to move freely away from their accommodation to enjoy outdoor amenity space. For those that are able to do so, it is recognised that Fordingbridge is well provided with amenity open space. The Council has given no indication as to the purpose for which a financial contribution would be used, but the only deficiency in the town for which positive proposals are made is that for playing fields. Playing fields are not a part of the normal requirements for the less active elderly residents who would be accommodated in this proposal. In my opinion, a financial contribution that is likely to go towards the provision of playing fields would not be directly related to this proposed development, and would, therefore, be unreasonable.

Conservation area/townscape/character and appearance

42. In terms of conservation area considerations, it is pointed out on behalf of the appellant that the Council makes only passing reference to Policy DW-E19 and the statutory duty to ensure that the character or appearance of a conservation area is preserved or enhanced. The Council maintains that this was never at issue and that, while the scheme was always considered to offer some enhancement, negotiations continued to seek to achieve the best scheme possible. The Council also confirms that it has no detailed design criticisms of the proposal.
43. The Council's main concern with the scheme is with the balance of built form to open space. It argues that the amount of open space is inadequate and that it does not provide satisfactory linkage to connect the site to the surrounding townscape. The Council's argument regarding open space is, to a considerable extent, also tied in with its concerns about the provision of public open space within the site, as mentioned above.
44. Evidence has been presented on behalf of the appellant that seeks to analyse the character and appearance of this conservation area and demonstrate that the provision of significantly more open space than is already provided in the scheme would be both out of keeping and detrimental. The conservation area is considered to be characterised by a high degree of enclosure with much of the built form at the back of the pavements with largely continuous facades following the historic street pattern. There is a considerable variety of building heights, styles and materials, but bay widths are generally narrow, reflecting the historic burgage plot widths. There are only occasional glimpses through gaps between the buildings or facades, and these mainly lead to small and enclosed spaces. Large areas of open space in the historic core are considered to be uncharacteristic.
45. This appraisal of the conservation area largely accords with the comments made in the Council's published leaflet for the Fordingbridge Conservation Area. The Council makes no direct criticism of this appraisal, and to my mind, it is a fair assessment of those factors that contribute to the historic and the architectural interest of the conservation area.
46. The appeal scheme provides for an area of public open space in the form of the mainly hard-surfaced courtyard area to the north of Round Hill/Salisbury Street. In my view, this would be very much in keeping with similar courtyards that are to be found behind the main facades elsewhere in the town centre. I am also in no doubt that if this area of open space were to be made significantly larger, this would be entirely out of keeping with the mainly small and enclosed spaces that characterise the historic core. In my opinion, this hard-landscaped courtyard, adjacent to the shopping frontages as required in Policy FB-1,

together with the private landscaped courtyard for residents, reasonably meets the requirements of Policy FB-1 and of the SPG.

- 47 I have noted the evidence submitted by the Council that seeks to assess this proposal in terms of an urban design methodology. However, the urban design objectives set out are very generalised ones, and it seems to me that, in the absence of them being more directly related to some form of appraisal of the character and appearance of this conservation area, the assessment made is of diminished value.

Other considerations

Need for sheltered housing

48. Figures submitted for the appellant indicate that in the New Forest District 40.72% of households are pensioner households, as opposed to the national percentage at 28%. Figures for Fordingbridge are higher, with 43.58% pensioner households. The proportion of older people in the population has been steadily increasing due to increased longevity and decline in birth rates, and is projected to continue to do so.
49. The Council has published an Older Persons Housing Strategy. This finds that the District has a high proportion of residents aged 60 or over, that a considerable percentage of people in this age group would like to move into sheltered housing and recognises that the housing needs of this section of the community present a significant issue.
50. It is also argued for the appellant that the provision of sheltered housing not only directly helps meet these needs, but also has wider benefits in terms of releasing under-occupied family housing and generally helping to re-cycle the whole housing chain. In addition, the provision of safe and secure accommodation helps to promote better well-being for the residents and enables much more efficient use of resources in terms of visiting health-care or social/community workers.
- 51 The Council has not sought particularly to dispute the need for, and benefits of, sheltered housing and acknowledges that it is an acceptable use on this site. However, the Council does not accept that these matters are an overriding consideration in this case.

Sustainability

52. The appellant believes that, being frequently in central areas, sheltered housing schemes help to reduce the need to travel by car, help maximise the use of urban brownfield land, and introduce residential uses into central areas. The appeal site is an existing urban brownfield site that is identified for redevelopment in the local plan and that has been vacant for a considerable time. Guidance in PPG3 places considerable emphasis on the re-use of such sites. The provision of sheltered housing on a site such as this is considered to be a particularly sustainable form of development.
- 53 It is argued for the appellant that the Council has not taken sufficient account of this benefit of bringing forward the use of a vacant urban site in such a sustainable manner. The Council again does not accept that this is an overriding consideration in this case.

Balancing considerations

- 54 I have reached clear conclusions above that the Council's objections regarding the provision of affordable housing, the provision of public open space, and the affect of the proposal

upon the character and appearance of the area are not, in my view, sound reasons for permission to be withheld for this proposal.

55. It remains that the proposal does not meet one of the criteria set out in Policy FB-1 in the local plan, in that it does not form part of a comprehensive development scheme for the whole of the site identified in that policy. However, in my view, there are other material considerations to be taken into account that weigh heavily in favour of the proposal.
56. Firstly, there is the pragmatic approach taken by the Council in its early negotiations with the appellant, recognising that allowing a scheme on part of the site may act as a stimulant for development interest in other parts of the site, provided it does not prejudice the policy aims for the remainder of the site. In my view, this proposal does not prejudice the policy aims for the remainder of the site.
57. Secondly, this proposal would enable the re-use of otherwise vacant and derelict land and buildings that have not been used for some 10 years. This would be very much in line with structure plan policies and Government guidance encouraging such development and would offer an opportunity for a particularly sustainable form of development in this town centre location.
58. Thirdly, the provision of sheltered housing for the elderly would meet a clearly established housing need, and one that is particularly evident in the New Forest District and in Fordingbridge. In addition, helping to meet this need does release other housing, frequently under-occupied family housing, into the housing chain and help meet wider housing needs.
59. Fourthly, the proposal does bring enhancement to the character and appearance of the conservation area. The existing vacant and deteriorating industrial buildings and yard clearly detract from this character and appearance at present, and this proposal would bring new activity and considerable visual enhancement into the area.
60. Overall, I am in no doubt that these other material considerations clearly outweigh the fact that this proposal does not provide a comprehensive development scheme for the whole of the site identified in Policy FB-1.
61. I have taken into account all other matters raised, but have found nothing which should either alter or add to the conclusion that I have reached from my consideration of the main issues above.

Conditions

62. A suggested list of conditions has been submitted both by the Council and on behalf of the appellant. In addition to the statutory time limitation, there are a number of agreed conditions that I consider are necessary to secure a satisfactory form of development. These are for the provision and maintenance of car parking, the provision of landscaping in accordance with approved details, the implementation of a programme of archaeological investigation, the implementation of a decontamination scheme, a survey for the presence of bats and their relocation if necessary and finally, the installation of means of enclosure in accordance with approved details.
63. There was also an agreed condition requiring the external construction materials to be as specified on the approved plans, with any departure being subject to approval from the Council. These materials are clearly specified on the approved plans, and the Council has confirmed that it has no objection to any of them. It seems to me, therefore, that the

proposed condition is not necessary, as it is implicit that these are the materials to be used, and any departure would require further approval.

- 64 Finally, there is a suggested condition from the Council to restrict the occupation of the scheme to persons of at least 60 years of age, or where the occupiers are husband and wife, where one of them has attained that age, or where occupancy is by the surviving spouse of an occupant who had attained that age. The appellant maintains that this condition is not necessary. The accommodation would be purpose-built to meet the needs of less mobile elderly residents, with communal facilities and alarm systems etc.. The appellant company is very experienced in providing such schemes, which are sold on long leases and then managed by a specialist company. The standard 125-year lease requires that the accommodation is occupied by persons over the age of 60 years, or by a couple where one is over 60 years and the other over 55. In my opinion, with the type of accommodation being primarily of attraction to elderly persons, and the controls imposed by the leasing arrangements, a planning condition to control the occupancy of the accommodation would not be necessary and would not accord with the advice in Circular 11/95, "The Use of Conditions in Planning Permissions".

Conclusions

65. For the reasons given above I consider that the appeal should succeed and I shall exercise the powers transferred to me accordingly.

APPEARANCES

FOR THE APPELLANT

Mr J Fulthorpe LLB(Hons) LLM(Lond) FRGS Of Counsel

He called

Mr G N Day MRTPI	The Planning Bureau Ltd.
Mr J Shelbourn DipArch(Hons) RIBA	The Planning Bureau Ltd.
Mr D J Couttie FCIB DMS	David Couttie Associates
Mr C Butterworth DiplArch RIBA MAE	Christopher Butterworth Associates

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Gilmour Chief Solicitor to the Council

He called

Mr J M Davies BA DipTP MRTPI	Area Planning Officer
Mr S Maggs BA MRTPI	Housing Development Manager
Mr R S Payne BSc DipLD MA(urb.des.) MLI	Urban Designer

INTERESTED PERSONS

Dr E Moss The Fordingbridge Society, 18 Willow Avenue, Fordingbridge

Mr C G Andrews 8 Burgate Fields, Fordingbridge

DOCUMENTS

Document	1	Lists of persons present at the inquiry
Document	2	Council's letter of notification of the inquiry
Document	3	Appellant's core documents – policy
Document	4	Appellant's core documents – general
Document	5	Appellant's core documents – history of negotiations
Document	6	Report on the use of planning controls to restrict the occupancy of sheltered housing for the elderly
Document	7	Appendices to proof of evidence by Mr Couttie
Document	8	Appendices to proof of evidence by Mr Butterworth
Document	9	Appendices to proof of evidence by Mr Davies
Document	10	Appendices to proof of evidence by Mr Maggs
Document	11	Appendices to proof of evidence by Mr Payne
Document	12	Council's Housing Strategy, 2001/2006

Document	13	Agreed list of appeal drawings
Document	14	List of sites allocated for housing in the local plan with an indicative target for affordable housing
Document	15	Additional copy of Supplementary Planning Guidance for the Policy FB-1 site
Document	16	Copy of an internal memorandum from Mr Maggs to Mr Davies
Document	17	Copy of a Committee Report for proposed retirement accommodation in Church Street, Fordingbridge
Document	18	Copy of a Section 106 Agreement completed in connection with the Church Street proposal.
Document	19	Copy of appeal decision A/94/245594
Document	20	Long term population and household projections issued by Hampshire County Council
Document	21	Unilateral Section 106 Agreement completed by the appellant in connection with this appeal proposal
Document	22	New Forest District Local Plan, November 1999
Document	23	Copy of letter from Swaythling Housing Society Ltd.
Document	24	Copy of local plan Policy BU-H3
Document	25	Draft proposed changes to affordable housing policy, October 1996
Document	26	Copy of letter from Tanner & Tilley re. Development at Church Street, Fordingbridge
Document	27	Copy of Circular 13/96
Document	28	Copy of appeal decision A/99/1031241

PLANS

- Plan A The application plans
- Plan B Bound volume of plans, drawings and photographs

Schedule:

Appeal: T/APP/B1740/A/00/1038773/P7

66. The appeal is allowed and planning permission granted for a Category II type sheltered housing scheme comprising 41 apartments plus house manager's accommodation and communal facilities at the former dairy and land at the rear of Kings Yard, Fordingbridge in accordance with the terms of the application No:67546 dated 5 October 1999, and the plans contained in the agreed list, subject to the following conditions:

- (i) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
- (ii) The development hereby permitted shall not be brought into use until the access and car parking spaces shown on the approved plans have been constructed in accordance with the approved plans; those parking spaces shall not thereafter be used for any other purpose than in connection with the operation of the development.
- (iii) All hard landscape works, including surfacing of the car parking and servicing areas, shall be carried out in accordance with the approved details and completed prior to the occupation of any part of the development; all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

- (iv) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- (v) Prior to the demolition of any buildings on site, a full survey of each building shall be carried out by a qualified bat ecologist to ensure the absence of bats; arrangements shall be made to relocate any bats that are found in any building prior to its demolition.
- (vi) Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority; the above scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the buildings when the site is developed; development shall not commence until the measures approved in the scheme have been implemented.
- (vii) The building shall not be occupied until the means of enclosure of the site have been installed in accordance with the approved details.

- 67. These conditions require further matters to be agreed by the local planning authority. There is a right of appeal to the Secretary of State if they refuse any such application, fail to give a decision within the prescribed period, or grant a conditional approval.
- 68. This letter only grants planning permission under Section 57 of the Town and Country Planning Act 1990. It does not give any other approval or consent that may be required.
- 69. Your attention is drawn to the provisions of Section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires consent to be obtained prior to the demolition of buildings in a conservation area (as defined in Circular 14/97).



Appeal Decision

Inquiry opened on 27 September 2006

Site visit made on 4 October 2006

by **John Murray LLB, Dip.Plan.Env, DMS, Solicitor**

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

The Planning Inspectorate
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Date

09 NOV 2006

Appeal Ref: APP/N4720/A/05/1190083

Former garage, Oxford Road, Guiseley, Leeds, LS20

10 NOV 2006

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by McCarthy & Stone (Developments) Limited against Leeds City Council.
- The application Ref 28/36/05/FU, was submitted under cover of a letter dated 2 January 2005.
- The development proposed is the erection of sheltered flats for the elderly (category 2 type accommodation), house manager's accommodation, car parking and landscaping.
- The inquiry sat for 4 days on 27 and 28 September and 3 and 4 October 2006.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Main Issues

- 1 Four main issues arise in this appeal, namely:
 - the effect of the proposal on the character and appearance of the area, including the setting of the Guiseley Town Gate Conservation Area;
 - the effect of the proposal on the living conditions of the occupiers of No 2 Netherfield Road in terms of over-dominance or visual impact;
 - whether future occupants' needs for outdoor amenity space would be adequately provided for; and
 - whether or not the proposal should include an element of affordable housing provision to meet an acknowledged need.

Development Plan and other Planning Policy

- 2 The development plan includes the Leeds Unitary Development Plan (UDP), adopted August 2001 and, in my view, the following UDP policies are most relevant to this appeal. Policy SA1 seeks to secure the highest possible quality of environment, including the renewal and restoration of areas of poor environment. Among other things, GP5 requires proposals to avoid problems of environmental intrusion, loss of amenity or highway congestion. Policy N2 supports the establishment of a hierarchy of greenspaces accessible to residential areas and N4 requires residential proposals to provide greenspace to ensure appropriate access to that hierarchy.
- 3 UDP Policy N12 requires respect for specified urban design principles and N13 calls for a high quality of design, whilst allowing scope for good and sympathetic contemporary design. Policy N19 includes an indication that new buildings adjacent to conservation areas should preserve or enhance the character or appearance of the area and it establishes some specific assessment criteria. Policy H9 seeks to ensure a balanced provision of housing to meet the needs of specified groups, including elderly people and those on low incomes and Policy H10

reinforces this in relation to the elderly and disabled. Policies H11 and H12 specifically concern the provision of affordable housing.

4. A selective review of the UDP (UDP Review) was adopted in June 2006. Policy H4 of that document indicates that unallocated residential development sites within main and smaller urban areas, or otherwise in sustainable locations, will be permitted if the development is acceptable in sequential terms, it is clearly within the capacity of existing infrastructure and provided it complies with other relevant UDP Policies.
5. My attention has also been drawn to supplementary planning guidance in "Neighbourhoods for Living" (NFL), adopted December 2003, "Affordable Housing" (SPG3), adopted February 2003 and "Greenspace Relating to New Housing Development" (SPG4), adopted July 1998. These documents are referred to in the Statement of Common Ground and there is no dispute that they carry significant weight as supplementary planning guidance. Though SPG4 was adopted prior to the formal adoption of the UDP, it recites draft UDP policies, which were similar to UDP Policies N2 and N4 referred to above.
6. I have also had particular regard to government planning policy and guidance set out in Planning Policy Guidance (PPG) Note 3 (Housing), PPG13 (Transport), PPG15 (Planning and the Historic Environment), PPG17 (Planning for Open Space, Sport and Recreation) and its companion guide (Assessing Needs and Opportunities), Planning Policy Statement (PPS) 1 (Delivering Sustainable Development), draft PPS3 (Housing), Circular 06/98 (Planning and Affordable Housing), Circular 05/2005 (Planning Obligations) and Circular 11/95 (The Use of Conditions in Planning Permissions). My attention has also been drawn to 'By Design' and 'Design at Appeal'. These documents have been produced by the Commission for Architecture and the Built Environment and are material considerations.

Reasons

Main Issue 1 - The effect of the proposal on the character and appearance of the area, including the setting of the Guiseley Town Gate Conservation Area

7. With its redundant garage and light industrial buildings, the appeal site currently makes a significant but negative contribution to the character and appearance of the area. Accordingly, it would not be difficult for any development proposal to improve the quality of the local environment. The site itself occupies a prominent corner location, at a gateway to the predominantly residential area, where the parties agree that any scheme should provide a landmark feature. However, the need for any proposal to relate satisfactorily to the contrasting built forms that exist beyond either end of the site presents a design challenge.
8. To the south and east lies the Guiseley Town Gate Conservation Area (CA). The Council indicated that no written appraisal of the CA's special architectural or historic interest had been carried out to justify its designation. Nevertheless, there is no dispute that it includes substantial 2 ½ storey terraced dwellings on Oxford Road, adjacent to the site, as well as an imposing 2-storey detached property at Oxford House on the southern side of that road and another detached house to the east on Oxford Avenue. These buildings were constructed with coursed stone and slated pitched roofs in the late 19th and early 20th centuries. To the north and northeast of the site, Netherfield Road and Oxford Avenue are characterised predominantly by more modest, 2-storey, semi-detached dwellings from the inter-war period. The broken rhythm of these semi-detached forms contrasts with the continuity of the street scene provided by the Oxford Road terraces. The semi-detached houses are also generally constructed in coursed stone, but some also feature render or pebble-dashing and they have an unremarkable, low-key suburban appearance, compared with the higher quality, grander scale buildings in the CA.

9. As the appeal site is not within the CA, the legal duty to pay special attention to the desirability of preserving or enhancing its character or appearance does not strictly apply. However, PPG15 indicates that this objective should be a material consideration where development proposals would affect the setting of a conservation area, or views into or out of it. It also advises that the replacement of buildings that detract from the character or appearance of the area should be seen as a stimulus to imaginative, high quality design and an opportunity to enhance the area. PPG15 emphasises that it is not important for new buildings to directly imitate earlier styles, but they should be designed with respect for their context, as part of a larger whole, which has a well-established character and appearance of its own. Special regard should be had for such matters as scale, height, form, massing, respect for the traditional pattern of frontages, vertical or horizontal emphasis and detailed design (e.g. the scale and spacing of window openings and the nature and quality of materials).
10. The challenge then, is to achieve an appropriate transition between the contrasting forms and styles of buildings beyond either end of the site, whilst providing a suitable landmark along the Oxford Road frontage and achieving a homogenous development with its own integrity, and which preserves or enhances the setting of the CA. Added to this of course, is the need to make efficient use of this previously developed site, in accordance with advice in PPG3. In giving oral evidence at the Inquiry, Mr Skrzypecki, the Council's own architect and urban designer, acknowledged the difficulty inherent in this challenge. He accepted that, given the current state of the appeal site, the proposal would enhance the appearance of the site and the setting of the CA. However, the Council contends that the scheme fails to take the opportunities available for improving the character and quality of the area and a number of criticisms of the appellant's design solution were voiced.
11. The Council argues that gables in the CA are mainly angular and steeper in pitch than the main dual pitched roofs in the appeal scheme. It also contends that the dual pitched roofs would be an alien feature, the roof arrangement would appear cluttered in views from Netherfield Road and that the proportion of roof to façade would be too great.
12. From what I saw however, the roof forms and angle of roof pitches vary throughout the CA and, in this respect, the contrast between the proposal and nearby buildings would be neither striking nor harmful. Aside from the fairly modest and unobtrusive example provided by Guiseley Baptist Church to the east, it would appear that dual pitched roofs are not a characteristic feature of the area. However, whilst this aspect of the proposed roof design would be discernable from street level along parts of Netherfield Road, it would not be readily apparent in any significant views into or out of the CA. Furthermore, I am not persuaded that this element of the design would be harmful in the context of Netherfield Road, especially given the poor quality and appearance of the buildings that would be replaced and the fact that the hipped roof design at the northern end would complement that of the adjacent semi-detached houses. I also note that the alternative sketch scheme produced by the Council, and included as Appendix AC8 to Mr Crates' proof, incorporates dual pitched roofs. I was told that this sketch was mainly intended to demonstrate how affordable housing might be incorporated within the scheme. However, it is difficult to understand why elements such as dual pitched roofs were incorporated in that suggested scheme if the Council maintained serious concerns about them.
13. Arguably, the proposed roof form might give rise to an appearance of "clutter" in some views from Netherfield Road. However, from the evidence and my own observations, the juxtaposition of differing roof forms is not uncommon within the CA itself and again, the Council's own sketch scheme in Appendix AC8 would not avoid a degree of "clutter" in the roofscape. Indeed, it would also incorporate significant blank gable features, which would arguably be more visually intrusive than the roof forms in the appeal scheme.

14. In judging the proportion of roof to wall, I consider the Appellant's photomontages are more helpful than the 2-dimensional drawings and the Council accepted that these are an accurate representation of the scheme. In my view, the photomontages demonstrate that, from the main public vantage points at street level, and having regard to neighbouring buildings, the roof would not appear disproportionate to the façade. Indeed, in June 2005, the Council suggested an alternative treatment of the Oxford Road elevation and the proportion of roof shown on the Council's sketch, which is included in the "History" document at H9/2, was not significantly different from that proposed.
15. The Council acknowledges that, given advice in By Design and NFL, it would be appropriate for development on this site to serve as a prominent landmark and its witnesses agreed that turret features would be acceptable in principle on the Oxford Road elevation. The Council's objection is to the 4-storey nature of the proposed turret at the western corner of that elevation and the shallow pitch of the roofs over that turret and its 3-storey counterpart at the eastern corner of that elevation. The Council's sketch scheme at H9/2 shows steeply pitched roofs over both turrets, the western one being reduced to 3-storeys, but with a velux window in its roof. These pitched roof turrets would be similar to those found within the CA nearby. Whilst the Council accepted, having regard to PPG15, that the proposal should not necessarily mimic existing buildings in the CA, it seems to me that its suggested design for the turrets does just that. I consider that the scope for individual expression and variety in contemporary architectural style provided by NFL and UDP Policy N13 is wide enough to encompass the appellant's turret design.
16. The Council has no objection to the height of the turrets, and whilst the 4-storey nature of the western turret does not reflect the 2 – 3 storey form of nearby dwellings, this is merely a reflection of modern, lower ceiling heights. I am not convinced that the loss of valuable accommodation on a fourth storey would result in a corresponding benefit in design terms. It is also notable that the Council's sketch scheme in Appendix AC8 replicates the Appellant's design of the 4-storey western tower. Furthermore, contrary to the Council's view, I consider that the use of render would serve to reduce the impression of height, rather than increasing the dominance of the turret to an unacceptable degree. Given the existence of rendered elevations in Netherfield Road, the use of that treatment in the appeal scheme could be regarded as a linking element, rather than a discordant feature. It would also add to the distinctiveness of the design, enhancing its function as a landmark feature, which demands a degree of prominence in any event.
17. The Council accepts that, having regard to advice in By Design and NFL, development on this site should address the Oxford Road and Netherfield Road frontages. This inevitably means that an extensive façade will be visible at that corner and I consider that the effect would be similar to that achieved by the terrace at Oxford Villas, which turns the corner from Oxford Road towards Oxford Court.
18. However, the Council is concerned about the length of frontage along Netherfield Road, where it contends that the mass should be broken up and that the stepping up towards Oxford Road is too severe. Adjacent to the semi-detached house at No 2 Netherfield Road, the proposal would be 2-storeys in height, with dormer windows serving accommodation in the roof space. At this point, the eaves and ridge heights would be similar to those of the adjacent house. The building would then step up the hill towards Oxford Road through a 3-storey element, and then a 3 ½-storey section and culminating in 4-storeys at the turret feature referred to above.
19. This stepping up or down the slope is encouraged in NFL, but the Council argues that the transition from Netherfield Road to Oxford Road would be eased if the new building stepped both up and down along this frontage. This suggestion is demonstrated in the Council's sketch

at Appendix AC8 but, in my view, the appeal proposal would provide a more orderly transition from the modest scale of development on Netherfield Road to the grander scale on Oxford Road. The change would be evident in views from opposite No 2 Netherfield Road and to the north of that. However, consistent with advice in NFL, I consider that the building's apparent scale would be broken down by a well-articulated elevation, despite the lack of entrances onto the street, and the scheme would clearly enhance the site's existing appearance.

20. The articulation of the Netherfield Road elevation would include curved dormers and projecting bays with curved parapet arches. The Council objects to these, claiming that they are "whimsical" and inappropriate in an area characterised by more angular features. However, the residential development at Oxford Court, which is part new build and part conversion of the old Station Works building, includes numerous curved dormers. Individually, these are not on the same scale as the proposed arched parapets, but they do suggest that curved features need not be regarded as inappropriate or harmful in this locality.
21. In any event, once again, I take the view that these features fall within the reasonable scope for contemporary architectural style provided by NFL and UDP Policy N13. Indeed, even within conservation areas, PPG15 itself allows for imaginative designs on gap sites. PPS1 also indicates that local planning authorities should not seek to impose architectural styles or particular tastes and should not stifle innovation or originality. In my opinion, given the location of the site between the CA and the contrasting development to the north, a design which is too severely constrained by existing details is unlikely to be successful and could lead to an unhappy marriage of conflicting styles within the same building. I consider that the design of the proposal has its own integrity and cohesion and therefore would promote local distinctiveness, whilst respecting the essential elements of scale, height, massing and disposition found in the locality.
22. PPG15 and UDP Policy N19 acknowledge the importance of appropriate materials in achieving an acceptable design. The proposal would be constructed in reconstituted stone, off-white render, art stone string courses, copings/tabling and smooth grey weathered concrete interlocking tiles. It would have GRP dormers, white Pvc-u windows, fascias and soffits and brown Pvc-u rainwater goods. Having regard to the photomontages and my own experience, I am satisfied that reconstituted stone need not appear incongruous in the vicinity of existing coursed stone buildings and a condition could require the approval of samples. Similarly, I consider that smooth, grey concrete tiles would be a reasonable and practical alternative to slate in this location, especially given that concrete tiles are prevalent to the north of the site.
23. During cross examination, Mr Skrzypecki indicated that he did not object to the use of Pvc-u windows. Indeed, such windows are common in the locality, including within the CA. Furthermore, he acknowledged that Pvc-u windows would be easier for the elderly residents of the proposed flats to manage. For the Appellant, Mr Martin indicated under cross examination that metal rainwater goods could be used and would have a longer life. It seems to me that this merits further consideration and a condition could require samples to be submitted to the Council for approval. Pvc-u fascias and soffits could form part of a cohesive overall scheme. Such materials perform well in the longer term and, provided the materials used are of good quality, their artificial nature need not cause harm. Again, to ensure appropriate quality, the submission of samples for approval can be required.
24. In all the circumstances, I conclude on the first main issue, that the proposal would significantly enhance the character and appearance of the area, including the setting of the Guiseley Town Gate Conservation Area. I consider that it provides an appropriate response to the challenge of achieving a successful transition between existing development in the CA and that to the north of the site. At the same time, the proposal would provide a suitable landmark along the

Oxford Road frontage and would appear as a homogenous development with its own integrity. Accordingly, I consider that the scheme would comply with the relevant parts of UDP Policies SA1, GP5, N12, N13, N19 and NFL as well as PPS1, PPG15, By Design and Design at Appeal. In making more efficient use of previously developed, accessible urban land, the proposal would also comply with PPG3 and Policy H4 of the UDP Review.

Main Issue 2 - The effect of the proposal on the living conditions of the occupiers of No 2 Netherfield Road in terms of over-dominance or visual impact

25. Adjacent to the southern flank boundary of No 2 Netherfield Road, the site currently accommodates a redundant works building. The eaves of that mainly pitched-roofed building are slightly higher than those of No 2 Netherfield Road and its blank, brick elevation extends from a point in line with No 2's front elevation for the full length of that property. That blank elevation then continues considerably beyond No 2's rear garden boundary, towards the appeal site's eastern boundary with Oxford Avenue, where the building terminates in a higher, flat roofed element. This existing building is of poor quality, with no features of any interest. In my opinion, having inspected the site and seen photographs taken from No 2, this structure has an oppressive and over-dominant visual impact when viewed from the rear of No 2 Netherfield Road.
26. The northern elevation of the proposal would also extend from a point roughly in line with the front elevation of No 2, but it would be about half the depth of the existing building, ending in line with No 2's rear garden boundary. The eaves height of the proposal would also be lower than that of the existing building, matching that of No 2. In addition, the new building would be further away from the common boundary than the existing works building, particularly the section alongside No 2's flat roofed extension and rear garden. The hipped roof design would minimise the visual impact of the nearest 2 ½ storey element of the proposal and, though the height of the building would increase in stages towards the south, I consider that the degree of separation would prevent any unduly oppressive effect. The appeal scheme would also substitute a landscaped amenity space for the open storage area, which currently exists on the higher ground to the rear of No 2 Netherfield Road.
27. The Council considers that the proposal would represent a marginal and insufficient improvement in the current situation. In my view, the enhancement would be considerable and, in this regard, the proposal takes the opportunity to improve the quality of the area in accordance with PPS1, whilst making efficient use of previously developed land in line with PPG3. Accordingly, on the second main issue, I conclude that the proposal would cause no harm to the living conditions of the occupiers of No 2 Netherfield Road in terms of over-dominance or visual impact. In this regard, the appeal scheme would comply with the relevant parts of UDP Policy SA1 and GP5.

Main Issue 3 - Whether future occupants' needs for outdoor amenity space would be adequately provided for

28. As indicated above, UDP Policy N2 establishes a hierarchy of greenspaces. Policy N2.1, N2.2 and N2.3 define Local Amenity Space, Local Recreational Areas and Neighbourhood/District Parks respectively. In relation to Local Amenity Space, Policy N4 generally requires residential development proposals to provide 0.2 ha of on-site greenspace per 50 dwellings. The Council states that the proposal does not satisfy the Local Amenity Space requirement, as none of the on-site amenity space is accessible to the general public and contends that 0.16 ha of such space should be provided, or a contribution of £22,446.08 towards the cost of laying out such space. However, Policy N4 indicates that a lower proportion of greenspace may be acceptable in developments designed to be unsuitable for those under 18 and paragraph 5.2.12 (f) of the text

supporting Policy N2 notes that non-family housing may have different needs and require different types of greenspace provision.

29. Local Recreational Areas are those which provide for the local informal recreational needs of older children and adults. Policy N2.2 indicates that the minimum target is 2.8ha of such space within 400m, and the Council's evidence is that the existing provision in the locality is 0.96ha. On the basis of SPG4, the Council indicates that the proposal should provide 0.08ha of such space, or a contribution £11,223.04 towards the cost of laying it out, based on the lower of Property Services Agency (PSA) or published 'SPONS' rates. Neighbourhood/District Parks provide for communities as a whole, including formal equipped playgrounds, playing pitches, courts and greens and Policy N2.3 establishes a minimum target of 12ha within 800m. However, there are no such parks within 800m of the site. Again, by reference to SPG4, and PSA or SPONS rates, the Council states that the requirement for this category of greenspace in connection with the appeal scheme would be 0.08ha, or contribution £11,223.04 towards the cost of laying it out. When £17,029.76 for maintenance of the Local Amenity Space is added into the equation, plus professional fees of £6,733.82, the total contribution sought by the Council is £68,655.58.
30. Policy N4 specifically indicates that the Council may seek planning obligations to secure additional or improved greenspace in the locality, in order to *address the needs of residents of the proposed development* (my emphasis). Paragraph 5.2.18 of the supporting text states that guidance on the level of contribution which may be sought will be available from the Council, as a basis for negotiation. Paragraph 5.2.19 emphasises that, whilst the Council's Capital Programme will be the usual vehicle, payments for greenspace to meet the needs of specific developments will be identified separately and used only for the direct needs of that development. Indeed the necessary relationship between any contribution and the needs of residents of the development is also acknowledged in SPG4. This conforms with guidance in Circular 05/2005 that a planning obligation must be directly related to the proposed development and must relate fairly and reasonably in scale and kind to that development.
31. It is therefore necessary to consider the nature of the proposal. The Statement of Common Ground submitted to the Inquiry records the parties' agreement that amenity space has been proposed that is acceptable to meet the on-site needs of the intended elderly residents. During the Inquiry, Mr Crates confirmed this on behalf of the Council in response to a question from me, and I see no good reason to take a different view. On this basis, it would appear that the £22,446.08 requested by the Council to fund the laying out of Local Amenity Space would primarily benefit the general public, rather than residents of the proposed development. Furthermore, as the development is clearly designed to be unsuitable for those under the age of 18, UDP Policy N4 allows for a lower proportion of greenspace anyway. In these circumstances, I consider that contribution sought by the Council for this category does not relate fairly and reasonably in scale and kind to the proposed development.
32. The appellant's unchallenged evidence is that the average age of residents of their developments is 78 years. Accordingly, I accept that a high percentage of them would not engage in active sport or activities associated with significant mobility. The development would not therefore generate significant additional demand for the formal equipped playgrounds, playing pitches, courts and greens included within the Neighbourhood/District Parks category and this point is recognised in chapter 8 of the companion guide to PPG17. Again, it is difficult to see how the requested contribution of £11,223.04 for this category could be said to fairly and reasonably relate to the needs of the proposed development.
33. I accept the appellant's evidence that many people move into sheltered housing developments because of increased frailty, ill-health and concerns about mobility or security. I also

acknowledge the appellant's experience that some 60% of the new residents are likely to move from the immediate locality and would not therefore add to the demand for greenspace. Nevertheless, I consider that a proportion of the residents would need informal spaces close to home for sitting out or a stroll in the fresh air and some would not be existing local residents. The appellant refers to a number of decisions on appeals and applications where the need for open space provision was considered. However, beyond the basic point that, for residents of sheltered housing developments, on-site amenity space will be of greatest importance, I do not find those decisions particularly helpful. They depend to varying degrees on the amount and quality of open space provided on the particular site, as well as the amount and quality of greenspace existing in the locality. None of those factors would be identical in this case.

34. Given the limited supply of greenspace in Guiseley, I consider that it would be reasonable to require a contribution in relation to Local Recreational Areas. The evidence and my own inspection reveal how Springfield Park and The Green, to which it is linked, could benefit from improvements to landscaping, footpaths and seating provision. The appellant accepts that, in principle, works of this nature would relate to the proposed development, having regard to the nature of the occupants. However, the £11,223.04 sought by the Council is the same sum that it would request in relation to a development of 40 general market housing units. Indeed, during cross examination, Mr Crates acknowledged that the figure sought by the Council for a 1 bedroom sheltered housing unit, occupied by a single elderly person, would be the same as that requested in relation to 5 bedroom house. In view of the relatively low level of demand likely to be generated by the appeal scheme, I do not consider the Council's requirement fair and reasonable. As indicated above, UDP Policy N4 makes it clear that it is the needs of the proposed development that should be addressed and SPG4 also acknowledges this principle.
35. The appellant has submitted a unilateral planning obligation, executed on 29 September 2006, which secures a contribution of £7,800.00 towards the provision or enhancement of public open space within the vicinity of the site. That figure was based on the appellant's experience of negotiating with the Council in relation to other sites in the Roundhay area and in Horsforth, where contributions of £200.00 per unit were agreed. I note the Council's evidence that those sites were close to significant areas of open space and some had more on-site provision than this proposal. Accordingly, the same figure should not necessarily be applied in this case. However, Mr Crates confirmed that the Council's suggested contribution in this case is merely based on the application of a standard formula and the improvements envisaged for Springfield Park and The Green have not been costed.
36. The Council has sought to apply its formula inflexibly in this case, rather than using it as the starting point in negotiations, as suggested by the supporting text of UDP Policy N4. The evidence does not satisfy me that the sum requested by the Council fairly and reasonably relates to the needs of the proposed development. Whilst the appellant's evidence does not enable a simple calculation to be made, on the basis of my analysis set out above, I consider that the £7,800.00 contribution secured by the unilateral planning obligation is reasonable.
37. The Council was concerned that the obligation does not contain a warranty to the effect that there are no other encumbrances on the site. Whilst the Land Registry search results reveal no such encumbrances, the Council is particularly concerned that there may be an estate contract that has not been registered, but which would take precedence over the planning obligation. The appellant indicated that there was no such estate contract, but submitted that it would have to be registered to take priority in any event. I was not provided with any authorities on this point but, whatever the correct legal analysis, I note that the obligation only arises if the planning permission for this development is implemented. Given the bespoke nature of the scheme, it is only likely to be implemented by the appellant. In these circumstances, the weight

which I attach to the obligation is not significantly diminished by the lack of a warranty of the kind desired by the Council.

38. Accordingly, on the third main issue, having regard to the on-site amenity space provided and the contribution secured by the unilateral planning obligation, I conclude that the future occupants' needs for outdoor amenity space would be adequately provided for. The proposal would therefore comply with UDP Policy N4 and SPG4.

Main Issue 4 - Whether or not the proposal should include an element of affordable housing provision to meet an acknowledged need

39. UDP Policy H11 indicates that the Council will negotiate with developers to provide an appropriate proportion of affordable housing. Policy H12 states that the proportion and type of affordable units will be negotiated in the context of an appraisal of need and the characteristics of the specific site. The appellant acknowledges that there is a demonstrable need for affordable housing in the outer suburb zone, which includes the appeal site. SPG3 seeks to add detail to the basic policy framework set out in the UDP. In setting a threshold of 25 dwellings or 1ha, above which 15 – 25% of dwellings should be affordable, SPG3 reflects the supporting text of the relevant UDP policies. The 25 dwelling/1 ha threshold is also consistent with Circular 06/98 and I note that a proposal to reduce the Council's threshold to 15 dwellings was considered, but rejected, in the context of the UDP Review.
40. At some 0.26 ha the appeal site is well below the size threshold, but in providing for 39 sheltered flats and manager's accommodation the scheme exceeds the alternative 25 dwelling criterion and Circular 06/98 indicates that there is no exemption for sheltered housing schemes. However, the appellant contends that such developments inevitably achieve high densities, because of factors such as the exclusively flattened form of development, the small size of individual units, reliance on communal facilities and reduced demand for on-site parking and open space. Accordingly, the appellant argues that to ensure a "level playing field", it is necessary to consider whether the site could accommodate a general market housing scheme of 25 or more dwellings. The Council accepts the basic thrust of this argument, which has been given weight in a number of recent appeals, including APP/U1105/A/05/1180624 and APP/J0405/A/05/1190688 concerning sites in Exmouth and Aylesbury respectively. However, it suggests that, in achieving a higher density, a sheltered scheme may generate higher development values than a general market scheme on the same site and therefore a financial appraisal is required to determine the quantum of affordable housing that may be viable.
41. For the appellant, Mr Martin expressed the view that, given the developable area of the site and its constraints, it is unlikely that as many as 25 general market flats could be accommodated and, if houses were included, the maximum would be in the low teens. For the Council, Mr Coghlan's evidence was that, over the last 2 years, sites of less than 1ha have been developed at an average density of 95 dwellings/ha within the Leeds area, excluding the city centre. If applied to the appeal site, this would result in 24.7 dwellings. Beyond this, I have not been provided with any evidence to demonstrate how 25 general market housing units could be accommodated. Indeed, outline planning permission has recently been granted for 13 dwellings on the site (Ref 06/04113/OT) comprising 9 flats and 4 terraced houses. Whilst the Council's evidence casts very serious doubt on the viability of that alternative scheme, I am told that the original proposal was for 14 dwellings, but the Council negotiated a reduction to 13, because of concerns over parking. In these circumstances, and given the constraints of the site and the challenge of developing it in a manner which respects the character and appearance of the area, there must be doubt over the feasibility of a scheme for 25 or more general market units.

42. However, returning to the Council's argument that a financial appraisal is required, it stated during the Inquiry that, having regard to the information available, a sheltered housing scheme on this site could remain viable if 1 to 4 units of affordable housing were included. The appellant did not deny this and indeed, under cross examination, Mr Woodward stressed that the appellant's case was not that it could not fund an element of affordable housing, but that the site did not qualify for affordable housing provision. For the Council, Mr Coghlan accepted that, if the site does not qualify under established policy tests, the fact that the economics of the development could support an affordable housing contribution cannot justify a requirement for such a contribution.
43. Mr Coghlan also accepted in cross examination that exceeding the numerical threshold of 25 dwellings is not enough on its own to justify a contribution to affordable housing. Notwithstanding that the proposal exceeds the 25 dwelling threshold, let alone the 15 unit indicative national minimum threshold in draft PPS3, and whether or not the appeal site could accommodate 25 general market units, Circular 06/98 establishes other criteria for assessing the suitability of sites for affordable housing. Paragraph 2 of Circular 06/98 states that affordable housing should only be required on sites which are large enough to accommodate a reasonable mix of types and sizes of housing. Paragraph 10(ii) requires account to be taken of the need to achieve a successful housing development. Among other things, it also states that, wherever possible, sites should incorporate a mix of affordable housing types, such as family housing and homes for smaller households and care is needed regarding the implementation and subsequent management of the affordable housing element. Indeed, SPG3 also indicates that affordable dwellings should be suitably integrated into housing developments.
44. In my discussion of the first main issue, I referred to the sketch drawings included at Appendix AC8 to Mr Crates' proof. These were prepared by the Council's Design Officer, Mr Skrzypecki and were intended to indicate how affordable housing units might be incorporated. The sketches do not show full details and it was accepted that the scheme had not been "fully worked up". However, Mr Coghlan suggested that the affordable housing element could incorporate a combination of 1 and 2 bedroom flats and maisonettes and even terraced houses.
45. If occupation of the affordable units was not restricted to the elderly, it is difficult to see how the site could deliver suitable facilities for younger occupants, and possibly families in terms of garden space, play areas and car parking. The sketch plans do not demonstrate how this could be achieved. Indeed, in seeking to allocate parking for the affordable units, the Council's sketch scheme eliminates a significant area of amenity space in the northern part of the site. It also reduces the landscaped buffer between the car parking and the dwelling at No 2 Netherfield Road. In addition to the ramp shown alongside that adjacent property, this arrangement could have a detrimental impact on the living conditions of the occupiers of No 2. It may be that access could be provided from the car parking area to the affordable units in a different way, avoiding the need for a ramp. However, the Council has not demonstrated how this could be achieved and the problems regarding parking and amenity space requirements would remain.
46. Furthermore, although it may be possible to clearly delineate the parking set aside for the affordable housing, it would not be easy to enforce its exclusive use and this could lead to conflict within the development. In this regard, I accept that occupants of sheltered housing are likely to expect a relatively peaceful, stress free and secure living environment. I am not persuaded that general affordable housing for younger persons, and possibly families, would be compatible with sheltered housing on the basis of the kind of layout indicated in the Council's sketch schemes. Overall, I am not convinced that the site is large enough to incorporate a mix of affordable housing types.

47. If occupation of the affordable units was restricted to those who would qualify for one of the appellant's sheltered schemes, the evidence persuades me that the limited number of affordable units would not support the communal facilities required. Furthermore, apportionment of the service charges relating to maintenance of the parking areas or other common facilities would be problematic. The extent of facilities and services offered and the level of service charge levied are likely to be significant factors for those considering sheltered accommodation and, as acknowledged by the Inspector in appeal Ref APP/C2741/A/06/2008620 concerning a site at Wiggington, disparities in these factors would be likely to cause significant animosity amongst elderly residents. Under cross examination, Mr Coghlan suggested that part of the sale agreement could ensure that occupants of the affordable housing units would not have free access to all common areas and there could be a service level agreement. However, he conceded that this had not been properly thought out and I am not convinced that a successful housing development could be achieved in this way on this site, or that the affordable dwellings could be suitably integrated into the overall development.
48. I note that paragraph 10(ii) of Circular 06/98 only requires a mix of affordable housing types "wherever possible" and SPG3 indicates that normally a ratio of houses to flats and sizes of units reflecting that proposed on the scheme as a whole would be appropriate. I also acknowledge that, since the late 1990's, the proportion of flats in new developments in the Leeds area has risen dramatically. Nevertheless, it seems to me that a development consisting only of elderly persons' flats would not represent a reasonable mix of types and sizes of housing, as required by paragraph 2 of Circular 06/98.
49. In considering the size of the development in the context of Circular 06/98, I have also had due regard to the Council's evidence that, in recent years, the number of sites of up to 0.19ha in size has increased from less than 20% to over 50% and the proportion of sites of 1ha to 1.99ha has decreased from some 40% to less than 15%. Nevertheless, whilst I understand the constraints this places on the Council in securing the provision of affordable housing, it seems to me that the increasing proportion of smaller sites cannot alter the judgement about which sites are large enough to accommodate a reasonable mix of types and sizes of housing.
50. I acknowledge that there is a pressing need for affordable housing in the area but, notwithstanding that the proposal provides for more than 25 dwellings, in my view, the site is not large enough to accommodate a reasonable mix of types and sizes of housing. It has not been demonstrated to my satisfaction that the site could incorporate a mix of affordable housing types. Furthermore, I consider that the future management of any affordable housing element alongside the private sheltered accommodation on this limited site could prove problematic. I am not persuaded that affordable dwellings could be suitably integrated into the overall development of this site to achieve a successful housing development. Having regard to Circular 06/98 and all material considerations, I find no conflict with the general provisions of UDP Policies H11 and H12 and I conclude on the fourth main issue, that the proposal need not include an element of affordable housing provision. It is also common ground that there is an urgent need for sheltered accommodation in the area and, in this regard, the proposal would accord with the thrust of UDP Policies H9 and H10.

Other Matters

51. Leaving aside matters covered in discussion of the main issues, third parties raise various additional concerns. A number of local residents fear problems associated with traffic generation and car parking. I noted that Oxford Road is a busy road and that there is a considerable amount of kerb-side parking on streets in the vicinity of the site. However, the unchallenged expert evidence submitted on behalf of the appellant, which is borne out by extensive surveys, indicates that the car parking needs of the elderly residents of the appellant's

category 2 sheltered housing schemes are less than that of the general population. Whilst I acknowledge that non-residents are likely to visit the site by car, the highway authority raised no objections on grounds of highway safety, congestion or parking and I have no good reason to take a different view. I also note that the site is well located in relation to shops, other services and public transport.

52. Some believe Guiseley is overpopulated. However, I have seen no objective evidence to substantiate this, whereas other evidence indicates that there is a significant deficiency in the provision of private sheltered accommodation in the area. Similarly, whilst some are concerned about the additional burden on local services, I have seen insufficient evidence to justify dismissal of the appeal on that basis.
53. Whilst some question the ability of the sewage system to cope with the development, the water authority merely suggested conditions. Fears are also expressed regarding the affect of the proposal on light to nearby properties. However, the sun shadow analysis submitted by the appellant at the Inquiry indicates that there should be no unacceptable impact in this regard and this evidence was not challenged.
54. The occupier of No 1 Oxford Avenue is concerned that youths will sit on the proposed low, decorative wall. However, whilst it may be that residents of the area already experience some anti-social behaviour, in my view, there is nothing about the proposed design which is unduly conducive to such behaviour and, in any event, a condition can impose controls over the final design of boundary treatment.
55. Finally, residents of Oxford Villas object to the loss of views and I was able to consider this aspect from a first floor window at No 8. There is no doubt that the proposal would impinge on views of the Moors to the northwest and I can sympathise with residents in this regard. However, it is a well established principle that individual property owners have no right to a view as such. Notwithstanding the size of the proposed building, I am satisfied that, given the separation distances, it would not result in an unduly oppressive outlook from neighbouring dwellings. It is also clear that, in its present state, the appeal site is detrimental to the visual amenity of the area for all those that live in the locality or pass through it.

Conditions

56. As the application was submitted before 24 August 2005, the usual time limit for commencement of development is 5 years. Given that I am satisfied with the unilateral planning obligation dated 29 September 2006 and I have found that there is no need to provide affordable housing in this case, the Council's suggested conditions concerning the provision of greenspace and affordable housing are unnecessary.
57. In order to ensure the satisfactory appearance of the development, I will impose a condition requiring details and samples of the materials to be used for the external walls, roofs, rainwater goods, soffits and fascias to be submitted to the Council for approval. For the same reason, I will require details of the inset of the window frames and full details of walls, fences and permanent boundary treatment to be submitted.
58. In the interests of highway safety and the free flow of traffic, I will prevent occupation of the development until the areas to be used by vehicles have been laid out and sight lines have been provided at the site access and the junctions of Netherfield Road/Oxford Road and Oxford Avenue/Oxford Road. To ensure that the site is suitable for use and to remove any significant risk from contamination, I will impose conditions requiring the submission of a remediation statement and completion of appropriate remediation works, together with the subsequent submission of a validation report.

59. The Council's suggested condition requiring submission of details of bin storage facilities is unnecessary, as these are shown on drawing No 1301/01/06A. However, I will impose a condition requiring those facilities to be available for use prior to occupation of the development and to be retained for that purpose. As advised by the water authority, I will impose conditions to ensure proper drainage of foul and surface water.
60. In the interests of the satisfactory appearance of the development and the amenity of future occupiers, I will impose the Council's suggested conditions regarding the completion of hard and soft landscaping works, in accordance with details to be approved. However, I will make minor amendments to remove unnecessary references to play equipment and refuse storage units. Whilst details of the parking layouts and other vehicle and pedestrian access areas are clearly shown on the plans, I will require details of hard surfacing materials to be submitted for approval, as per model condition 25 of Circular 11/95. I consider the Council's suggested condition concerning a landscape management plan unduly prescriptive and it imposes obligations for an uncertain period. However, I will adopt model condition 32 from Circular 11/95, imposing a maintenance period of 5 years, which I consider reasonable.
61. Finally, whilst the Council's list of suggested conditions did not include an age restriction, Miss Hunter confirmed in evidence that the appellant's standard lease for sheltered accommodation restricts occupiers to those over the age of 60, or 60 and 55 where 2 or more people share a unit. Given the nature of the scheme and the implications for matters such as car parking and greenspace, discussed under the main issues, I consider it necessary to impose a condition along these lines. Subject to minor amendments, I will adopt the condition used in the recent appeal decision Ref APP/C2741/A/06/2008620, referred to above.

Conclusions

62. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

63. I allow the appeal, and grant planning permission for the erection of sheltered flats for the elderly (category 2 type accommodation), house manager's accommodation, car parking and landscaping at the former garage, Oxford Road, Guiseley, Leeds, LS20 in accordance with the terms of the application, Ref 28/36/05/FU, submitted under cover of a letter dated 2 January 2005, and the plans submitted with it, subject to the following conditions:
- 1) The development hereby permitted shall begin before the expiration of 5 years from the date of this decision.
 - 2) No development shall take place until details and samples of the materials to be used in the construction of the external walls, roofs, rainwater goods, soffits and fascias of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Such materials shall be made available on site prior to the commencement of their use for inspection by the local planning authority which shall be notified in writing of their availability. Development shall be carried out using the materials thereby approved.
 - 3) No development shall take place until details showing the window frame inset from the face of the wall in a manner traditional to the area have been submitted to and approved in writing by the local planning authority. Development shall be carried in accordance with the approved details and retained thereafter as such.

- 4) No development shall take place until details of the position, design, materials and type of walls and/or fences or permanent boundary treatment, whether or not shown to be erected on the approved plans, have been submitted to and approved in writing by the local planning authority. Such walls and/or fences or permanent boundary treatment shall be erected in accordance with the approved details before any of the flats hereby permitted are occupied and shall thereafter be retained.
- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: (a) proposed finished levels and/or contours; (b) means of enclosure; (c) hard surfacing materials; (d) minor artefacts and structures (e.g. furniture, storage units, signs, lighting etc); (e) proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.). Soft landscape details shall include: (f) planting plans; (g) written specifications (including cultivation and other operations associated with plant and grass establishment); (h) schedules of plants, noting species, planting sizes and proposed numbers/densities; and (i) an implementation programme.
- 6) All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any of the flats hereby permitted or in accordance with a programme agreed with the local planning authority and in accordance with the relevant provisions of appropriate British Standards or other recognised codes of good practice.
- 7) No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.
- 8) None of the flats hereby approved shall be occupied until that part of the site shown on the approved plans for use by vehicles has been laid out, drained, surfaced and sealed, as approved, and that area shall not thereafter be used for any purpose other than the vehicle related use approved.
- 9) None of the flats hereby permitted shall be occupied until sightlines of 2.4m x 90m have been provided at the site access and sightlines of 4.5m x 90m have been provided at the junctions of Netherfield Road/Oxford Road and Oxford Avenue/Oxford Road. Such sightlines shall be cleared of all obstructions to visibility greater than 1m in height above the level of the adjacent carriageway and those sightline splays shall thereafter be retained.
- 10) Development shall not commence until a remediation statement has been submitted to and approved in writing by the local planning authority. If it is concluded in the remediation statement that remediation works are necessary, then the remediation statement shall demonstrate how the works will render the site suitable for use and shall describe the works in relation to the development hereby permitted. It shall include full details of any works to be undertaken, proposed site clean-up criteria, site management procedures, contingencies and how the works will be validated.
- 11) Prior to commencement of any part of the development other than any works required by this condition, any remediation works required by an approved remediation statement shall be fully carried out in accordance with that statement (or any subsequent revision to it required by condition 13 or condition 14 below).

- 12) Any works required by an approved remediation statement, including any intrusive investigation works or monitoring activities, shall not commence unless the local planning authority has received three working days' prior written notification of the date of commencement of such works.
- 13) In the event that remediation is unable to proceed in accordance with an approved remediation statement, for reasons such as the need to remove or treat more material than expected or contamination being more extensive than expected or any other unforeseen circumstances, the local planning authority shall be notified immediately. A revised remediation statement shall forthwith be submitted for the written approval of the local planning authority. Works shall thereafter be carried out in accordance with the approved revised remediation statement.
- 14) In the event that unexpected significant contamination is encountered during any development works, including works required by an approved remediation statement, works in the affected part of the site must cease and the local planning authority shall be notified in writing immediately. The local planning authority may at this stage request that a revised remediation statement, outlining plans for further investigation and the proposed method of dealing with the contamination be submitted for written approval prior to development works continuing in the affected part of the site.
- 15) Within 3 months of the completion of the remediation works detailed in the approved remediation statement or any approved revision thereto, a validation report shall be submitted to and approved in writing by the local planning authority. This report shall:
(i) describe the remediation works carried out and any significant variations from the works set down in the approved remediation statement; (ii) include and discuss substantiating data (analytical or otherwise); and (iii) confirm that the remediation objectives set down in the remediation statement have been achieved.
- 16) None of the flats hereby permitted shall be occupied until the refuse storage facilities shown on drawing 1301/01/06A are available for use and those facilities shall thereafter be retained for that purpose.
- 17) A separate system of drainage for foul and surface water shall be provided.
- 18) Development shall not commence until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off-site works have been submitted to and approved in writing by the local planning authority.
- 19) Unless otherwise agreed in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works.
- 20) None of the flats hereby permitted shall be occupied by persons aged less than 60 years, except that where 2 or more persons share a flat, one of the occupants shall not be less than 60 years of age and the others not less than 55 years of age. For the avoidance of doubt, this restriction shall not apply to the house manager's accommodation.

JA Murray

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Barrett of Counsel

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He called

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FOR THE LOCAL PLANNING AUTHORITY:

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Principal Legal Officer, Legal and Democratic Services,
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He called

Andrew Crates BA Dip TP
MRTPI

Planning Officer, Planning Services, Development
Department, Leeds City Council

Henry Skrzypecki Dip Arch
Dip UD (Distinction)

Design Officer, Strategy and Policy, Development
Department, Leeds City Council

Robin Coghlan BA Dip Urb.
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Team Leader, Planning Policy Team, Development
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INTERESTED PERSONS:

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F Hodgson

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20 Aldersyde Road, Guiseley, LS20 8QZ

DOCUMENTS

- | | | |
|----------|---|---|
| Document | 1 | Drawing No 1301/03/04A showing an alternative scheme refused by the Council |
| Document | 2 | Plan showing pedestrian routes to greenspace |
| Document | 3 | Certified copy of unilateral planning obligation dated 27 September 2006 |
| Document | 4 | Land Registry entries re Title No WYK100131 |
| Document | 5 | Sun shadow analysis |
| Document | 6 | Chemical analysis (page H1/155 omitted from the History Document) |
| Document | 7 | Extract from Amanda Hunter's letter to the Council dated 25 April 2005 (pages H6/4 to H6/6 omitted from the History Document) |
| Document | 8 | 'A Better Life: Private Sheltered Housing and Independent Living for Older People' |
| Document | 9 | Agreed statement concerning proof of evidence of Mr S Woodward |

Document	10	Residual land value calculation based on Mr S Woodward's figures for 24 units
Document	11	Written statement of Frank Hodgson
Document	12	Land Registry entries re Title No WYK524820
Document	13	Certified copy of amended unilateral planning obligation dated 29 September 2006
Document	14	Letter from David Allford to Amanda Hunter 26 September 2006
Document	15	Letter from Mr Tim Collins dated 3 October 2006 enclosing a copy of his letter dated 6 July 2006

PLANS

Plan	A	1301/01/01	Contextual analysis
Plan	B	1301/01/02A	Design solution
Plan	C	1301/01/03	Location and development plan
Plan	D	1301/01/04A	Contextual elevations
Plan	E	1301/01/05A	Coloured site plan
Plan	F	1301/01/06A	Floor plans
Plan	G	1301/01/07A	Elevations
Plan	H	BA 1922/AIS	Arboricultural implication study

PHOTOGRAPHS

Photo	1	Colour photograph of Brownberrie Lane, Horsforth referred to in Mr Crates' supplementary proof
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Appeal Decision

Inquiry held on 7 and 8 March 2006

Site visit made on 8 March 2006

by **Linda Wride** Dip TP MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
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Date

- 3 MAY 2006

Appeal Ref: APP/W0340/A/05/1179941

Land at Western Avenue, Newbury, Berkshire RG5 3BL

- 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 McCarthy and Stone (Developments) Limited against the decision of West Berkshire Council.
- The application Ref 05/00355/FULMAJ, dated 4 February 2005, was refused by notice dated 4 May 2005.
- The development proposed is the erection of 54 sheltered apartments (Category II), house manager's accommodation, communal facilities, car parking and landscaping.

Summary of Decision: The appeal is dismissed.

Procedural Matters

The application was amended following submission. I have considered and determined the appeal on the basis of the revised plans before the Council at the time of its decision.

2. The appeal proposal is supported by four Unilateral Undertakings made under section 106 of the Town and Country Planning Act 1990 (as amended). Undertaking No 2 is dated 30 March 2006. The other Undertakings are dated 8 March 2006. In the event that permission is granted, these would secure financial contributions of
 - (1) £3,350 towards the provision or enhancement of public open space in the vicinity of the land
 - (2) £7,000 towards the provision of bus shelters on Old Bath Road, Newbury, or elsewhere in the district
 - (3) £18,667 towards bus improvement in the vicinity of the land
 - (4) £610,000 towards the provision of affordable housing within the district and, at the Council's discretion, for the provision of affordable housing at the former Feltham Tyres, Park Way, Newbury (the "Kingfisher" site).

Undertakings (2) and (3) are offered in the alternative.

Main Issues

- 3 I consider the main issues in this appeal to be (a) the effect of the proposed development on local services, infrastructure and facilities, having regard to transport, public open space and crime prevention initiatives and (b) whether the proposed development would secure an appropriate level of affordable housing provision off-site.

Planning Policy

- 4 The Development Plan for the area includes Regional Planning Guidance for the South East (RPG 9), adopted in 2001, Berkshire Structure Plan 2001-2016, adopted in 2005, and the West Berkshire District Local Plan 1991-2006, adopted in 2002. Of the various policies drawn to my attention, those which I consider to be the most relevant to this appeal are as follows. The main thrust of RPG 9 Policy H4, Structure Plan Policy H8 and Local Plan Policy HSG.9 is for a range of dwelling types and sizes to be provided, including alternative forms of tenure, to meet locally assessed housing need, with the overall number, definition, threshold and amount of affordable housing being identified in the Local Plan.
- 5 Where infrastructure, services and amenities are made necessary by development, Structure Plan Policy LD6 requires these to be provided through contributions by landowners and developers. This is reflected in Local Plan Policy OVS.3 in respect of community benefits and infrastructure and TRANS.2 in respect of transport. Proposals for 10 or more dwellings are required to provide open space at a standard of 3-4.3 hectares per 1000 population by Local Plan Policy RL.1. Policy RL.2 allows this to be provided on-site, on other land owned by the applicant or, in certain circumstances, by financial contribution to satisfy the requirement off-site but within a reasonable distance and timescale. Policy OVS.11 requires proposals to reduce the potential for criminal activity and anti-social behaviour.
- 6 The Local Plan is supported by Supplementary Planning Guidance (SPG) 4/04 *Delivering Investment from Sustainable Development*. This SPG, formally adopted in 2004 following public consultation in 2003, covers a wide range of topics, including the following matters relevant to this appeal: transport (*Topic Paper 2*), open space (*Topic Paper 7*), and crime and disorder (*Topic Paper 12*)¹. As the SPG on these specific matters has been formulated and adopted in accordance with national guidance, I give it substantial weight having regard to the advice in paragraph 5.22 of Planning Policy Statement 12 (PPS 12) *Local Development Frameworks*. However, the parties dispute the weight to be given to the SPG in relation to affordable housing (*Topic Paper 1*). I deal with this in my reasoning.
- 7 I have taken into account the advice on affordable housing in Planning Policy Guidance 3 *Housing* (PPG 3) and Circular 6/98 *Planning and Affordable Housing*, together with the thrust of draft Planning Policy Statement 3 *Housing* (PPS 3). I have also had regard to Circular 05/05 *Planning Obligations, Safer Places: The Planning System and Crime Prevention* (which superseded Circular 5/94 *Planning Out Crime*) and the other publications by the ODPM and the Housing Corporation (amongst others) drawn to my attention by the parties, along with the Core Documents and the Statement of Common Ground.

Reasons

Infrastructure, services and facilities

- 8 The appellant's research on the diverse activities enjoyed by McCarthy and Stone residents suggests that potential occupants would be likely to travel off-site on a regular basis to enjoy those activities. Given the low level of car and cycle ownership, and having regard to

¹ A separate SPG No. 11 *Personal Safety and Security*, adopted in 1997, sets out requirements for the design and layout of development. As these matters are not in dispute between the parties in respect of the appeal proposal, SPG No 11 has little relevance to the main issues in this appeal.

the distance to the main town centre facilities and the intervening topography, I believe it is likely that buses would be the preferred means of transport. Thus, bearing in mind the number of units proposed, the proposal would place an increased burden on public transport in Newbury.

9. About 80% of bus services in the district depend on public subsidy to operate, including all the routes within the built-up area of Newbury which run close to the appeal site but form part of the wider rural area network. Whilst the level of subsidy for 2006-07 had yet to be fixed, I was advised at the Inquiry that the current level of service would not be maintained or improved without such subsidy. Given the increased demand on bus services in the area likely to be generated by the appeal scheme, I consider it reasonable for this impact to be mitigated through a financial contribution to support/improve the bus services which the sheltered housing occupiers are likely to use, i.e. services along Oxford Road to the east of the appeal site and Old Bath Road to the south, which all go to the main bus station, near the town centre shops and rail station.
10. Whilst relatively close as the crow flies, the route from the appeal site to Old Bath Road on foot is circuitous and inconvenient. Although it would be quicker to get to Oxford Road from the appeal site, there are no convenient bus stops on this road within easy walking distance at present. In my opinion, the proposal to provide bus stops (with raised kerbs to facilitate access) in Oxford Road, close to the Western Avenue roundabout, would be a direct and positive benefit for sheltered housing residents dependent on public transport for their day-to-day travel needs.
11. Based on the adopted SPG formula of £500-£800 per bedroom, the transport contribution which could be sought for the appeal proposal would be in the range £35,000-£56,000. The contribution of £18,667 offered in Unilateral Undertaking No 3 represents about a third of the range maximum, and would be substantially below the figure originally requested by the Council. However, it would reflect the historic office permissions on the appeal site which have already contributed to highway works in the area, improvements for cyclists and pedestrians recently carried out nearby, and the anticipated low level of car and cycle ownership. The Undertaking would be conditioned to ensure that the contribution would be put towards bus improvement in the vicinity of the land, which could include the proposed bus stops in Oxford Road and financial support for those bus services likely to be used by the sheltered housing residents. Taking these matters into account, I am satisfied that the contribution secured by Unilateral Undertaking No 3 would be fairly and reasonably related in scale and kind to the development and meet the other tests in Circular 05/2005.
12. Whilst the lower contribution in Undertaking No 2 would fund the proposed bus shelters, it would not address the likely increase in demand which would be placed on bus services by the appeal scheme. In consequence, I do not consider that, on its own, Undertaking No 2 would be sufficient to fully mitigate the impact of the appeal scheme on public transport.
13. Turning now to public open space considerations, the appeal proposal is designed to cater for less active older people, who would be unlikely to participate in active sports compared to more mobile counterparts or fitter, younger people. Nevertheless, the appellant's research indicates that some 15% of sheltered housing residents enjoy recreational walking, whilst a smaller percentage exercise to keep fit. For various reasons, it is not possible to provide much external amenity space for sheltered housing developments, such as this. As the requirement for public open space set out in Local Plan Policy RL.1 cannot be met on-

site, the Council agrees that a financial contribution would be acceptable in lieu in this case, in accordance with Policy RL.2.

- 4 Financial contributions are based on the cost of landscaping public amenity space, playing fields and equipped play spaces, together with ongoing maintenance, using a formula set out in the adopted SPG. However, the Council applies the standard with greater flexibility in respect of sheltered and other specialised housing, and does not seek contributions towards children's play spaces or playing fields from development of this type, thereby reducing the level of contribution from such schemes.
- 15 In this case, the open space contribution sought would be used to improve Northcroft and Goldwell Parks, contiguous areas of public open space to the south of Old Bath Road. The Development Plan for these parks² aims to increase the enjoyment of all visitors by making the parks safe, attractive, healthy, secure, clean, tidy and well maintained, and renovating areas of horticultural and wildlife interest, amongst other things. Projects supporting these aims include entrance improvements, extending and upgrading footpaths, promoting "health walks", developing a woodland walk and arboretum trail, and enhancing wildlife interest. In my opinion, projects such as these would improve the public open space in ways which would increase both its attractiveness and usefulness to residents of the sheltered housing.
- 16 Whilst the SPG open space formula assumes an average household size which is larger than typical in sheltered housing schemes, the contribution is nevertheless directly related to the number of households living in the development, and incorporates a substantial reduction for sheltered schemes compared to the cost per dwelling which would normally be applied. Taking these matters into account, I am satisfied that the contribution in Undertaking No 1 would be fairly and reasonably related in scale and kind to the development, and would meet the other tests in Circular 05/2005.

As noted by the appellant³, many people cite crime, or the fear of crime, as a key concern as they grow older. This concern plays a significant role in the design and management of the appellant's sheltered housing schemes, which aim to meet *Secured by Design* standards and include features such as door control systems, intruder alarms, CCTV surveillance and a 24 hour Careline. However, residents will not spend all their time on site, but will venture out into the public domain. It is to crime prevention in this wider arena that I now turn.

- 18 *Safer Places* acknowledges that the causes of crime are many and complex, including the presence of vulnerable people and an environment that does not attract or generate offending, thereby favouring offenders over "preventers". Elderly people are identified as a vulnerable group, whose need for a higher standard of security or personal safety can justify specific crime prevention measures. Whilst there does not appear to be a crime problem in the area at present, at the Inquiry, I was advised by the Council that work undertaken for its CCTV Strategy (currently in draft form) shows the appeal site to be on a known route between two crime "hot spots", one in the town centre and another in a residential area to the west of the site. Although the Council did not submit crime figures to support its statement, I heard nothing at the Inquiry which would lead me to doubt this assessment.

² *Northcroft and Goldwell Parks Development Plan and Main Management Options 2004/2009* (Final Report: October/December 2005)

³ *Safe and Secure* McCarthy & Stone December 2004

19. In my opinion, accommodating a large group of vulnerable older people at the appeal site would be likely to attract new criminal activity into the area, notwithstanding the excellent on-site security proposed. I also think it likely that the risk of crime would be increased due to the appeal site's location. In these circumstances, I do not consider it unreasonable for the Council to require the appeal scheme, in common with other residential developments, to contribute towards mitigating the additional crime prevention costs which would arise, given the nature of the development, its location and site specific details. This approach is in line with advice in *Safer Places* that it may be reasonable in such circumstances to use planning obligations to create a safer environment in the area of the proposed development, for example, by means of CCTV provision (amongst other things).
20. The nearest street cameras are at the junction of Oxford Road/Oxford Street/Old Bath Road and Old Bath Road/Strawberry Hill, some distance from the appeal site. As neither the CCTV cameras at the appeal site, nor the security cameras at the supermarket and the Focus development nearby, monitor the public domain in Western Avenue, the Council seeks a contribution to cover the cost of buying and installing a camera in Western Avenue, close to the appeal site, plus operation and monitoring costs for a minimum period of 20 years, in accordance with the adopted SPG. As the new camera would help reduce the fear of crime, deter and detect crime, improve public protection and enhance community safety near the appeal site, it would have direct benefits for the occupiers of the appeal scheme, in addition to helping mitigate the increased burden on crime prevention initiatives likely to stem from the proposal.
2. I accept that residents in sheltered housing are less likely to venture out after dark compared to the general public, and that passing pedestrians and motorists in Western Avenue provide a degree of surveillance in the street during daylight hours. However, I am not persuaded that this alone would be sufficient to mitigate the increased risk of crime likely to arise from the appeal scheme, bearing in mind that town centres can be crime hot spots even though usually busy throughout the day and during the evening.
22. In my view, the benefits of the proposed CCTV camera would be more wide-ranging than simply mitigating the impact of the appeal proposal, and I think it likely that there would be other sources of funding which could contribute to its provision and maintenance. In these circumstances, I am not persuaded that the appeal scheme contribution should be expected to cover all these costs in full. However, the appellant is unwilling to make any financial contribution towards extending CCTV coverage to the area near the appeal site. As a result, there is nothing before me to mitigate the impact of the development in this respect.
23. Based on the evidence before me, the appeal proposal would have a material impact on public transport, public open space and crime prevention initiatives. Whilst the impact of the development on transport and open space infrastructure would be mitigated by Unilateral Undertakings Nos 1 and 3, in the absence of a contribution towards the West Berkshire CCTV System, I conclude that the development would place an increased burden on the Council's crime prevention initiatives and thereby conflict with the aim underpinning Local Plan Policy OVS.11 and the supporting SPG.

Affordable housing

24. There is no dispute that the appeal scheme should make provision for affordable housing, notwithstanding its specialist nature. Dual management of a single building providing both

market and affordable sheltered units would present problems, particularly as the service charge costs would be high and therefore likely to cause affordability problems for both residents and the Registered Social Landlord (RSL). Whilst it would be possible to design a mixed scheme of private and affordable units in separate buildings on the appeal site, this would make it more difficult to achieve the economies of scale likely with a single, larger scheme, thereby compromising the operation of the private sheltered housing.

- 25 As a result, it is common ground between the parties that, in this particular case, a financial contribution would be acceptable in lieu of on-site provision. There is no national advice on calculating such contributions, and it is evident from the numerous appeal decisions before me that practice varies widely across the country. In such circumstances, I would normally give considerable weight to the Council's adopted SPG when coming to a view on what would be reasonable in any particular case. However, I have concerns about some aspects of the Council's approach in the adopted SPG, and it is to these concerns that I now turn.
- 26 The affordable housing SPG adopted by the Council includes details of public consultation undertaken, and responses to representations received. In terms of procedure therefore, the Council has followed the steps in paragraphs 3.15-3.18 of Planning Policy Guidance 12 *Development Plans* (PPG 12). However, in certain respects, it seems to me that, the SPG is inconsistent with national policy and advice. In particular, the concept of "additionality", whereby funding for a larger proportion of units is sought from financial contributions towards affordable housing provision off-site than would be required to be provided on-site.
- 27 Whilst similar approaches may have been used by other Councils, I find it difficult to reconcile this concept with the advice in Circular 05/05 that obligations should never be used as a means of securing for the local community a share in the profits of development, i.e. as a means of securing a "betterment levy". "Additionality" would conflict with the advice in draft PPS 3 that where a financial contribution is sought in lieu of affordable housing on-site, provision must be of broadly equivalent value. I give the emerging national policy more weight than I would normally attribute to a draft policy statement, in view of the government's advice that regard should be had now to the direction of travel. Furthermore, the concept would go against the "better practice" recommendation in *Delivering Affordable Housing through the Planning Process* that the cost of affordable housing provision through a commuted sum should not normally be different to the cost of affordable housing provision on-site. The fact that the adopted SPG differs significantly from the consultation draft in this respect reinforces my concern, bearing in mind the advice in PPG 12 that SPG must not be used to avoid public scrutiny.
- 28 Other disputed elements of the adopted SPG relate to tenure and the assumption that no Social Housing Grant (SHG) would be forthcoming. In terms of the former, where 10 or more affordable units are to be provided, both the consultation draft and the adopted SPG seek a mix of subsidised rented and lost-cost ownership units. The adopted SPG also states that tenure mix should be determined on a site-by-site basis, but reflect the greatest need in the district for affordable rented dwellings, as identified in the Council's Housing Needs Survey. Whilst the latter has its drawbacks, it is nevertheless a material consideration⁴ to which I give some weight. In my view, the approach in adopted SPG is consistent with PPG 3's advice that parties should be reasonably flexible in deciding the types of housing

⁴ ECC Construction Ltd Secretary of State for the Environment and another [1994] 3 PLR 5

most appropriate to a particular site to ensure that the affordable units secured will help satisfy local housing needs. In the light of this advice, I do not consider the Council's failure to consult on the additional advice in the adopted SPG to be significant.

29. Turning now to the SHG issue, draft PPS 3 requires local authorities to make informed assumptions about the level of finance available for affordable housing. In my opinion, it would be remiss of the Council not to have regard to the changes in affordable housing funding signalled by The Housing Corporation in 2003. However, based on the evidence before me, the Corporation has provided such funding since that time, and continues to do so. Moreover, there are more responsive ways of addressing funding uncertainties e.g. "cascade" arrangements which give a flexible tenure split according to SHG availability. I therefore consider the blanket assumption that there will be no public subsidy for s.106 developments to be misplaced at the present time. The fact that the "no subsidy" approach was included in the adopted SPG without prior consultation reinforces my concern.
30. Whilst I do not share the appellant's views on tenure, the other concerns I have identified limit the weight I afford the adopted affordable housing SPG in these particular respects, having regard to the advice in paragraph 3.15 of Planning Policy Guidance Note 12: *Development Plans*, as carried forward in PPS 12. In consequence, whilst agreeing that a contribution of £1,594,280 towards affordable housing off-site would be the correct level of contribution according to the adopted SPG, in the context I have described, I do not regard this as a reasonable contribution in relation to the appeal proposal. Although to their credit, both parties have been willing to negotiate, there remains a substantial gap between the Council's revised request for £1,260,000 towards affordable housing off-site and the contribution of £610,000 which would be secured by Unilateral Undertaking No 4.

The contribution offered would enable Kingfisher Housing Association to fully implement the extant planning permission for 18 units at the former Feltham Tyres site in Newbury, which would otherwise depend on a successful application for funding from the Housing Corporation. The contribution would be sufficient to enable 13 of the 14 shared ownership flats to be built without public subsidy, in addition to the four social rented units and one shared ownership flat for which there is currently funding in place. If Corporation funding is not secured for the remaining units at the Kingfisher site, then the Undertaking before me would therefore ensure the provision of shared ownership flats that would not otherwise be secured. Alternatively, it could be used to fund a smaller number of social rented dwellings at the site, or be put towards another affordable housing scheme of the Council's choice.

32. I am mindful of the letter accompanying draft PPS 3 advised that consideration can be given straight away to the contribution a proposal can make towards meeting the Government's housing objectives, to which I have already referred. Furthermore, the flexibility offered by the Undertaking in terms of use and the timing of the contribution would be added benefits, in my opinion. These considerations weigh in favour of the appeal scheme.
33. However, in respect of affordable housing requirements generated by proposals of 15 or more dwellings, the text supporting Local Plan Policy HSG.9 advises that "*as a starting point, applicants for residential development should consider the provision of at least 30%*". It is clear that this proportion applies to special needs schemes, including sheltered housing for the elderly. In terms of the appeal proposal, 30% provision would equate to 17 affordable dwellings. Whilst acknowledging the uncertainty of SHG, the quantum of

contribution offered by Undertaking No 4 would fall considerably short of the financial equivalent of 17 units, even allowing for the "additionality" requirement to be set aside.

34. Whilst I agree that treating the appeal scheme as an exception to the normal requirement to provide affordable housing on-site is justified in this case, it does not follow that the proposal should be treated differently to a general housing scheme for the purpose of calculating the number of affordable units to be provided on or off-site. I can find no policy basis in the development plan, adopted SPG, national planning policy or circular guidance to support the argument that the contribution in this case should be based on 30 dwellings, notwithstanding the parties' agreement that this would represent the "practical maximum" which could be accommodated on the site if used for general market housing.
35. The appellant's approach would mean that sheltered and other specialist housing development would generate a significantly smaller proportion of affordable dwellings relative to the overall number of units proposed than a general housing scheme on the same site, and well below the 30% starting point in the Local Plan. In my opinion, treating specialist housing providers more favourably in this respect than a general housing developer would not create a level playing field. Such an approach would be no more equitable than the "additionality" requirement in the adopted SPG which penalises those who, for genuine reasons, are unable to make provision for affordable units on-site.
36. I acknowledge that in the Totton appeals⁵, the Inspector supported the appellant's approach in preference to the Council's method of calculating the appropriate affordable housing contribution. However, in those cases, the relevant SPG was at an early stage in the process towards adoption and, in consequence, given very little weight; there were other factors to be taken into account, including substantial site development costs, and the viability of the proposal was called into question.
37. In the proposal before me, there is nothing inherently unsuitable about the size or location of the appeal site which would render it unsuitable for affordable housing in other circumstances. The land has been cleared and the "energy centre" relocated by the owner. It appears that the cost of gaining access across the Council-owned "ransom strip" was known when the appellant negotiated terms with the owner. When questioned, Mr Bendinelli agreed it was likely that it would have been reflected in the offer price. There are no other particular development costs that I have been made aware of, such as special remediation or construction requirements. Whilst it is evident⁶ that the proposed development would not proceed based on the level of contribution originally requested by the Council, there is no suggestion that viability is an issue in this case.
38. Taking all these matters into account, I see no justification for setting aside the starting point that 30% of the units actually proposed should be affordable, or for using a different starting point for this calculation based on a theoretical market housing scheme (regardless of whether or not it has been agreed).
39. Like my colleague in the Westbury appeals⁷, I consider it acceptable for the Council to have some input into the type of social housing to be provided, having regard to local housing needs. I acknowledge that the contribution offered could be used to support social rented,

⁵ APP/B1740/A/04/1163842 and APP/B1740/A/05/1182399 dated 1 December 2005

⁶ Mr Bendinelli's letter of 12 April 2005 Appendix H29/4 Core Document *History of Negotiations*

⁷ APP/F3925/A/05/1180129 and APP/F3925/E/05/1180132 dated 20 January 2006

low cost ownership or a combination of these affordable housing types to reflect these needs. However, the provision of affordable rented accommodation is more costly than shared ownership dwellings, and therefore there is a direct relationship between the number of affordable units which can be provided and the provision of a range of type and tenure sought by Policy HSG.9 and the adopted SPG. Achieving a tenure mix that would reflect local need, including an identified greater need for affordable rented dwellings, would further reduce the number of affordable housing units which could be secured by Undertaking No 4. This adds weight to my concern.

- 40 The appellant points out that if assessed in terms of *bed spaces* rather than dwellings, not only would the number of affordable bed spaces secured at the Kingfisher development (26 bed spaces) exceed the 20 bed spaces which would be generated by 30% of the appeal proposal, but the accommodation would be larger too. However, as housing need is assessed and addressed on the basis of dwellings rather than individual bedrooms, I do not find this argument compelling.
- 41 My attention has been drawn to numerous other appeal decisions on sites elsewhere in the country. It is evident from the documents submitted that no two cases are identical in all respects and the parties agree that these do not set precedents I am bound to follow. I have therefore determined the appeal before me on its individual merits.
42. Notwithstanding the Unilateral Undertaking before me, I conclude that the appeal proposal would not secure an appropriate or reasonable proportion of affordable housing off-site relative to the number of sheltered housing units proposed in the appeal scheme, in conflict with Local Plan Policy HSG.9 and the supporting SPG (except in relation to those elements to which I afford limited weight).
- 43 This is the first time that the Council's adopted Policy and SPG on affordable housing have been tested on appeal. Were I to accept the appellant's method of calculating the affordable housing contribution in preference to the Council's approach (taking into account my reservations about specific elements of the adopted SPG) my decision would make it difficult for the Council to negotiate an appropriate level of contribution towards off-site affordable housing when other exceptional schemes come forward. I think it likely that the cumulative effect on the Council's ability to secure affordable housing to meet local needs would be significant. This reinforces my conclusion.

Other matters

- 44 I have considered all other matters raised in representations including concerns about design of the building, parking provision and traffic generation. In my opinion, the scheme would fit well in the local context, the amount of parking would be sufficient to meet the needs of the occupiers based on the evidence before me, and the relatively low level of traffic could be accommodated on the local highway network without harm. For these reasons, I am not persuaded that these concerns would justify withholding permission for an otherwise acceptable scheme.

Conclusions

- 45 In reaching my conclusion I have taken full account of the benefits of the appeal proposal, including the provision of sheltered housing to meet a need which is likely to increase over time. I have born in mind that the appeal scheme is PPG 3 compliant, well designed, and

that it is supported by Unilateral Undertakings which would mitigate its effects on public transport and open space and offer the opportunity to secure some affordable housing off-site (albeit insufficient, in my judgement). However, having considered the proposal in the round, I am not persuaded that these benefits are sufficient to outweigh the harm I have identified.

46. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

47. I dismiss the appeal



Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Robert Hanson	Solicitor, West Berkshire Council
He called	
Paul Goddard	Principal Development Control Engineer, West Berkshire Council
Stuart Souden	Grounds Maintenance Manager, West Berkshire Council
Carolyn Murison	Emergency Planning Officer, West Berkshire Council
Mark Auchincloss BTP	Director, Tetlow King Planning, Unit 2, Eclipse Office Park, High Street, Staple Hill, Bristol BS16 5EL, representing West Berkshire Council
MRTPI FRGS	

FOR THE APPELLANT

Rupert Warren of Counsel	Instructed by The Planning Bureau
He called	
Gian Bendinelli MRTPI	Senior Planning Associate, the Planning Bureau Limited, Homelife House, Oxford Road, Bournemouth BH8 8EZ
Simon Mitchell BA (Hons)	
FCIH Dip HSG	Principal Consultant, Levvel Limited, 147 Leigh Road, Wimborne Dorset BH21 2AD

DOCUMENTS SUBMITTED AT THE INQUIRY

Document 1	List of persons present at the Inquiry
Document 2	Letter of Notification about the Inquiry and list of persons notified
Document 3	Bundle of correspondence from the Council and the Planning Bureau
Document 4	Appeal Decisions APP/F3925/A/05/1180129 and APP/F3925/E/05/1180132 dated 20 January 2006
Document 5	Extract from <i>Delivering affordable housing through Planning Policy</i>
Document 6	West Berkshire Housing Strategy 2005-2010
Document 7	OPDM letter of 14 September 2005 re Appeal by Bellway Homes at RAF Cardington and land adjoining
Document 8	The Housing Corporation Total Cost Indicator, Grant rate and Rent Analysis for 2003/2004
Document 9	ECC Construction Ltd Secretary of State for the Environment and another [1994] 3 PLR 5
Document 10	<i>Northcroft and Goldwell Parks Development Plan and Main Management</i>
Document 11	<i>Options 2004/2009</i> (Final Report-October/December 2005) CCTV s.106 Assessment Form Ref No 05/0035/fulmaj
Document 12	E-mail and letter re notification of SPG adoption to interested parties
Document 13	Bundle of Unilateral Undertakings dated 3 March 2006 (incomplete)
Document 14	Bundle of Unilateral Undertakings submitted after the Inquiry (completed)

PLAN SUBMITTED AT THE INQUIRY

Plan A	Drawing showing location and coverage of CCTV Newbury Town Centre
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Appeal Decision

Inquiry held on 1 & 2 August 2006

Site visit made on 2 August 2006

by **Jane Miles BA (Hons) DipTP MRTPI**

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

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Date

- 4 OCT 2006

Appeal Ref: APP/F3925/A/05/1189412

Octagon Motors Site, George Street, Warminster, BA12 8QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by McCarthy & Stone (Developments) Ltd against West Wiltshire District Council.
- The application Ref: 05/00068/FUL, is dated 18 January 2005.
- The development proposed is redevelopment of the site to form 38 Category II sheltered apartments, house manager's accommodation, communal facilities and associated car parking.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The original description on the planning application form refers to 40 apartments. This was reduced to 38, and the plans amended, while the application was still under consideration by the Council. It is this amended scheme which forms the appeal proposal.
2. The Council decided, on 4 August 2005, that planning permission be granted at a future date subject to conditions and to prior completion of a legal agreement. The purpose of the agreement was to ensure retention of the development as a sheltered housing scheme and to secure a contribution towards the provision of affordable housing in accordance with policy. No such agreement had been completed when the appeal was lodged and, whilst there has been further negotiation between the parties, no agreement had been completed prior to the inquiry. At the inquiry the appellant submitted a completed unilateral undertaking and the Council submitted a draft Section 106 agreement addressing these matters.
3. The appellant has submitted 2 further applications. The first, for 23 open market units, was refused contrary to officers' recommendation on 13 July 2006 on the grounds of insufficient parking provision. The second duplicates the appeal proposal and, on 20 July 2006, the Council made a similar resolution to that described above.
4. The proposal, in the Warminster Conservation Area, involves demolition of existing buildings and the Council granted Conservation Area Consent for this on 4 August 2005.

Main Issue

5. I consider the main issue in this appeal to be the adequacy of provision for affordable housing, having regard to national and local policy and to the identified needs for such provision in the District.

Planning Policy

6. The development plan includes the Regional Planning Guidance for the South West (RPG10), the Wiltshire Structure Plan 2016 (SP), and the West Wiltshire District Local

Plan First Alterations (DLP). Policy HO3 of RPG10 and SP Policy DP8 set the wider context for the more detailed local policy on affordable housing, DLP Policy H2. The draft Regional Spatial Strategy for the South West 2006-2026 (draft RSS), recently published for public consultation and submitted for examination, signals in Policy H1 an upward shift in provision for affordable housing, although its draft status limits the weight to be given to it.

7. The Council's Supplementary Planning Guidance (SPG): Affordable Housing has been adopted following consultation but the weight to be attached to certain parts of it was a matter of dispute between the parties. I consider this in the reasoning below.
8. My decision takes account of other relevant policy guidance, including national planning policy statements/guidance notes (PPSs/PPGs) and circulars, most notably PPG3: Housing and Circulars 6/98 (Planning and Affordable Housing) and 05/2005 (Planning Obligations). Notwithstanding its draft status, the Consultation Paper on a New PPS3: Housing (draft PPS3) is also relevant, bearing in mind advice issued with it that regard should be had now to the direction of travel and the ambition for a speedy turnaround in affordability.

Reasons for the Decision

Background

9. The Council's resolution demonstrates that, subject to conditions, it considers the development proposed on the appeal site to be acceptable. Having regard to the proposed design (including the proportions of the window openings), the nature of the site and relationships with the Conservation Area surroundings, which includes several listed buildings, I agree the proposal would be acceptable in these respects, subject to conditions. It would enhance the Conservation Area without harming the setting of any listed building.
10. Provision for affordable housing is therefore the only major outstanding issue. The parties agree that there is an identified need for such housing in the District; that the appeal proposal, irrespective of its specialist nature, should make provision for affordable housing to accord with DLP Policy H2; and, that this is one of the exceptional cases where a financial contribution for off-site provision would be appropriate. Taking account of the small size of the site, the nature of the appeal proposal, and the difficulties of managing this specialist accommodation and affordable housing in such close proximity, I agree with this approach. Consequently the principal matters at issue are firstly the level of provision to be made in this case and, secondly, the actual amount of the contribution required.

Level of Provision

11. Following the recommendations of the Local Plan Inspector, to allow for some flexibility, DLP Policy H2 states that the Council will seek to achieve 'up to 30%' affordable housing provision in towns on all allocated and windfall sites meeting the size criteria of 1 hectare or more, or more than 25 dwellings. The Council considers that slow progress in meeting affordable housing targets in recent years, with no units at all built in Warminster, justifies seeking the full 30% in this case. The appellant has offered a contribution in the unilateral undertaking based on provision for 12 units, which is just over 30% of 38 dwellings and would therefore, in the appellant's view, satisfy Policy H2.
12. My understanding of the appellant's case as it developed during the inquiry is that, because the percentage requirement in Policy H2 (as calculated by the appellant) would be met, arguments for a lower percentage contribution based on the 'level playing field' approach have not been pursued, as they have in other appeals elsewhere, including a recent case in the nearby town of Westbury (APP/F3925/A/05/1180129 & E/05/1180132).

13. The Council's approach to calculating the percentage provision for cases where there is to be a financial contribution is set out in its SPG. Paragraph 6.8.1 includes a formula for this, on the basis that the contribution should be 30% of the *total* development resulting from such a proposal: it adds the number of dwellings proposed on an application site to the affordable units that would be provided for off-site, and calculates 30% of that larger number. The concept is described by the appellant as 'additionality'. In this case, it produces a requirement to provide for 16 units. Thus, in the Council's view, provision for any fewer than 16 units would be less than 30%, and would not accord with Policy H2 and associated SPG. If it was demonstrated through an 'open book' exercise that provision for 16 units would threaten the development's viability, the Council would negotiate a lesser level of provision, but the appellant does not mount an argument on viability grounds.
14. In his Report, the Local Plan Inspector concluded it was reasonable to address the matter of commuted sums in lieu of on-site provision through SPG. Preparation of the SPG included 2 consultation periods, and scrutiny by the relevant Government Office, before it was adopted in August 2005. However the weight to be attached to it depends not only on it having been prepared in accordance with the correct procedure, but also on its content being derived from and consistent with national and local policy. At the inquiry the Council agreed that the extent to which the latter is achieved is a matter to be tested through the appeal process. Thus, although the SPG has been through the proper process and has not subsequently been challenged, it is appropriate to consider the approach set out in paragraph 6.8.1, in relation to the policy context, and the weight to be attached to it.
15. The formula seeks to ensure that, whether provision in any particular case is made on or off the site, affordable housing as a proportion of all housing resulting from the development in question remains the same. It seems to me that this is a matter of policy, rather than detail, but in any event I can find no support for it in national or regional policy, and DLP Policy H2 provides no indication of or justification for such an approach. Whilst I understand the rationale for the formula, in practice it means that a developer proceeding by way of a contribution would have to provide for more units than would have been required on-site, and thus pay a larger sum. That would seem directly at odds with the opening sentence of paragraph 6.8.1, which says 'the level of financial contribution should be equivalent to the contribution that would have been made on the site ...' before going on to explain what that means in financial terms. It would also conflict with emerging policy in draft PPS3, which says that any financial contribution in lieu of on-site provision 'must be of a broadly equivalent value'.
16. In requiring a contribution of greater value than would be made through on-site provision, and in rationalising the additional cost to the developer by explaining that it could be paid for by the additional speculative houses built on the site, it does seem to me that the Council's approach relies in part on utilising some of the development's profits. This is contrary to advice in Circular 05/2005 that obligations should not be used to secure for the local community a share in the profits of development, i.e. as a means of securing a 'betterment levy'. The same point arose in an appeal decision for a site in Newbury (APP/W0340/A/05/1179941) where 'additionality' was an issue. I share the concern of the Inspector in that case about the conflict with existing and emerging national advice, which is relevant irrespective of the different circumstances relating to the SPG documents in the 2 cases.
17. I note the Council's view that any method other than that set out in its SPG would provide an in-built advantage for developers making a financial contribution rather than on-site

provision. However both national and local policy make it quite clear that contributions for off-site provision are appropriate only in exceptional circumstances, and where both the developer and the Council consider it preferable to on-site provision. I have also considered the Council's argument that paragraph 6.8.1 must be read as a whole. However I agree with the appellant that the juxtaposition of the first sentence (described in my paragraph 15) and the next, about the percentage proportion of affordable housing, with no detailed explanation of the rationale for the latter, is somewhat confusing and lacking in clarity. This adds to my concerns about this element of the SPG.

18. Overall, therefore, whilst I agree with the Inspector in the Westbury case that the SPG is a material consideration of some weight, the conflict with established and emerging national policy in relation to the formula approach in paragraph 6.8.1 reduces the weight I can give to this part of it. Having regard to all the information before me on this matter, I consider that a contribution based on 12 units of affordable housing (roughly 30% of the 38 units to be provided on-site) would be reasonable in this case and would accord with Policy H2.

Amount of Contribution

19. The level of provision to be made, in terms of a proportion of the on-site development, is not the only consideration in arriving at the actual sum to be contributed. The type of provision and the likely availability of subsidy are other considerations on which the parties disagree. Although there is no national guidance for calculating contributions for off-site provision, PPG3 and Circular 6/98 include advice about affordable housing generally. Essentially, whilst planning policy should not be expressed in favour of any particular form of tenure, the amount and types of provision should reflect local housing need. Proposals should be considered individually, with provision being a matter for agreement between the parties, who should be reasonably flexible in deciding the detailed mix for a particular site.
20. DLP Policy H2 generally reflects this advice, with the Council's preferred approach of securing social rented housing without public subsidy being described in the explanatory text to the policy, which continues by saying that other arrangements will be considered. I take 'other arrangements' to relate to delivery of affordable housing as a whole, not just the financial aspects. The SPG elaborates on the preferred approach. The Council's evidence to the inquiry includes comprehensive information and analysis, in relation to the whole district and to Warminster, to demonstrate how it arrived at the type and split of units for which it considers provision should be made and, ultimately, the total sum requested.
21. Based on the situation in May 2006, the Council considers £822,881 is required to provide for 3 low cost housing units and 13 social rented units with no public subsidy. The appellant offers a 'tenure blind' contribution of £336,918, which could be used for a variety of options ranging from 100% intermediate housing without subsidy to 100% social rented housing with a reasonable level of public subsidy. Whilst emphasising that any of these options would contribute to meeting the identified need for affordable housing, the appellant accepts that the sum offered would fund no more than about 6 social rented units without public subsidy.
22. With regard to the type of provision, it is not disputed that the greatest identified need is for social rented housing. The appellant questioned the view given by the Council at the inquiry that, at present, there is no demand for low cost housing in Warminster, but produced no substantive evidence of demand to refute this. In any event, the sum requested by the Council is based on providing for 3 such units.

23. Of greater concern to the appellant is the Council's perceived inflexibility in requiring provision to address the priority need for social rented housing. This matter was considered in the Westbury case, and that Inspector cited another appeal decision for a site in Hinckley (APP/K2420/A/03/1127963) where the Secretary of State agreed with the reporting Inspector's views on the adverse implications of giving no priority to meeting the largest component of local need. Taking account of this and DLP Policy H2, the Westbury Inspector concluded that it was reasonable for the Council to expect at least some of the priority needs to be addressed, even on smaller sites. In that case, all the on-site affordable units were to be provided on a shared equity basis. Nothing in the evidence presented to me persuades me to take a different view on the general principle that provision should reflect the greatest component of need.
24. The appellant also suggests the Council's calculation of the amount of the contribution conflicts with one of the tests in Circular 05/2005, namely that planning obligations must be fairly and reasonably related in scale and kind to the proposed development. This is because it is based on provision including some terraced and 3 bedroom units, whilst the appeal proposal comprises one and 2 bedroom flats. However 'reasonably related' does not in my opinion mean that provision must be based on exactly the same size and type of units both on and off-site. Planning obligations routinely provide for off-site development or facilities which differ from on-site development. Having regard to the scale and kind of development proposed in the appeal scheme, I do not find the appellant's arguments that the calculation produces an excessive requirement to be compelling. I am satisfied it is reasonable and complies with the guidance in Circular 05/2005.
25. Turning to the matter of 'nil subsidy', this is part of the Council's preferred approach, referred to above. The appellant argues that, in ignoring the likely availability of public funding, principally Social Housing Grant (SHG) available through the Housing Corporation (HC), the Council's approach and SPG appear to be contrary to emerging national guidance.
26. The Council has set out the affordable housing needs of the District, and of Warminster in particular. It explains the historic situation in the District; the backlog of unsatisfied need; the HC's current approach and objectives; the District's relatively low priority in the context of the HC's regional funding priorities; and the Council's own strategy for addressing affordable housing needs, including its recent successful bid for Private Finance Initiative (PFI) funding. I note that, despite past input of SHG from the Council's own resources and from the HC, need has continued to increase during the last 5 years. Although the appellant sought to demonstrate that SHG is and will continue to be available, this does not diminish the Council's case that lower levels of SHG in future years, combined with the PFI funds, will not be sufficient to satisfy existing identified needs, let alone future needs.
27. The Council also explained its strategy in relation to support for grant bids to the HC, concentrating on those types of affordable housing not generally appropriate as part of a speculative scheme, such as hostels for example, or to achieve on-site provision on suitable sites where it would not otherwise be viable. It is apparent from the evidence before me that the Council has given careful consideration to the likely availability of finance and has established priorities to maximise provision of affordable housing. On the basis of the appeal decisions, that does not appear to have been the case in either the Newbury example or the one at Chesham (APP/X0415/A/06/1196902) on which the appellant relies.

28. Having regard to the identified needs for affordable housing in the District, which are continuing to increase, and the importance of addressing this issue generally, as signalled by the direction of travel in both draft PPS3 and the draft RSS, it seems to me that the Council's approach is a reasonable one. Draft PPS3 advises that, when balancing the need for affordable housing against the viability of sites, authorities should have regard to the implications of competing land uses and make informed assumptions about the levels of finance available. The Council's policy and SPG is not inconsistent with this emerging guidance. Moreover it also incorporates flexibility, including measures to address issues of economics and viability. Thus the Council has not ignored SHG: it has made informed assumptions about the levels of finance likely to be available, and there is support in its adopted policy and in SPG for its approach.
29. The Council's approach is also consistent with the HC's preference, set out in 'The National Affordable Housing Programme 2006-2008 Prospectus', for affordable housing on Section 106 sites to be delivered without HC grant input. The prospectus refers to working with local authorities that have an agreed planning policy to this effect. The HC document is not part of the planning policy framework but, since Circular 6/98 encourages a co-operative approach by those involved in the delivery of affordable housing, it is an additional factor supporting the Council's approach.
30. Overall therefore, having regard to national and local policy, I consider the Council's method of arriving at the total amount of the contribution to be reasonable, but it follows from my conclusions about the level of provision that I do not agree that the actual contribution requested is appropriate or reasonable.

Other Considerations Relating to Affordable Housing

31. Whilst the appellant does not argue that the level and amount of provision requested would make the development unviable, issue is taken with the Council's approach to assessing viability, set out in the SPG and described as an 'open book' test, which is likely to require disclosure of sensitive financial information. This matter was also raised in the Westbury case. The Inspector, having regard to Circular 6/98 and DLP Policy H2, concluded that the submission of financial information to aid negotiations was not unreasonable in the circumstances of that particular case, whilst also noting that it should not necessarily be the only consideration. In this case the appellant highlighted potential difficulties in assessing confidential information in the public arena, but the Council pointed out that the test is essentially a negotiating tool, which it has used successfully in relation to other sites and with other developers. It also noted that independent third parties can be used, as envisaged in Circular 05/2005, and given the uncertainties arising from the variation in financial information provided in evidence to the inquiry, it seems to me that this would be both helpful and reasonable in a case such as this, had viability been an issue.
32. The appellant drew attention to the proposal for 23 open market units, which is considered to accord with development plan policies but would neither provide specialist housing for the elderly nor trigger the provision of any affordable housing. However permission had not been granted for this scheme at the date of the inquiry and the evidence available suggests it would produce a residual value below the current use value, throwing considerable doubt on the likelihood of it proceeding if permission should be granted. I therefore give it little weight as a 'fallback' position.
33. With regard to the advice in Circular 6/98 about ensuring that a financial contribution would actually result in the provision of affordable housing, the Council indicated that

suitable sites would be available in Warminster for this, as not all sites 'land-banked' in anticipation of the PFI can be developed through that initiative.

Conclusions on Affordable Housing

34. In summary, having regard to national and local policy, I have found in the particular circumstances of this case that a contribution based on provision for 12 units of affordable housing (30%), without reliance on public subsidy and reflecting the priority need for social rented units, would be appropriate and reasonable. The need for social rented units constitutes some 87% of identified need in the District. Since the maximum that could be achieved at nil subsidy, if all of the contribution offered was used for this type of provision, is around 6 units, the number would be even less if a mix of social rented and other types of affordable housing were provided. Thus the appellant's proposal would not provide for 30% affordable housing in a way which reflects the priority need for social rented units.
35. I recognise that there would still be benefits in using the contribution for other types of affordable housing and also that there would be benefits in redeveloping a brownfield site in a sustainable location, and in providing a specialist form of housing for which there is a recognised need. However I do not consider such benefits sufficient to outweigh the shortcomings I have identified. I conclude therefore that, despite the contribution offered by way of a unilateral undertaking, the proposal would not make adequate provision for affordable housing, contrary to national policy guidance and to DLP Policy H2.

Other Matters

36. Having regard to the proposed design, the orientation of existing and proposed development and separation between the site and a nearby dwelling, no. 7 Ash Close, I am satisfied that there would be no undue loss of light or outlook to the occupiers of that property. Neither this nor any other matters raised are of such significance as to outweigh the balance of my conclusions on the main issue.

Conclusions

37. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should fail.

Formal Decision

38. I dismiss the appeal, and refuse to grant planning permission for redevelopment of the site to form 38 Category II sheltered apartments, house manager's accommodation, communal facilities and associated car parking.


INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Patrick Clarkson QC, assisted by
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Instructed by Charlotte Eskell, Solicitor, West
Wiltshire District Council

He called

Mrs Judith Dale BSc DipTP MRTPI

Senior Planning Officer, West Wiltshire District
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Mrs Kathy Green MRICS

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FOR THE APPELLANT:

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ADDITIONAL DOCUMENTS SUBMITTED PRIOR TO THE INQUIRY

Document	1	Statement of Common Ground
Document	2	Council's document: 'Comments on appellant's residual land valuations, received after proofs of evidence submitted'

DOCUMENTS SUBMITTED AT THE INQUIRY

Document	3	Public notice and inquiry notification letter
Document	4	Appellant's completed unilateral undertaking
Document	5	Council's draft Section 106 agreement
Document	6	Drewett Neate valuation report, submitted by the Council
Document	7	Appellant's graph showing public subsidy/allocated units, 2000-2008
Document	8	Council's annotated version of Document 8, with allocation sheets added
Document	9	Council's calculation of affordable housing contribution

Document	10	Copy of West Berkshire Council's affordable housing SPG
Document	11	Council's notes on Persimmon Homes' approach to nil subsidy, with supporting documents attached
Document	12	Council's table comparing unilateral undertaking and draft Section 106 agreement
Document	13	Council's list of suggested conditions
Document	14	Extract from the Planning Encyclopaedia, pages 2-3285 & 2-3286

PLANS

Plans	A1-A19	Application plans: drwg. nos. A01-1298-00, A01-1298-01A, A01-1298-02A, A01-1298-03A, A01-1298-04B, A01-1298-05B, A01-1298-06C, A01-1298-07A, A01-1298-08B, A01-1298-09B, A01-1298-10C, A01-1298-11B, A01-1298-12B, A01-1298-13, A01-1298-14, 5631/01, SU01, 164/01 and Perspective 1
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Appeal Decision

Inquiry held on 23 & 24 May 2006

Site visit made on 24 May 2006

by **Karen Baker** DipTP MA DipMP MRTPI

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

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Date: 28 June 2006

Appeal Ref: APP/C2741/A/06/2008620

23-31 The Village, Wigginton, York YO32 2PL

- 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 McCarthy & Stone (Devs) Ltd against the decision of City of York Council.
- The application Ref. 05/01805/FULM, dated 16 August 2005, was refused by notice dated 11 November 2005.
- The development proposed is the erection of 33 sheltered apartments (Category II type) for sale to the elderly, 11 car parking spaces and associated landscaping.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Main Issues

1. I consider that the main issues in this appeal are:
 - a) the effect of the proposed development on the character and appearance of the area; and,
 - b) whether or not the proposal should make provision for an element of affordable housing.

Planning Policy

National Policy and Guidance

2. Government guidance contained in Planning Policy Guidance (PPG) Note 3: Housing, states that a community's need for a mix of housing types, including affordable housing, is a material planning consideration which should be taken into account in formulating development plan policies and in deciding planning applications involving housing. It goes on to say that where there is a demonstrable lack of affordable housing to meet local needs – as assessed by up-to-date surveys and other information – local plans and Unitary Development Plans (UDPs) should include a policy for seeking affordable housing in suitable housing developments. The Government's policy on planning and affordable housing is set out in more detail in Circular 06/98: Planning and Affordable Housing.
3. Paragraph 2 of Circular 06/98 states that PPG 3 recognises that it may be desirable in planning terms for all types of new housing development on a substantial scale to incorporate a reasonable mix and balance of house types and sizes to cater for a range of housing needs. It goes on to say that whilst this is intended to encourage the development of mixed and balanced communities, it is also intended to ensure that affordable housing is only required on sites which are large enough to accommodate a reasonable mix of types and sizes of housing.

4. Paragraph 10 of the Circular sets out a number of criteria which should be taken into account when preparing plan policies for affordable housing, and in assessing the suitability of sites to be identified in the plan and any sites that may come forward not allocated in the plan. Sub paragraph i) says that it will be inappropriate to seek any affordable housing on some sites and that in practice the policy should only be applied to suitable sites, namely, housing developments of 25 or more dwellings or residential sites of 1 hectare or more, irrespective of the number of dwellings. The Secretary of State considers that it may be appropriate for local planning authorities in those areas where this threshold would apply, and who are able to demonstrate exceptional local constraints, to seek to adopt a lower threshold of between this and housing developments of 15 or more dwellings or residential sites of 0.5 hectare or more. However, such constraints must be demonstrated and proposals to adopt a lower threshold must be justified through the local plan process. Sub paragraph ii) recognises the need to achieve a successful housing development and says that wherever possible such sites should incorporate a mix of affordable housing types, such as family housing and homes for smaller households. It goes on to say that care is needed in determining the proportion of affordable housing in the overall numbers on the site and in implementation and subsequent management of the affordable housing element.

Local Policy and Guidance

5. The development plan includes the Regional Spatial Strategy (RSS) – Regional Planning Guidance for Yorkshire and the Humber to 2016 (RPG 12), published in 2001, and the North Yorkshire County Structure Plan, adopted in 1995. I have been referred to a number of policies within these documents, however I consider that Policy H4 of the RSS is most pertinent to my consideration of this appeal. It generally reflects the guidance in Circular 06/98. Policy H4 states, amongst other things, that in preparing development plans for high demand urban areas and accessible rural areas local authorities should consider whether there is evidence which would justify application of lower thresholds as set out in Circular 06/98 (ie down to developments of 15 dwellings or 0.5ha) and, if so, include a justified policy accordingly.
6. I have had regard to the City of York Draft Local Plan, Incorporating the 4th Set of Changes, Development Control Local Plan, published in April 2005. I have been referred to a number of draft policies within this document, however I consider that the following are most pertinent to my consideration of this appeal. Draft Policy H2a seeks to ensure, through negotiation and agreement, that proposals for all new housing development of 15 dwellings/0.3ha or more in the urban area, will include affordable housing in line with the Council's Second Housing Needs Survey, April 2002. It goes on to say that, in order to achieve the maximum reasonable proportion of affordable housing, a target of 45% for affordable rent, plus 5% for discounted sale, to address priority housing needs in the city, has been set on all suitable allocated and windfall sites. It also states that the affordable housing should be distributed throughout the housing development, rather than concentrated in one area.
7. Draft Policy H3c requires a mix of new house types, sizes and tenures on all new residential development sites where appropriate to the location and nature of development. It goes on to say that residential developments must demonstrate that the range of type, size of units (including number of bedrooms), design and layout of the plot and tenures and pricing meets local housing needs. Finally, Draft Policy GP1 expects development proposals,

amongst other things, to respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area; and to retain and enhance the rural character and setting of villages and other townscape features which make a significant contribution to the character of the area.

8. The Council confirmed at the Inquiry that the 4th Set of Changes was not subject to a public consultation exercise prior to its adoption by the Council for development control purposes. Indeed, a number of outstanding objections remain from the consultation exercise undertaken on the 3rd Set of Changes. The Council also stated at the Inquiry that the Draft Local Plan would not be subject to a public local inquiry into representations made during the consultation exercises carried out over recent years, as it is the Council's intention to begin work on a Local Development Framework for the city. Given the current stage of the Draft Local Plan, along with the lack of any public consultation on the 4th Set of Changes, I consider that, having regard to paragraph 18 of The Planning System: General Principles limited weight should be attached to it.
9. I have also had regard to the Council's Affordable Housing Advice Note, published in July 2005. It includes a methodology for negotiating an appropriate level of affordable housing and explains where costs will be taken into account in order to agree lower levels than the Local Plan policy target. I note that this document was subject to a consultation exercise prior to its formal adoption by the Council. However, it is based on an unadopted policy in the Draft Local Plan. As such, having regard to paragraph 5.22 of Planning Policy Statement (PPS) 12: Local Development Frameworks I consider that limited weight should be attached to this advice note.

Reasons

Character and Appearance

10. The appeal site is located in a predominantly residential area on the southern side of The Village. The style and design of dwellings in the vicinity of the appeal site varies greatly, with detached, semidetached and terraced properties all being located in this area. The dwellings along The Village are mostly 2 storeys in height, although it was apparent from my site visit that the eaves and ridge heights of these properties vary considerably and there has been some use made of the roofspace within several nearby dwellings to provide additional living accommodation. To the west of the appeal site, on the other side of Church Lane, is Rosevale Residential Home, a substantial building of 2 storeys in height, which has been extended to the rear and within the roofspace to create additional accommodation for the residents. To the south of the appeal site is Back Lane, beyond which is The Bungalow and St Mary's Mews. The latter is a substantial, mainly 2 storey, sheltered housing development. St Mary's and St Nicholas' Church is located to the south west of the appeal site, to the south and west of Back Lane and Church Lane respectively.
11. The Council, Parish Council, Parochial Church Council and many local residents are concerned about the impact of the proposed development on the character and appearance of the area, particularly the area along The Village described by the Council at the Inquiry as the historic core of the settlement. The proposal would provide 33 flats in a 2 and 3 storey development for elderly persons, along with 11 car parking spaces, within a landscaped setting. When viewed from The Village, the front elevation of the proposed

- development would incorporate a variety of eaves and ridge heights and would include both 2 and 3 storey buildings. In addition, a mixture of building lines would be included along the front elevation. Rather than appearing contrived, as suggested by the Council, I consider that the proposed design would reflect and respect the scale, height, mass and siting of the buildings in the vicinity of the site. As such, I consider that the proposal would not appear visually obtrusive or overbearing and would not be out of keeping with the streetscene along this part of The Village.
12. Many of the dwellings which front onto The Village have long rear gardens, including Nos. 23-31 which are currently located on the appeal site. The proposed building would include a 2 storey element to the rear, which would extend into this currently open area and would be visible from Back Lane and Church Lane. The Council is concerned that given the mass and scale of this proposed rear element it would not respect the form of built development in this part of Wigginton. It was apparent at my site visit that this traditional built form has already been eroded by a number of developments, including frontage properties along Back Lane, such as Greenacres and Copperfields to the east of the appeal site. In addition, Rosevale Residential Home has been extended to the rear, adjacent to Church Lane. The rear element of the proposed building would be set back from Church Lane and Back Lane. Given its siting, along with its height and design, I am satisfied that it would not appear visually intrusive or dominant when viewed from Church Lane and Back Lane and would respect the form of development in the locality. As such, I do not consider that the proposal would represent an overdevelopment of the appeal site.
13. This part of Wigginton is not within a conservation area and no listed buildings are sited within the vicinity of the appeal site. However, the Council and the Parochial Church Council, along with many residents have concerns about the impact of this proposal on the setting of St Mary's and St Nicholas' Church. Currently, views of the Church are available through gaps between the buildings along The Village. During my site visit it was apparent that one of these views is currently available between Nos. 25 and 27 across the appeal site. However, given the height, siting and scale of the existing buildings on the appeal site, along with the siting of the church, only an oblique and glimpsed view of the roof area and spire is currently available. Although the proposed development would obscure most, if not all, of this view of the Church, I do not consider that its loss would be materially harmful to the character and appearance of this part of Wigginton. In addition, given the distance between the proposed building and the Church, along with the close proximity of other buildings to it, in my opinion, the proposal would not be detrimental to the setting of St Mary's and St Nicholas' Church.
14. I conclude, therefore, that the proposed development would not harm the character and appearance of the area. As such, it would not be contrary to Draft Policy GP1 of the Draft Local Plan.

Affordable Housing

15. The proposal would provide 33 sheltered apartments on the site. As such, the Council considers that 50% should be affordable to accord with its Draft Policy H2a. This draft policy sets a threshold of 15 dwellings or 0.3ha, above which 50% of dwellings would be required to be affordable. I note the Council's statement that this lower threshold is encouraged by Circular 06/98 and Policy H4 of the RSS, and supported by Draft PPS 3: Housing. However, in my opinion, this lower threshold does not accord with current

Government guidance contained within Circular 06/98 as its adoption has not, as yet, been justified through the local plan process. As such, I consider that the most appropriate threshold against which to consider this proposal is that contained within the Circular. In any event, given the number of apartments proposed, the development would exceed the threshold stated in Circular 06/98 which says that the policy should be applied to suitable sites, namely housing developments of 25 or more dwellings or residential sites of 1 hectare or more, irrespective of the number of dwellings.

16. I acknowledge the Council's concerns relating to the need for affordable housing in the City of York. Although the 2002 Housing Needs Survey and the Draft York Housing Market Assessment 2006 provide clear evidence of broad affordable housing needs, these documents do not address the extent of the need for Category II sheltered accommodation in particular. Indeed, the Council did not provide any evidence either prior to or during the Inquiry of capacity within the existing stock of affordable Category II housing or similar accommodation.
17. Although the proposal would exceed the threshold for affordable housing included in the Circular, a number of other criteria, set out in paragraph 10, need to be considered before determining whether or not the appeal site would be suitable for the provision of affordable housing. The Council stated at the Inquiry that the proposal could accommodate a mix of tenures. I acknowledge the appellants' reference to a letter from Peverel Limited who describe themselves as one of the country's leading managers of sheltered accommodation and providers of a management service for a number of national housebuilders. This letter describes the difficulties in managing developments where there may be a disparity in the facilities and services offered or the level of service charge levied amongst residents within any one scheme and where Registered Social Landlord (RSL) owned sheltered apartments are 'pepper potted' within a private scheme. I also note the appellants' statement that there are no known examples of a mix of tenures within one building, as sought by the Council, operating in the country. Although this does not mean that such provision would not be possible in the future, in my view, a mix of tenures within the proposed building would not be appropriate in this case, given the potential management difficulties and that any differences in the facilities and services offered or the level of service charge levied would be likely to cause significant animosity and resentment amongst elderly residents. As such, I am not satisfied that such an approach would result in a successful housing development on the appeal site.
18. The Council stated at the Inquiry that a comparison could be drawn between the appeal proposal and care homes. I concur with the appellants' view, however, that homes for the seriously ill or infirm are not a good parallel, not least because the residents of such places have no equity investment in the property.
19. Although the Council has stated that 50% of the accommodation should be affordable, during the Inquiry it said that occupants would not need to be over 60 years of age. In my view, the proposed development can not be said to be substantial in scale, given that the site is only around 0.29ha. I consider that the size of the site would limit the variation in type and size of housing which could be accommodated on it. Nevertheless, this would not necessarily preclude its consideration for an element of affordable housing. However, the smaller the site the more difficult it would be to achieve a successful mix and I am not satisfied, from the evidence provided by the Council at the Inquiry, that such a scheme

could be implemented at the appeal site. As such, I consider that the site would not be suitable for affordable housing.

20. I conclude, therefore, that the proposal should not make provision for an element of affordable housing.

Other Matters

21. Several local residents and the Parish Council have raised concerns relating to highway and pedestrian safety. Vehicular access to the proposed development would be from Church Lane. The appellants have stated that some highway improvements would be made prior to the commencement of development which would include improvements to the junction of Church Lane with The Village to provide increased road width, radii and footway provision around the junction and along the eastern side of Church Lane. These are shown indicatively on Drawing No. 04/208/100/001. The improved junction would provide visibility splays of 90m in both directions at a set back of 2.4m, which would accord with Government guidance set out in Places, Streets and Movement: A Companion Guide to Design Bulletin 32 – Residential Roads and Footpaths, published in 1998. From the evidence supplied by the appellants' highways consultant, it is apparent that the proposal would not result in a net increase in traffic on The Village or on the wider highway network. However, given the proposed access point, the evidence shows that there would be a net increase in traffic using Church Lane, equivalent to that generated by 3 dwellings, on the basis of daily traffic movements, and 0-2 dwellings, on the basis of peak hourly traffic movements. Nevertheless, given the proposed highway improvements along Church Lane and its junction with The Village, I am satisfied that the proposal would not harm highway and pedestrian safety.
22. The Parochial Church Council and some local residents have expressed concerns that the proposal would exacerbate on street car parking problems along Church Lane and Back Lane as it would lead to vehicles parking on the public highway, due to the lack of car parking provision proposed on the site. The proposal would provide 11 car parking spaces and 2 additional spaces located on an area of grasscrete. The Council's parking standards suggest that 8-9 spaces be provided, plus an additional space for the non-resident house manager. From the evidence provided by the appellants' highways consultant it is apparent that residents of sheltered housing schemes generally have a low car ownership and consequently low traffic generation rates. Given the nature of the proposed development and the sustainable location of the appeal site, I am satisfied that the car parking spaces proposed would be sufficient to serve the development and would be unlikely to lead to cars parking on The Village or Church Lane.
23. I note the concerns of some residents relating to the temporary parking of vehicles along The Village next to the pedestrian access to the proposed development. While it is anticipated that any deliveries to the future occupiers of the proposed apartments would be via the rear car park, given the width of The Village, along with the available forward visibility, I do not consider that any vehicles which park along it would be detrimental to highway safety.
24. Several local residents have expressed concerns about the impact of the proposal on their living conditions. Given the separation distances proposed, along with the scale, height and

siting of the proposed building, I am satisfied that it would not lead to a loss of sunlight, daylight or privacy to the occupiers of neighbouring dwellings.

Conditions

25. In addition to the standard time limit condition, the Council and the appellants suggested 32 conditions within the Statement of Common Ground, and a further 2 conditions were put forward at the Inquiry. I have had regard to the advice in Circular 11/95 during my consideration of these conditions. Given that the application was submitted prior to 24 August 2005, the standard time limit condition should refer to 5 years. In my opinion, a condition which requires the submission of large scale details of specific items would not be sufficiently precise. However, the inclusion of the required scale, as suggested by the appellants, would remedy this. A condition requiring the submission of details of the means of enclosure would be necessary to safeguard the character and appearance of the area. However, this condition should include its retention. A condition requiring the submission of samples of the external materials to be used in the construction of the building would be necessary to safeguard the character and appearance of the area. A condition requiring the submission of details of soil and vent stacks, heating and air conditioning plant, fume extraction and odour control equipment, along with any external ducting would be reasonable to safeguard the living conditions of nearby residents. However, this condition should include its implementation and require that, thereafter, such equipment be operated and maintained in accordance with the manufacturer's instructions.
26. In my opinion, a condition securing the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority would be sufficient in this case to ensure that any important archaeological deposits are recorded. Conditions requiring that all areas used by vehicles shall be surfaced, sealed and drained prior to the occupation of the apartments and requiring the removal of existing vehicular crossings would be reasonable in the interests of highway safety. A condition requiring the submission of details of the cycle parking area and its means of enclosure would be necessary to promote the use of cycles and to safeguard the living conditions of nearby residents. A condition requiring that the areas shown on the approved plans for parking and manoeuvring of vehicles be constructed and laid out prior to the occupation of the apartments would be reasonable in the interests of highway safety. A condition requiring the submission of details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway and, if necessary, its removal, would be reasonable in the interests of highway safety.
27. I consider that a 'Grampian' style condition requiring improvements to Church Lane would be appropriate in this case in the interests of highway safety. A condition requiring the submission of a method of works statement would be reasonable in the interests of highway safety. However, this condition should include its implementation. Conditions requiring the submission of a detailed landscaping scheme and the protection of retained trees and existing planting, would be reasonable to safeguard the character and appearance of the area. A condition which prevents the construction of a building or other obstruction over or within 3m either side of the centre line of the sewer would be reasonable to ensure that access for maintenance is retained. A condition requiring the demolition and construction works, along with ancillary operations, to be confined to within set hours would be

necessary to safeguard the living conditions of nearby residents. The start times suggested by the Council would, in my view, be reasonable in this regard. A condition limiting occupancy of the apartments to persons aged 60 and over would be reasonable given the nature of the development. A condition requiring details of the servicing of the site by construction vehicles would be reasonable in the interests of highway safety. This could be incorporated in to the condition relating to the method of works statement. Finally, a condition requiring the provision of a bus stop would be reasonable in the interests of sustainable development.

28. In my opinion, a condition which lists the submitted plans and requires the development to be carried out in accordance with them would not be necessary, given that the formal decision below refers to the submitted plans and there have been no amendments proposed. It would not be necessary to erect a sample panel of the brickwork to be used on the building in order to safeguard the character and appearance of the area. A condition requiring the submission of details of the junction between the internal access road and the highway would not be necessary given the detail on the submitted plans. Conditions requiring the provision of visibility splays and sight lines would not be necessary given the alterations proposed to the junction of Church Lane with The Village, the detail of which would be controlled by condition. Conditions requiring a dilapidation survey of the highways adjoining the site and a full 3 stage road safety audit would not be reasonable or necessary in the interests of highway safety. Conditions relating to the means of foul and surface water drainage would not be necessary as these matters would be covered by other legislation. A condition requiring details of the measures to prevent noise and vibration from the laundry area affecting the adjoining flats would not be necessary as the proposal would incorporate mitigation measures. Finally, a condition requiring an assessment of the site for contamination would not be reasonable given its current use and that there is no evidence that contamination would be present.
29. In addition to the suggested conditions, 2 informatives have been put forward in the Statement of Common Ground. In my opinion, these informatives would not be necessary as they relate to matters covered by other legislation.

Conclusions

30. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Formal Decision

31. I allow the appeal, and grant planning permission for the erection of 33 sheltered apartments (Category II type) for sale to the elderly, 11 car parking spaces and associated landscaping at 23-31 The Village, Wigginton, York YO32 2PL in accordance with the terms of the application, Ref. 05/01805/FULM, dated 16 August 2005, and the plans submitted therewith, subject to the following conditions:
- 1) The development hereby permitted shall begin before the expiration of five years from the date of this decision.
 - 2) Details of the items listed below shall be submitted at a scale of 1:50 to and approved in writing by the local planning authority prior to the commencement of the

development and the works shall be carried out in accordance with the approved details.

Windows and reveals, doors, eaves treatment, window cills and heads, brickwork detailing.

- 3) Details of all means of enclosure to the site boundaries shall be submitted to and approved in writing by the local planning authority before the development commences and shall be provided before the apartments are occupied and retained thereafter.
- 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) Details of soil vents and stacks, heating and air conditioning plant, including fume extraction and odour control equipment, with details of any external ducting, shall be submitted to and approved in writing by the local planning authority before the development commences. Development shall be carried out in accordance with the approved details and thereafter operated and maintained in accordance with the manufacturer's instructions.
- 6) No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 7) The building shall not be occupied until the hard surfaced areas shown on Drawing No. 1302/02/05 have been drained, sealed and surfaced in accordance with details submitted to and approved in writing by the local planning authority.
- 8) The apartments shall not be occupied until all existing vehicular crossings not shown as being retained on the approved plans have been removed by reinstating the kerbing and footway to match adjacent levels.
- 9) Prior to development commencing details of the cycle parking area, including means of enclosure, shall be submitted to and approved in writing by the local planning authority. The building shall not be occupied until the cycle parking area and means of enclosure have been provided within the site in accordance with the approved details. This area shall not be used thereafter for any purpose other than the parking of cycles.
- 10) No apartment shall be occupied until the areas for parking and manoeuvring of vehicles have been constructed and laid out in accordance with Drawing No. 1302/02/05. These areas shall be retained thereafter solely for such purposes.
- 11) Prior to the commencement of development details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway, shall be submitted to and approved in writing by the local planning authority. The approved measures shall be employed and adhered to at all times during construction works.

- 12) Development shall not begin until the details of the improvements to Church Lane as shown indicatively on Drawing No. 04/208/100/001 have been submitted to and approved in writing by the local planning authority. The apartments shall not be occupied until the highway works have been carried out in accordance with the approved details.
- 13) Prior to the commencement of any works on the site, a detailed method of works statement identifying the programming and management of site clearance, preparatory and construction works, and servicing of the site by construction traffic, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with this approved statement.
- 14) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include the number, species, height and position of trees and shrubs to be planted. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives prior written approval to any variation.
- 15) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 1 year from the date of the occupation of the building for its permitted use.
 - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) Prior to the commencement of development the means of protection of any retained tree and existing planting on the site shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.
- 16) No building or other obstruction shall be located over or within 3m either side of the centre line of the sewer which crosses the site, unless otherwise agreed in writing by the local planning authority.
- 17) All demolition and construction works and ancillary operations including deliveries and despatches from the site shall be confined to the following hours:

0800hrs to 1800hrs (Monday to Friday)

0900hrs to 1300hrs (Saturday)

Not at all on Sundays and Bank Holidays

- 18) None of the residential apartments hereby permitted shall be occupied by persons less than 60 years of age, except in the case of 2 or more persons sharing an apartment, one occupant shall not be less than 60 years of age and the others not less than 55 years of age.
- 19) Prior to the commencement of development details of the provision of a bus stop to serve west bound public service vehicles travelling along The Village will be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the bus stop has been erected in accordance with the approved details.



INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr John Hunter of Counsel

Instructed by the City Solicitor

He called

Mr Derek Gauld BA(Hons) DipTP MRTPI Principal City Development Officer

Mr Christopher Newsome BSc DipTP MRTPI CUED Community Planning Officer/Development Control Officer

FOR THE APPELLANT:

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Instructed by Mr P Graham, Director (Appeals), The Planning Bureau Limited, Homelife House, 26-32 Oxford Road, Bournemouth, Dorset BH8 8EZ

He called

Mr Anthony Allen MRTPI Managing Director, The Planning Bureau Limited

Mr George Martin BA(Hons) BArch RIBA Design Director, The Planning Bureau Limited

Mr Neil Appleton BSc CEng MICE Director, Bryan G Hall Consulting Civil and Transportation Planning Engineers, Suite E8, Joseph's Well, Hanover Walk, Leeds LS3 1AB

INTERESTED PERSONS:

Mrs Julia Wood, on behalf of local residents 21 The Village, Wigginton

Mr Paul Firth, on behalf of Wigginton Parish Council Cedar House, Back Lane, Wigginton

Mrs Jean Wallace, on behalf of Reverend Grant, St Mary's and St Nicholas' Church 6 Heslin Close, Haxby

Mr John Clark, on behalf of the Wigginton School Governing Body and Jack in the Box Day Nursery 16 The Village, Wigginton

DOCUMENTS SUBMITTED DURING THE INQUIRY

Document	1	List of persons present at the Inquiry
Document	2	Council's letter giving notice of the Inquiry and a list of people notified
Document	3	Statement of Common Ground
Document	4	Photomontages for the appeal scheme, submitted by the appellants
Document	5	2002 Housing Needs Survey Final Report, August 2002, submitted by the Council
Document	6	Draft York Housing Market Assessment, April 2006, submitted by the Council
Document	7	Extract from the City of York Green Belt Working Group Agenda held on 25 August 2004, submitted by the Council
Document	8	Representations to Draft Policy H2a of the City of York Draft Local Plan – Third Set of Changes, submitted by the Council
Document	9	Report of the Director of Development Services, titled Affordable Housing in York, to the Executive Briefing Session on 16 January 2005, submitted by the Council
Document	10	Understanding Planning Gain: What Works? published by the Joseph Rowntree Foundation, submitted by the Council
Document	11	Extract from By Design: Urban Design in the Planning System: Towards Better Practice, submitted by the Council
Document	12	Letter from Hanover Housing Association, dated 30 July 2004, submitted by the appellants
Document	13	Statement by Mrs Julia Wood
Document	14	Statement by Mrs Jean Wallace
Document	15	Statement by Mr John Clark

PLANS

Plan	A1/1	Contextual Analysis, Drawing No. 1302/02/01
Plan	A1/2	Design Solution, Drawing No. 1302/02/02
Plan	A1/3	Location and Context Plan, Drawing No. 1302/02/03
Plan	A1/4	North Elevation Frontage View, Drawing No. 1302/02/04
Plan	A1/5	Coloured Site Plan, Drawing No. 1302/02/05
Plan	A1/6	Floor Plans, Drawing No. 1302/02/06
Plan	A1/7	Elevations, Drawing No. 1302/02/07
Plan	A1/8	Sketch Scheme Sketch View (View from The Village looking east), Drawing No. SK/WTN/14
Plan	A1/9	Sketch Scheme Sketch View (View from The Village looking west), Drawing No. SK/WTN/15

APPENDIX C



Appeal Decision

Hearing (Virtual) Held on 17 March 2021

Site Visit made on 18 March 2021

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 April 2021

Appeal Ref: APP/C4235/W/20/3256972

Land adjacent to Hillbrook Grange Care Home, Ack Lane East, Bramhall, Stockport SK7 2BY

- 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 McCarthy & Stone Retirement Lifestyles Ltd against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC/071147, dated 28 September 2018, was refused by notice dated 30 April 2020.
 - The development proposed is erection of 40 apartments (14 x 1-bed and 26 x 2-bed) of retirement living accommodation (Category II type) with associated communal facilities, landscaping and car parking.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 40 apartments (14 x 1-bed and 26 x 2-bed) of retirement living accommodation (Category II type) with associated communal facilities, landscaping and car parking at land adjacent to Hillbrook Grange Care Home, Ack Lane East, Bramhall, Stockport SK7 2BY, in accordance with the terms of the application Ref DC/071147, dated 28 September 2018, and subject to the conditions set out in the schedule to this Decision.

Procedural Matters

2. It was agreed at the Hearing that the description of development from the Statement of Common Ground (SoCG) should be used in preference to that shown on the planning application form.
3. The scheme was amended during the course of the Council's consideration of the planning application, including widening the existing vehicular access onto Ack Lane East and associated felling of a beech tree protected by a Tree Preservation Order (TPO). Interested parties were able to make representations on these changes and the amended plans are contained within the agreed plans list as provided in the SoCG. I have therefore assessed the appeal proposal in its revised form.
4. The effect of the loss of the protected beech tree did not feature in the Council's refusal reasons. Nevertheless, owing to the level of representations, I deemed it appropriate to discuss the matter as a main issue at the Hearing.
5. A draft planning obligation¹ in the form of a unilateral undertaking (UU) to provide for affordable housing and recreation/amenity open space contributions

¹ Under Section 106 of the Town and Country Planning Act 1990 (as amended)

was discussed at the Hearing. With my agreement, the final executed version of this document, dated 18 March 2021, was submitted after the close of the Hearing.

6. The Council confirmed that the recreation/amenity open space contribution included in the UU addresses the second reason for refusal. Whilst I will return to the provisions of the UU later in this Decision, I am satisfied that this matter is no longer a main issue in this case.
7. At the Hearing I was invited to view the site from the neighbouring garden of 10A Hillbrook Road, which I was able to do as part of my site visit.
8. After the close of the Hearing, both the Council and the appellant formally withdrew their previously made applications for costs against each other. Consequently, there are no applications for costs before me.

Main Issues

9. With the above in mind, the main issues in this appeal are:
 - Whether or not the development would make adequate provision for affordable housing; and
 - Whether the loss of a protected tree is justified, having regard to relevant development plan policy.

Reasons

Affordable housing

10. Policy H-3 of Stockport's Core Strategy DPD 2011 (the CS) states that the Council will negotiate, subject to viability, to achieve 40% affordable housing on sites in areas with the highest property prices, such as Bramhall. The tenure split sought in such areas is 50% intermediate and 50% social rented. The policy predates the National Planning Policy Framework (the Framework). Nevertheless, it remains broadly consistent with the Framework in terms of delivering housing for different groups, specifying the type of affordable housing required, forming mixed and balanced inclusive communities, and taking viability into account.
11. The appeal scheme on the basis of CS Policy H-3 should seek to achieve 16 affordable units, all of which the Council agreed could be intermediate in this case. However, owing to the specialist nature of the accommodation proposed, the Council has accepted that such provision on the site would be impractical and that a commuted sum is the most appropriate method of securing the affordable housing provision in this instance. On the evidence that is before me I have no reason to form a different view. Moreover, such flexibility in approach reflects the Planning Practice Guidance (PPG) advice to take a positive approach to schemes where there is an identified unmet need for specialist housing².
12. Despite initially being some distance apart on the amount of commuted sum that the scheme could support, in the lead up to the Hearing the main parties reached agreement on all viability assessment inputs. Based on viability, the UU now includes a contribution of either £1,551,035 if ground rents can

² 016 Reference ID:63-016-20190626

continue to be charged, or, £1,282,025 if legislation banning ground rents is enacted. The crystallisation date for determining which sum applies would be on first occupation. This trigger would be appropriate given that the sales revenue to fund the payment would likely only be fully realised on completion of the development. The Council's concern that the development may be stalled to avoid paying the higher sum has no substantive basis.

13. The remaining area of dispute between the main parties focuses on whether there is a shortfall against a full policy target commuted sum and the need for a review/clawback mechanism to be included in the UU. This clause would provide an opportunity for the Council to review actual build costs and sale prices, and potentially secure a share of any uplift in profit.
14. The Council contends that the full policy target commuted sum (ground rent included) should be £1,875,068, based on 16 units with a 50/50 intermediate and social rented split, as set out in CS Policy H-3. Clearly, there would be a shortfall against this figure. However, the appellant submits that the full policy target commuted sum in this case should be based on what the Council agreed would have been required to be provided on the site, i.e. intermediate only. This equates to a commuted sum of £1,539,958, which means there would be no shortfall.
15. The above notwithstanding, at the Hearing the Council accepted that where a robust viability case has been presented to justify the level of affordable housing contribution, the proposal should not be considered in conflict with CS Policy H-3. This is because the amount of affordable housing required by the policy is subject to negotiation and could vary depending on the financial viability of the development.
16. Furthermore, in straightforward policy terms a requirement for a review/clawback mechanism is not part of the development plan. The requirement for such a clause arises from the Council's recently produced Explanatory Note³. This document does not have the status of development plan policy. Nor is there any indication that it has been subject to consultation and formally adopted as supplementary planning guidance. Accordingly, it attracts very limited weight.
17. My attention was drawn to the PPG's support for review of viability over the lifetime of a project⁴. However, the relevant paragraph starts by saying this requirement should be set out in Plans. Moreover, as the development would almost certainly be completed in a single phase with an estimated build time of 12-18 months, it is not the sort of large multi-phased scheme where stronger arguments for a review/clawback mechanism may otherwise exist.
18. Drawing these matters together, the proposal would make an important contribution towards an undisputed affordable housing need in the Borough. The commuted sum is not the full equivalent of the tenure split sought by CS Policy H-3. Nevertheless, it is significant that the commuted sum is the full equivalent of what the Council has agreed could be provided on the site, and is supported by robust viability appraisal which has been the subject of detailed negotiations and agreement between professionals for both parties. I attach substantial weight to the viability assessments and the agreed position.

³ Affordable Housing Requirements in Stockport Explanatory Note, January 2021

⁴ 009 Reference ID:10-009-20190509

There is no specific development plan policy or adopted guidance to support the Council's position on a requirement for a review/clawback mechanism in this case. These factors lead me to conclude that the development would make adequate provision for affordable housing. As such, the proposal complies with CS Policy H-3, which enables negotiation and consideration to be given to the viability of affordable housing contribution on individual sites.

Loss of a protected tree

19. Some of the trees within the site are protected by the Benja Fold, Bramhall, No.1, 1979 TPO. Tree 22 in the TPO (T22) is a purple beech. It is classified in the tree survey⁵ as category A, of high quality. As a healthy, early mature specimen, it is assessed as having a potential retained life expectancy in excess of 40 years.
20. At my site visit I was able to confirm that T22 is a prominent feature at the site entrance with a canopy overhanging the road, such that even when it is not in leaf, it makes a positive contribution to the street scene and the verdant character of the area generally.
21. CS Policy SIE-3 requires that development proposals affecting trees which make a positive contribution to amenity should make provision for their retention unless there is justification for felling to enable the development to take place. Even where there is a strong justification, the design should maximise the potential for retaining some mature planting, and replacement planting should be provided within the site or nearby.
22. It is common ground between the main parties that the removal of T22 is necessary to facilitate safe vehicular access to the development. It was also agreed at the Hearing that there are no other options to achieve a suitable vehicular access.
23. Although there is no detailed landscape scheme at this stage, the drawings indicate the introduction of extensive new landscaping within the grounds of the development. I was informed that this would include 39 new trees, albeit 15 low quality unprotected trees would also be removed. There was some discussion over the potential location of a replacement tree to compensate specifically for the loss of T22. This included 'somewhere on the highway nearby', but it was not clear precisely where this would be and whether it was a realistic proposition. Another option discussed was further along the access. However, as there is already a good density of mature tree coverage in that location, the benefit would be limited. I also have concerns that its growth could be suppressed.
24. The options for replacement planting in the immediate vicinity of T22 therefore appear to be limited. However, having regard to the extensive roadside tree coverage in this part of the street, this is not critical. I am content that there is sufficient opportunity for replacement planting within the core of the site as part of a comprehensive landscaping scheme which overall, is likely to lead to an improvement in the level and quality of tree coverage within the site. The details, including appropriate replacement of T22, could be suitably dealt with by a planning condition. This is a view shared by the Council.

⁵ 9900-KC-XX-YTREE-TreeSurveyRev0 by Keen Consultants

25. Where other trees within the site are to be retained, they could be suitably protected during construction and a method statement would be required to ensure an appropriate 'no dig' system is used where hard surfaces would be close to the Root Protection Areas of the trees. This could also be controlled by conditions.
26. Taking a balanced view, I conclude that the loss of T22 is justified to enable the development to take place and that the effect of its loss can be adequately compensated for as part of the landscaping of the development, such that it would not amount to harm in overall terms. In this regard, the proposal complies with CS Policy SIE-3.

Other Matters

27. Some interested parties have questioned the need for further retirement housing in the area. However, the main parties agree that the development would contribute towards meeting an existing and growing need for such accommodation, both in Bramhall and Stockport generally. On the evidence that is before me, including the Council's recent Housing Needs Assessment (2019), I have no reason to disagree.
28. Although the site is not previously developed land, it lies within the grounds of an existing care home, within an established residential neighbourhood, and close to the local district centre which contains a good range of shops and services, including health care and community facilities. It is also accessible by public transport. I therefore concur with the Council that the site is an appropriate location for the development.
29. The density of the development would be higher than that of the surrounding area, which is inevitable given the type of accommodation proposed. Nonetheless, it is not the calculated density that is telling, but the details of the scheme that is achieved. Having regard to the scale, design, materials, and layout of the development within secluded landscaped grounds, I am satisfied that it would effectively blend into the village-like environment and would not be visually intrusive. For the same reasons and having regard to the intervening care home building and mature vegetation to the east of the site, I would concur with the Council that the setting of the nearby Bramhall Lane South Conservation Area would not be harmed.
30. The Council has confirmed that its concerns over the safety of the vehicular access have now been addressed by the amendments to widen the access and make provision for passing places. The level of parking provision has been robustly justified by evidence of similar developments and accords with the Council's parking standards. That there is no objection from the local highway authority is a matter I give substantial weight. Thus, whilst I acknowledge the concerns of interested parties, the evidence before me does not lead me to conclude that the development would unacceptably impact on the safe operation of the local highway network, or exacerbate any existing parking problems in the area.
31. There is no doubt that the development would change the rear outlook for some neighbouring residents in Hillbrook Road. However, the Council advises that the development would clearly exceed all of the relevant separation distances set out in its Design of Residential Development Supplementary Planning Document. Moreover, there is no substantive evidence before me that

would lend support to residents' concerns over loss of light and overshadowing. Thus, I am unable to conclude that the development would unacceptably harm the living conditions of nearby occupiers with regard to privacy, outlook and light. Though there may be some disruption during construction, this would be temporary and could be managed by a construction management plan to be submitted and agreed with the Council.

32. In terms of the effect on local wildlife and the site's role in the Green Chain designation, I have had regard to the ecological appraisal that accompanied the application. This concludes that, subject to the implementation of recommended mitigation measures, including requirements to carry out further pre-development surveys for bats and badgers, the development would not have an adverse effect on local wildlife, including protected species, or habitats. This was also the conclusion reached by the Council and there is no substantive evidence to lead me to reach a different conclusion.
33. While I have noted that the site has been used occasionally for community events, it is in private grounds and is not designated open space. In addition, the Council advises that the retained garden areas for the care home exceeds the provision required for the recreation purposes of its residents. The maintenance and safety of existing paths within the care home grounds is a matter for the owner.

Unilateral Undertaking

34. The completed, signed and dated UU makes provision for contributions towards affordable housing and to offset the impact of the development on public recreation/amenity open space in the area.
35. Based on my findings on the first main issue, the aforementioned affordable housing contribution is necessary in lieu of on-site provision and is supported by the requirements of CS Policy H-3.
36. The public recreation/amenity open space contribution of £72,080 has been calculated on the basis of the specific development proposed and is supported by the requirements of CS Policy SIE-2 and the Council's Open Space Provision and Commuted Payments Supplementary Planning Document (2019).
37. I am therefore satisfied that each of the contributions would comply with the relevant tests for planning obligations as set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and paragraph 56 of the Framework in that they would be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related to it in scale and kind. Accordingly, I have taken the obligations into account in support of the appeal proposal.

Conditions

38. An agreed list of conditions was discussed at the Hearing. Where necessary I have amended the wording in some conditions in the interests of precision and clarity, and in order to comply with the tests in paragraph 55 of the Framework. Any pre-commencement conditions have been agreed by the appellant.
39. Condition 2 defining the approved plans is necessary in the interests of certainty. Condition 3 concerning external materials is necessary to ensure a

satisfactory appearance of the development. Conditions 4 and 5 relating to landscaping are necessary to protect the character and appearance of the area and to compensate for the felling of a protected tree. The protection of existing trees during construction is ensured by Conditions 6 and 7.

40. Conditions 8, 10 and 11 are necessary in order to safeguard the habitat of protected species. Condition 9 is manifestly necessary to ensure the safe removal of Japanese knotweed from the site.
41. Conditions 12 and 13 are necessary to ensure effective drainage for the site and development.
42. Condition 14 is necessary to reduce the carbon emissions of the development, and Conditions 18 and 19 are necessary to promote sustainable travel choices.
43. Condition 15 is necessary in the interests of managing the effects of construction on the highway, neighbouring residents, and the surrounding area. Conditions 16 and 17 are necessary in the interests of highway safety and to ensure sufficient parking provision.
44. Condition 20 relating to noise and vibration mitigation measures is necessary to protect the living conditions of the occupiers of the development due to the proximity to a railway line. Condition 21 concerning physical security details to be implemented is necessary to reduce the risk of crime.
45. Condition 22 which restricts the age of the occupiers of the proposed residential accommodation is necessary to ensure the development meets the needs of an ageing population, and also as the affordable housing and open space contributions, as well as parking provision, specifically reflects the nature of the development proposed.
46. I have not imposed the proposed condition relating to external plant as it may potentially result in changes to the scheme which ordinarily would require planning permission and which interested parties may not have been aware of.

Conclusion

47. It is common ground between the main parties that the Council has 2.6 years supply of housing land, which is substantially below the requirement for a 5 year supply. Nonetheless, I have found that the proposal would accord with the relevant development plan policies identified above. It is therefore not necessary for me to consider the implications of the Council's housing supply position any further.
48. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be allowed.


INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Paul Tucker	Queens Counsel
Chris Butt	The Planning Bureau
Frances Cachia	The Planning Bureau
Carla Fulgoni	The Planning Bureau
James Mackay	Alder King
Neil Appleton	Transport Planning (York) Ltd
Jago Keen	Keen Consultants

FOR THE LOCAL PLANNING AUTHORITY:

Jane Chase	Stockport Metropolitan Borough Council
Steve Johnson	Stockport Metropolitan Borough Council
Andy Kippax	Stockport Metropolitan Borough Council
Malcom Orrell	Stockport Metropolitan Borough Council
Suzanne Broomhead	Stockport Metropolitan Borough Council
Cecilia Reed	Principal Surveyor, District Valuer Services

INTERESTED PARTIES:

David Pechey
Michael Lacey

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Unilateral Undertaking dated 18 March 2021
2. Council's email dated 29 March 2021 withdrawing its application for costs against the appellant.
3. Appellant's email dated 29 March 2021 withdrawing the application for costs against the Council.

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 211117JC-01 Site Survey;
 - NW-2532-3-2-AC-01 Location and Context Plan_Rev E;
 - NW-2532-3-2-AC-04 Proposed Site Plan_Rev D;
 - NW-2532-3-2-AC-04-2 Proposed Access and Car Parking Layout;
 - NW-2532-3-2-AC-05-1 Proposed Elevations - Sheet 1 of 2_Rev A;
 - NW-2532-3-2-AC-05-2 Proposed Elevations - Sheet 2 of 2_Rev A;
 - NW-2532-3-2-AC-06-1 Context Elevations_Rev A;
 - NW-2532-3-2-AC-06-2 Context Sections_Rev A;
 - NW-2532-3-2-AC-07-1 Floor Plans_Rev C;
 - NW-2532-3-2-AC-07-2 Roof Plan_Rev A;
 - NW-2532-3-2-AC-10 Boundary Treatment Plan_Rev A;
 - 9900-KC-XX-YTREE-TPPO1Rev0 Tree Protection Plan;
 - 2951 101 Rev F Sketch Landscape Layout;
 - McC&St-BF-B-002 Rev C Proposed External Works Layout;
 - McC&St-BF-B-003 Rev E Proposed Drainage Layout.
- 3) Notwithstanding any description of materials in the application documents, no above ground construction works shall take place until a schedule of all the materials of external construction has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved schedule and materials.
- 4) Notwithstanding the details shown on the approved plans, no above ground construction works shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall include details of: all existing trees, hedges and other planting to be retained; a planting specification to include numbers, size, species, and spacing of all new planting including replacement tree planting to compensate for that proposed for removal; the areas to be grassed; and the materials to be used on the hard surfaced areas.
- 5) The approved landscaping scheme shall be carried out within 6 months of the date of first occupation of the development, or substantial completion of the development, whichever is the sooner. Any trees, plants or grassed areas identified within the landscaping scheme 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, species and quality unless the local planning authority gives written approval to any variation.
- 6) No development shall take place until all existing trees on the site except those shown to be removed on the approved plans, have been protected from construction with fencing in accordance with BS 5837:2012 "Trees in relation to construction - Recommendations". The protective fencing shall be retained during the period of construction and no work, excavation, tipping or stacking of materials shall take place inside the protective fencing during the construction period.
 - 7) No construction works within the root protection zones of trees identified on drawing 9900-KC-XX-YTREE-TPPO1Rev0 (Tree Protection Plan) shall be carried out until a Method Statement detailing the 'No Dig' measures to be used has been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved Method Statement.
 - 8) No development including ground clearance and vegetation removal shall be carried out until a repeat badger survey of the site (including land within 30m of the site boundaries where possible) to establish that there are no new badger setts beyond those identified in the Preliminary Ecological Appraisal, Biocensus, December 2017, has been carried out, submitted to, and approved in writing by the local planning authority. In the event that new setts have become established then the survey shall identify any mitigation measures needed and the development shall be carried out in accordance with the approved survey. If no badger setts are found to be present then the development shall be carried out in accordance with the methods as stated at para 5.1.3 of the Preliminary Ecological Appraisal, Biocensus, December 2017.
 - 9) The development shall be carried out in accordance with para 5.1.2 of the Preliminary Ecological Appraisal, Biocensus, December 2017. The disposal of Japanese knotweed shall also include the contractors applying suitable biosecurity measures such as fencing, signage and cleaning protocols for construction plant which have first been submitted to and approved in writing by the local planning authority. In the event that Japanese knotweed encroaches onto areas where earthmoving is required, that contaminated material shall be disposed of off-site at a licensed tip.
 - 10) No tree shown for removal on the approved plans shall be felled until a repeat bat survey to ascertain the presence or otherwise of roosting bats has been carried out, submitted to, and approved in writing by the local planning authority. In the event that roosting bats are found to be present then the survey report shall identify any mitigation measures needed. All works shall be carried out in accordance with the approved survey.
 - 11) Prior to occupation of the development hereby permitted four bat and four bird boxes shall be positioned on or within the fabric of the building in accordance with details which have first been submitted to and approved in writing by the local planning authority. The bat and bird boxes shall be retained thereafter.
 - 12) Prior to the digging of any foundations a detailed surface water drainage scheme based upon Proposed Drainage Layout drawing no. McC&St-BF-B-003 Rev E shall be submitted to and approved by the local planning authority. The scheme shall: (a) incorporate SuDS and be based on the hierarchy of drainage

- options in the National Planning Practice Guidance with evidence of an assessment of the site conditions; (b) include an assessment and calculation for 1 in 1yr, 30yr and 100yr + 40% climate change figure critical storm events showing flood exceedance routes; (c) be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards; and (d) shall include details of ongoing maintenance and management. The development shall be carried out and maintained in accordance with the approved details.
- 13) Foul and surface water shall be drained on separate systems.
- 14) The development hereby permitted shall be carried out and retained in accordance with the measures outlined in the Seven Architecture Energy Statement Project Reference: NW-2532-3-2.
- 15) No development shall take place until a construction method statement detailing how construction work will be undertaken has been submitted to and approved in writing by the local planning authority. The method statement shall include details on: working hours; construction access arrangements, turning and manoeuvring facilities; delivery arrangements; traffic management; contractor parking; arrangements for materials unloading and storage; site compounds; signage and hoardings; and measures to prevent and if necessary clean mud deposited on the highway. Development of the site shall not proceed except in accordance with the approved construction method statement.
- 16) No development shall commence on the improvements to the means of access from Ack Lane East, including the provision of a passing place on the driveway and pedestrian walkway facilities, until details of the construction, drainage, surfacing, marking and signage of these areas have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the means of access for vehicular and pedestrian traffic have been provided in accordance with the approved details and shall be retained thereafter.
- 17) No development shall commence on the construction of the car parking facilities to be provided for the approved development and the two replacement spaces for the adjacent care home, until details of the construction, drainage, surfacing, marking of spaces and any illumination have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved car parking facilities have been provided in accordance with the approved details and shall be retained thereafter.
- 18) Prior to occupation of the development hereby permitted facilities for the charging of a minimum of two electric vehicles within the car parking areas shall be provided in accordance with details which have first been submitted to and approved in writing by the local planning authority. The details shall include a specification for the charging equipment, how the spaces will be signed and marked out and how the use of the facilities will be managed and operated. The equipment shall be retained thereafter.
- 19) Prior to occupation of the development hereby permitted the internal space for the storage of cycles and mobility scooters and external stands for a minimum of two cycles shall be provided in accordance with the approved drawings, and shall be retained thereafter.

- 20) The development hereby permitted shall be carried out and retained in accordance with the measures detailed within the Noise and Vibration Assessment dated 27th April, 2018 prepared by SRL Technical Services Ltd.
- 21) Prior to occupation of the development hereby permitted a scheme of physical crime reduction measures in accordance with the recommendations set out at section 4 of the GMP Crime Impact Statement Version A 16/07/208 Reference 2018/0307/CIS/01 shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved measures and retained thereafter.
- 22) The development shall not be occupied by any person under 60 years of age other than in the event that a couple occupy an apartment together in which case one of the occupiers shall be age 60 years or older and the other age 55 years or older.

-----End of Schedule-----