

Planning Appeal Ref: APP/W0530/W/21/3280395

November 2021

**Land Between Haverhill Road and Hinton Way,
Stapleford, Cambridge**

**Planning need for C2 retirement care village
Proof of Evidence - Appendices**

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APPENDICES

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Appendix A

Mayhew, L. (2020) Too little, too late? *Housing for an ageing population*. Cass Business School, Associated Retirement Community Operator and the Centre for the Study of Financial Innovation (CSFI)

Too Little, Too Late? Housing for an ageing population

Professor Les Mayhew



Chapter Five:

Conclusions

There are four key reasons why we should be concerned about the shortfall in retirement housing:

- First, the increasing under-occupation of the housing stock caused by a rapidly ageing population has created a dysfunctional housing market. First-time buyers find it difficult to get on the housing ladder and families find moving to larger homes expensive. Older households are only 40% to 60% efficient based on space usage, whereas space is at a premium in younger households.
- Second, far too few homes are being built that cater for older people. The vast majority are not designed for retirement living – indeed, many are not suitable for families. Retirement housing has only accounted for about 125,000, or 2%, of all new homes built since 2000, but each year around 700,000 people turn 65 years of age.
- Third, the net result is that the number of households will continue to grow at a faster rate than the population and average household size will continue its long-run decline, resulting in increasingly inefficient use of the housing stock. Without change, the number of ‘surplus’ bedrooms will grow to over 20m by 2040, 60% of which will be in older households.
- Fourth, with care homes charging high fees to cater for people with high needs, the provision of age appropriate housing, with flexible access to communal services and personal care, must become part of mainstream housing policy. This should be integrated with tackling the social care needs of an ageing population.

The challenges are massive, but are they manageable? If average occupancy remained at today’s levels, around 50,000 fewer homes would need to be built each year – which would be a start. If we wanted to increase average occupancy, the task would be much greater. It would

require 3% of 65+ households to downsize each year – necessitating building or repurposing over 160,000 homes annually. This would be a huge undertaking.

The dangers of doing nothing are highlighted by two examples. The first is the increasing logistical problem of delivering health and social care to scattered elderly populations living in unsuitable accommodation. Over the next 20 years, the population aged 65+ is forecast to rise by 41% to 17.7m; of these about 3.2m will be aged 85+, of whom 1.9m are likely to live alone. If more people lived in retirement communities, there would be a boost to health and wellbeing, as well as savings in the cost of health and social care.

This leaves us with a conundrum. Government policy is that that people should be supported to live in their own homes independently, and that they should not have to sell them to pay for care. The 2014 Care Act, for example, has a clear goal of supporting people to live as independently as possible for as long as possible, so this view is hard-wired into the care economy. It is unlikely that the policy is intended to preclude a move to more suitable housing, but it could be interpreted in that way.

The government’s promise that no-one will be forced to sell their home to pay for social care is also a constraint. Speaking on social care in last year’s election campaign, Matt Hancock, the health secretary, said: “We will consider a range of options, but we will have one red line: we will protect the family home”, promising that *no social care user* would have to sell his or her home to meet care costs. The issue is, therefore, how to reconcile this policy with the call for downsizing.

This could be done simply by making it clear that every form of leasehold or shared ownership in retirement housing falls under this protection. Our research in both this report and the previous one, *The Last-Time Buyer*,

Appendix B

Chain reaction – *the positive impact of specialist retirement housing on the generational divide and first time buyers* (2020). WPS Strategy and Homes for Later Living

Chain Reaction

The positive impact of specialist retirement housing on the generational divide and first-time buyers



A report by



STRATEGY for

Homes for Later Living 



Foreword



By Damian Green MP

Throughout the coronavirus pandemic, there has been suffering and hardship on both sides of the generational divide. Early on, we learned that older people faced an increased risk of becoming seriously ill and dying from COVID-19. Within a few weeks of lockdown, charities were reporting increased cases of confusion and loneliness among older people.

At the same time, young adults have been most likely to lose work or see their incomes drop because of lockdown. Those yet to enter the jobs market have seen their education disrupted on an unprecedented

scale. Today's young people have been dubbed the "coronavirus generation", with experts predicting that the pandemic will have a long-lasting effect on their lives.

As we try to rebuild the economy, there has been an understandable focus on policies which work for the coronavirus generation. The challenge that we face is how to provide for help for young people without taking anything away from older people who have worked hard all of their lives and also suffered in the pandemic. In previous years, it was too easy to pit baby boomers and millennials against each other. Now, more than ever, we need policies that work across the intergenerational divide.

Housing is an obvious area for policy-makers to start and in his summer statement the Chancellor raised the threshold for stamp duty to £500,000. The intervention will make it easier for first-time buyers struggling to save up the deposit for their first home. At the other end of the market, it could incentivise the many older people who are desperate to downsize into more suitable retirement accommodation.

For older people, specialist developments can be the key to a happy and healthy retirement. During the pandemic, specialist retirement housing kept many older people safe, with residents better protected against COVID-19 than in wider society. And with residents less likely to be admitted to hospital and require further care than people in mainstream housing, we have seen how this type of accommodation can generate fiscal savings to the NHS and social care services.

But many older people are now living in care homes that were badly hit during the pandemic. Many more are in family-sized homes that are not suitable for their needs. Often those in later life find themselves stuck in properties that are remote from shops and services, hard to maintain and away from friends and family.

A significant number of people over the age of 65 would like to downsize into more suitable accommodation, yet they are unable to do so. This causes a bottleneck in the housing market that ripples down to first time buyers who are prevented from becoming part of the property-owning democracy. Without action now, with an ageing society, the problem is only set to get more acute across the UK.

In his excellent book *The Pinch*, my colleague Lord Willetts sets out the provocative argument that baby boomers have broken the intergenerational contract. While the first edition was published a decade ago, the argument resonates with extra potency as we emerge from lockdown and many young people are still struggling to get onto the housing ladder.

By incentivising the building of more new retirement properties, we can take a step towards unblocking the housing market and ultimately help first-time buyers onto the ladder. At the same time, we would make progress towards ensuring that more vulnerable older people are happier, healthier and better protected against future pandemics. As we emerge from the shadow of coronavirus, that would be a much-needed win-win for both baby boomers and millennials.

The Rt Hon Damian Green is Conservative MP for Ashford and Chair of the All-Party Parliamentary Group for Longevity. In 2017, he served as First Secretary of State.

"Now, more than ever, we need policies that work across the intergenerational divide."

However, cutting stamp duty is not the only policy that can work across the generational divide to drive housing market transactions. To get results here, the Chancellor and the Secretary of State should also consider measures to encourage the building of more private retirement housing.

This approach could help older and younger buyers, with the research in this report showing that building more specialist retirement housing can stimulate both ends of the market. We can see that if all of those people 65 or over who want to move were able to do so, in time this would free up nearly two million spare bedrooms, predominantly in three bedroomed homes with gardens, which are ideally suited for young families with children. The chain impact would then help first time buyers, with the research suggesting that for every three new retirement homes sold, two first time buyer homes would become available.



Appendix C

Assessment of total supply of extra care in SCDC area split between affordable and private provision

Summary of all existing extra care schemes by total and private provision				
Name and address	Manager/ operator	Total units	Private units	Scheme type
Market catchment				
Abbeyfield Girton Green, Wellbrook Way, Girton, Cambridge, CB3 0GQ	Abbeyfield	76	47	Extra care
Mill View, St Edmunds Way, Hauxton, Cambridge CB22 5HT	Allied Health Services	70	0	Extra care
Bircham House, 191 High Street, Sawston, Cambridge CB22 3HE	Axiom Housing Association	30	0	Extra care
Nichols Court, Flaxfields, Linton, Cambridge CB21 4AF	Mears ExtraCare	40	0	Extra care
Moorlands Court, The Moor, Melbourne, Royston, SG8 6FH	CHS Homecare	35	0	Extra care
Ditchburn Place, Mill Road, Cambridge CB1 2DR	Cambridge City Council	51	0	Extra care
Dunstan Court, Wulfstan Way, Cambridge CB1 8QD	CHS Homecare	46	0	Extra care
Richard Newcombe Court, Histon Road, Cambridge CB4 3EY	CHS Homecare	40	0	Extra care
Goodes Court, Baldock Road, Royston, Hertfordshire, SG8 5FF	YourLife Management Services	52	52	Extra care
Mary Barfield House, Rochester Way, Burns Road, Royston SG8 5WA	Care by Us	17	0	Extra care
Cornell Court, Smallbridge Road, Safron Walden, CB11 3HY	L&Q Living Ltd	73	13	Extra care
Cavendish Court, Sackville Way, Great Cambourne, Cambridge CB23 6HB	Kingsdale Group	48	48	Enhanced Sheltered
Debden Grange Retirement Village, Burywater Lane, Newport, Saffron Walden CB11 3TZ	Retirement Villages Group	81	81	Enhanced Sheltered
Total		659	241	Private supply is 36.6 per cent of total provision
South Cambridgeshire District Council local authority area				
Abbeyfield Girton Green, Wellbrook Way, Girton, Cambridge, CB3 0GQ	Abbeyfield	76	47	Extra care
Mill View, St Edmunds Way, Hauxton, Cambridge CB22 5HT	Allied Health Services	70	0	Extra care
Bircham House, 191 High Street, Sawston, Cambridge CB22 3HE	Axiom Housing Association	30	0	Extra care
Nichols Court, Flaxfields, Linton, Cambridge CB21 4AF	Mears ExtraCare	40	0	Extra care
Moorlands Court, The Moor, Melbourne, Royston, SG8 6FH	CHS Homecare	35	0	Extra care
Cavendish Court, Sackville Way, Great Cambourne, Cambridge CB23 6HB	Kingsdale Group	48	48	Enhanced Sheltered
Total		302	95	Private supply is 31.5 per cent of provision

Source: EAC Housing Options, operator websites.

Appendix D

**Dutton, R (2021) Retirement Village and Extra Care Housing in England:
Operators' experience during the COVID-19 Pandemic. RE-COV Study**



Retirement Village and Extra Care Housing in England: Operators' Experience during the COVID-19 Pandemic

RE-COV Study

Full Report

April 2021

Author: Rachael Dutton, COVID-19 National Project Lead, St Monica Trust



St Monica Trust



Remarkable
research for
healthy ageing
THE DUNHILL MEDICAL TRUST



3 Summary of Main Findings

3.1 Operators' pandemic response and its effectiveness

The RV and ECH sector operational responses to the challenges posed by COVID-19 have been proactive, innovative and extensive. New ways of working, adaptations of environments in villages and schemes, enhanced communications, and rapid creation of alternative services, facilities and support are among the wide range of changes implemented.

- **More than half of the operators locked down before the 23 March**, the start of the national lockdown, 35% of those had locked down at least a week before.
 - **Operators furloughed more staff during March to July** (an average of around 6) and fewer between August and December (an average of around 2.2).
 - **There was consistency across the operators in the range of key measures they put in place to protect the health and well-being of their residents and staff.** The most common were:
 - The use of PPE.
 - Social distancing.
 - Closing communal areas and services.
 - Shielding individuals and restricting visitors.
 - **Extra measures were implemented to help maintain residents' mental and emotional well-being.** The most commonly mentioned were: increasing access to and help with digital technology, providing social activities in a different way, enabling social contact with family, friends, neighbours, new befriending, and helping with access to local NHS or social care services for non-COVID-19 related needs.
 - **There was evidence of operators continuing their existing step down provision during the pandemic.** One even had extended theirs across more schemes. Others were in the process of setting up step down facilities or looking into doing so. Several respondents indicated they would be able to support the NHS by providing step down facilities for non-COVID-19 patients to smooth discharges from hospital and support their ongoing recovery and rehabilitation.
- Around half indicated that they prohibited visitors, asked residents not to leave the village/scheme, and/or they re-designed spaces or facilities. Many disallowed or discouraged staff car sharing or use of public transport (one respondent pointed out they provided pool cars and some taxis).
- **Additional special measures were put in place to help maintain residents' general health and key aspects of daily living.** The most common being the provision of:

There is evidence that the operators' response was effective in affording protection to their residents. This is indicated in particular by:

- The overall lower proportion of RE-COV survey participants' residents who died from COVID-19 in comparison to people with the same age profile living in the general population in England (see below for details).
- The positive effects of the lengths that operators and staff took to help support residents' activities of daily living, social engagement, community and personal activities, and create other opportunities for positive experiences.

Their response also generated overall positive experiences for residents and a great deal of positive feedback (described in the 'residents experience' sections).

3.2 COVID-19 cases, deaths and testing

- **Fewer village/scheme residents died from confirmed COVID-19 (0.97%) than expected from March to December 2020 when compared to people with the same age profiles as village/scheme residents² living in the general population in England (1.09%).**

Given the generally higher levels of health, care and support needs of ECH housing residents this is a very positive outcome. The residents of RV-only operators had the lowest COVID-19 death rate (0.51%).

The highest monthly death rates among residents were experienced in April (0.3%, 42 of 14,580), December (0.2%, 30) and March (0.16%, 24).

- Overall, the majority of operators had no or very few confirmed and strongly suspected COVID-19 cases during each month in 2020; 74% had fewer than 1% of residents with COVID-19 in any of their villages/schemes through to November.

The total for the year was 545 confirmed COVID-19 cases among 14,580 residents³, equivalent to 3.74% of the resident population.

- The proportion of residents with COVID-19 varied between operators but there was no apparent association with their total number of residents, or number of villages/schemes, or with other variables asked about in the questionnaire apart from housing type:

- Operators with both RVs and ECH had 4.76% residents with confirmed COVID-19 in 2020.
- ECH-only operators had 4.52%.
- RV-only operators had 1.69%.

One of the main (or the main) causal factors for this difference is likely to be the higher levels of health, care and support needs among ECH residents.

- The proportion of residents with COVID-19 in 2020 varied between operators but there was no apparent association with the total number of residents or number of villages/schemes, or with other variables asked about in the questionnaire, apart from housing type.

² 8% under 70, 29% between 70-79, 48% aged 80-89, and 15% over 90; sourced from ARCO and ProMatura, [UK Retirement Communities: Customer Insight report 2019](#)

³ Based on data from 31 respondents who provided COVID-19 case numbers and their village/scheme resident population figures.

- There were higher proportions of confirmed resident COVID-19 cases in 2020 among the RV&ECH operators (4.76%), followed by the ECH operators (4.52%), and the least among the RV-only operators (1.69%).

One of the main (or the main) causal factors for this difference is likely to be the higher levels of commissioned health, care and support needs among ECH residents.

- The most highly suspected sources of resident COVID-19 infections were hospital visit/stays, residents visiting people or shops off site, visitors, and external professionals.

As with care homes, village and scheme operators had residents coming out of hospital who not been tested or had tested negative but had become ill with COVID-19 very shortly afterwards. One operator commented, “one scheme was massively impacted by deaths in March/April - local hospital appeared to be link.”

3.3 What proved effective

The factors operators deemed the most effective at affording protection were:

- Closing communal facilities/activities or restricting residents’ access to areas.
- Full PPE/correct use of PPE.
- Restricting and closing to visitors and family when necessary.
- Regular/increased cleaning.

Other protective factors included:

- Asking residents not to leave the village or scheme.
- Social distancing.
- Offering a full delivery service from the site’s shop/restaurant to individual apartments.
- Clear and regularly updated resident guidance.
- Encouraging residents and visitors to follow the guidance.

- Monitoring and isolating people quickly if they were showing any signs of potential COVID-19 infection.

Important learning and plans for further localised or national lockdowns shared by operators largely concerned:

- Having in place a set of plans, a model and/or a framework of processes and templates.
- Having plans for specific aspects such as a dedicated COVID-19 command team or governance arrangement in place, team, safe operating procedures, reduced visiting, closure of communal spaces, and home deliveries for residents.
- Effective communication and communications.
- Risk assessments to protect residents and staff.

Effective practice examples given by operators included:

“A structure of operational guidelines, risk assessments and SLA for each tier that can be quickly implemented on a local or national level as guidance changes.”

“A central crisis management team who are emotionally removed providing support and consistent advice at all times.”

“We contacted each resident daily, for a welfare check and to take their orders for shop and meal deliveries. We have sent out weekly updates and had regular meetings with the residents’ association to discuss all changes to the village due to the COVID-19 guidelines.” [RV operator].

3.4 The importance of building design

The building design characteristics most respondents felt were important in regard to COVID-19 were:

- A range of communal lounges and other spaces.
- Outdoor spaces.
- Progressive privacy.
- Security.
- Separate entrances.

Other characteristics highlighted were:

- Having doors to apartments' patios, wide corridors (aids social distancing).
- Good ventilation (helps to dissipate the virus if present).
- Shop and food services.
- Pharmacy and GP in close proximity.
- Being able to see people in their homes from corridor.
- Centrally located facilities that can be locked.
- Staff reception at main entrance, staff facilities and office space.

One operator said they had benefited from having care homes on their sites providing expertise in infection and prevention control. In addition, there were important benefits of the self-contained accommodation afforded by individual apartments which ensured residents had control of their own space and the ability to socially isolate if they needed to.

Design characteristics mentioned as being problematic during the pandemic were:

- Communal open plan areas as they could be difficult or impossible to close down.
- Not being able to stop visitors accessing the building.
- Inability to be able to implement one-way systems as most schemes only have one main entrance.
- Not having balconies in all schemes.
- A lack of suitable work/office facilities for staff.

3.5 Main pressures and challenges experienced

- **The major pressures experienced by villages, schemes and organisations during the pandemic were:**

- Anxiety	76%
- Stress	62%
- N° of staff off work self-isolating	62%
- N° of staff off work shielding	53%
- Staff shortages	53%
- Keeping up with the changes	50%
- Adapting to the changes	47%
- Low morale	44%
- Burnout	35%
- Staff sickness	35%

- **The lack of availability of PPE caused problems during the first wave for 96% of respondents:** 'a huge amount' of problems for 23% of operators (all ECH or RV&ECH), and 'a lot' or 'quite a lot' for 20%.

Among the problems caused were cost and logistical issues, anxiety, stress, worry and confidence issues among staff. An operator with eight ECH schemes said, "We made contact with over 600 PPE suppliers and eventually had to spend over £200,000 for bulk orders to secure suitable equipment".

3.7 Residents' experience

Residents have clearly gained great benefit during the pandemic from the community, care and special support provided by the villages and schemes who, in the words of one resident, went 'above and beyond' in order to help protect their health and well-being. Outcomes for residents included a high proportion feeling safe, supported, and comforted knowing other people were around, as well as enjoyment from organised outdoor activities.

In order to keep their residents as physically, mentally, and emotionally well as possible operators and staff demonstrated considerable commitment, ingenuity and resourcefulness. As well as offering constant COVID-19-related guidance and support, they have provided an extensive amount of additional help, facilities and resources. These have ranged from supplies of hand sanitiser stations, digital tablets and hot meals delivered to apartments, to help with shopping, getting online and keeping in touch with family and friends. There were many examples of special diversions and thoughtful extras being organised such as sing-alongs on balconies/in gardens, ice cream van visits, and gifts of spring flowers and chocolate eggs at Easter.

Such activities and support would have helped to alleviate some of the negative effects of the pandemic being experienced by older people in the general community as well, such as loneliness, worry and boredom. It may have particularly benefited the groups of residents who operators felt were more adversely affected through the lockdown periods: those shielding, living with dementia or other long-term condition, or without family or people who could visit.

Large numbers of operators were also very active in helping their residents to access the hospital and

community health services for non-COVID-19 issues. Residents had experienced 'a great deal' or 'quite a lot' of difficulty accessing services such as GPs, dentists, opticians, and physiotherapists, particularly during the first lockdown. The range of support provided in one village inhabited by 100 residents included staff picking up dozens of prescriptions for residents and driving 3,100 miles taking them to appointments.

Residents and their families have shown a great deal of satisfaction and appreciation to village and scheme staff. These are some examples of the large numbers of thankyou's received by operators,

"We felt very safe and well looked after during lockdown. All our friends said they wished that their conditions had been as good as ours!"

"All the extra work organised and carried out to keep us safe has been amazing."

"Staff were all excellent all the way through. The concierge kept us all cared for – so much patience, nothing was too much trouble."

"We have received overwhelming feedback and gratitude for the way in which we have managed the pandemic both within the villages and the local communities. Most feel that the pandemic has confirmed that their decision to move into a retirement community was the right thing to do. This has been echoed by family members."

Appendix E

**Appeal Decision: Ref: APP/ APP/B1930/W/20/3259161. Chelford House,
Coldharbour Lane, Harpenden AL5 4UN (June 2021).**



Appeal Decision

Hearing Held on 8 and 9 June 2021

Site visit made on 10 June 2021

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2021

Appeal Ref: APP/B1930/W/20/3259161

Chelford House, Coldharbour Lane, Harpenden AL5 4UN

- 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 Jarvis Commercial Ltd and Porthaven No.3 Ltd against the decision of St Albans City & District Council.
 - The application Ref 5/19/1642, dated 24 June 2019, was refused by notice dated 10 March 2020.
 - The development proposed is the redevelopment including the demolition of the former Chelford House to a 63-bed care home (C2 Use Class), with amendments to access, parking, amenity space and associated infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for the redevelopment including the demolition of the former Chelford House to a 63-bed care home (C2 Use Class), with amendments to access, parking, amenity space and associated infrastructure at Chelford House, Coldharbour Lane, Harpenden AL5 4UN in accordance with the terms of the application, Ref 5/19/1642, dated 24 June 2019, subject to the following conditions on the attached schedule A.

Procedural Matters

2. A section 106 agreement dated 28 June 2021 concerns a travel plan and fire hydrants provision and contributions for public library facilities, travel plan evaluation and support. This seeks to address a Council reason for refusal of the proposal based on infrastructure matters. Additionally, a Unilateral Undertaking (UU) dated 24 June 2021 concerns the temporary provision of affordable care rooms with residents identified by the County Council. Such matters will be considered in the reasoning under obligations in this decision.
3. In 2011, an application for a Certificate of Lawfulness for A1 retail use for the premises was refused by the Council. Despite the time lapse since, there is a lack of supporting documentary evidence over the relevant time period to determine the lawfulness of the existing use. The relevance of this will be commented upon later in the decision, having regard to recent changes to the Town and Country Planning (Use Classes) Order (UCO) 1987.
4. On the 20 July 2021, a revised National Planning Policy Framework (the Framework) was published. Both main parties' chose not to submit any further correspondence on this matter.

Main Issues

5. The main issues are (a) whether or not a non-B class use would be justified for the appeal premises, (b) the living conditions of the residents of the care home, having regard to outside amenity space provision, outlook, noise and disturbance, (c) the viability of neighbouring employment uses and (d) whether adequate capacity exists for public utility connections.

Reasons

Local employment policy

6. The appeal site comprises a commercial building which is occupied by a retail user specialising in soft furnishings. Within the site, there is also a permitted car wash alongside the building. Vehicular access is from Coldharbour Lane. Either side of the site, there are office and industrial buildings at 28-30 Coldharbour Lane and a newer, 'Waterside' office development. Opposite the site on Coldharbour Lane, there is substantial landscaping on an embankment and beyond this, the back gardens of residential properties. To the rear of the site, there is the River Lea and behind this, new office and residential developments. On Coldharbour Lane, there are further office and industrial buildings to the north of the site and Nos 28-30.
7. Coldharbour Lane is a designated employment area under the City and District of St Albans District Local Plan Review (LP) 1994 and the Harpenden Neighbourhood Plan (NP) (2018 -2033) 2018. The NP explanatory policy text states that the designated site is one of four that provide B class employment within the Harpenden area, with the exception of small offices in the town centre and indicates that their continued protection will ensure that the town retains a small but productive amount of employment floorspace. Within Coldharbour Lane, there is an Article 4 direction that prevents permitted changes of uses of business class buildings to dwelling houses, Class C3 use.
8. LP Policy 20 states that within this area, the Council will assess applications for housing as not acceptable and that B1 Use Class is the normally acceptable use. Given care homes are a form of housing, there would be a conflict with this LP policy. Under NP Policy ER2, a change of use to a non-B Class use within the employment area will not be supported unless it can be demonstrated that the premises are no longer suitable for business use or there is clear evidence that there is no prospect of a new commercial occupier being found.
9. The neighbouring building at 28-30 Coldharbour Lane is of similar age to the appeal building and given its industrial nature, has been assigned a 2-star CoStar rating under an Employment Needs Assessment (ENA)¹. This denotes a property in need of significant refurbishment, having limited functionality and attracting low rent. The CoStar property rating system cannot rate the suitability of Chelford House due to its retail nature, but it is of a similar age and form which the ENA indicates denotes similar shortcomings.
10. The ENA identifies a considerable surplus of office and industrial floorspace within St Albans City and District Council area (SADCA) and a wider area, Primary Market Area (PMA), that covers the district and a number of neighbouring local planning authorities. Along with the Aitchison Raffety

¹ Employment Needs Assessment, Chelford House, Harpenden, Savills, April 2021.

marketing report 2019 (ARMR), the ENA indicates that the Harpenden employment areas are considered to be of localised attraction, not as appealing as larger settlement locations in terms of location and quality. Both detail a steady decline in office/employment demand in this area and difficulties in marketing the neighbouring unit and that at Batford Mill in Harpenden, although both are now occupied.

11. Only one of the criteria in NP Policy ER2 has to be met but in applying the policy, both criteria focus on justification relating to the premises and in respect of whether there is a prospect of an occupier being found, the policy requires clear evidence.
12. In terms of suitability, there is no specific detailed evidence for the premises itself. Although not detailed, the ARMR states the building is in reasonable repair. Not all new occupiers will find it essential to have high quality accommodation and there are other business users in the industrial estate making use of older style buildings. In terms of prospect of another user being found, the ENA evidence is generalised, and the indicated advertising does not refer to the appeal unit. Local policies encourage B1 use and therefore, there should be no impediment to the advertising of the premises, along with other focussed evidence on the prospect of an occupier being found for the unit.
13. The ENA details a viability analysis that shows site building demolition and redevelopment based on office or industrial use to be financially unviable. This viability analysis, based on professional guidance and national policy, and use of local comparative variables, including rent values, is comprehensive and the Council has also raised no objection to this analysis. Whilst this proves redevelopment for office and industrial on the site is unviable, it does not address whether the reuse of the building could not take place.
14. For all these reasons, the change of use of the site to a non-B Class use would conflict with LP Policy 20 and NP Policy ER2.

Living conditions

15. Outside amenity areas would be located around the new building, mainly adjacent to Coldharbour Lane, a hard surfaced area serving Nos 28-30 and the river. The areas would comprise smaller private terraces serving the ground floor units whilst the north west corner units would have balconies, as well as communal areas. Adjacent to the 'Waterside' development, there would be mainly vehicle parking, ambulance/transport drop off/pick up area, waste storage, access and collection area.
16. LP Policies 69 and 70 requires all development to be a high standard of design but neither policy sets area requirements for the provision of outside amenity areas. Although LP Policy 70 states that the size of private gardens should reflect the number of people, the range of activities and local residential character, the policy does not specifically deal with care home requirements.
17. The appellants' landscape design strategy details a series of themed landscaped spaces that, for example, relate to the river, people senses and horticulture. Through the implementation of a landscaping condition, outside areas could be attractively planted and laid out with areas for residents, to sit, relax and move around. Not all residents will be able to physically access the external space on a frequent basis due to age and mobility, but as part of the

- proposal, there would be shared lounge/dining areas, café, cinema and activity room within the building. Therefore, the extent of outside amenity area for residents would be acceptable given the nature of the proposal.
18. From the outside amenity areas and care home rooms, residents would view vehicle parking areas, both those serving Nos 28-30 and the care home itself, and road traffic on Coldharbour Lane. However, windows would be set back from the common boundary due to intervening areas of amenity space and the main communal sitting out area would be adjacent to the river. There would also be landscaping along the common boundary with the premises at Nos 28-30 and between the road and frontage of the care home, visually filtering out neighbouring built form and activity.
 19. The proposal would introduce a care home into a designated area for employment use. The neighbouring 'Waterside' development has two storey office uses above a ground floor used for parking whilst the other neighbouring unit at Nos 28-30 has a kitchen firm, architects' practice and temporary community foodbank. Local employment policy encourages B1 use for the industrial estate.
 20. Such uses would not generate significant levels of noise and disturbance through activities and operations, and in any case, care home residents would benefit from stimulus activity. At the hearing, the appellants detailed how noise and activity from outside would help the well-being of care home residents, especially those with dementia, because it gives them opportunities to observe daily activity in the wider world. Furthermore, the neighbouring units would not be of a larger enough size to generate excessive HGV movements, where significant noise and disturbance would be generated, and local employment policies do not encourage heavy industrial B2 Class uses for the area. The Council's Environmental Health Department (EHD) has raised no objections to the proposal subject to conditions seeking acceptable internal noise conditions.
 21. For all these reasons, the living conditions of the future residents would not be compromised, having regard to the provision of outdoor space and outlook, noise and disturbance, and there would be no conflict with LP Policies 69 and 70.

Viability of neighbouring employment uses

22. Paragraph 187 of the Framework states that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. The development would be of a high standard in terms of the provision of amenity space and outlook, and there would not be no detrimental impact arising from noise and disturbance generated by surrounding activities and operations. Along with the lack of objection from the Council's EHD, there has been no objections from neighbouring unit occupiers in the industrial estate. The occupiers of neighbouring units could change but LP Policy 20 encourages B1 Class uses and such uses by their definition can be located within residential areas without significant adverse effects.
23. In summary, there is no evidence to demonstrate that the operations and activities of neighbouring uses in the employment area would be adversely

affected. Given this, the proposal would not affect the viability of neighbouring and future employment uses within the industrial estate.

Public utilities

24. NP Policy SI11 states that major development proposals should be supported by robust evidence of capacity within the existing utilities network to accommodate the proposed development without a negative impact on existing residents and users. It also requires, where no confirmation has been provided by providers on capacity, that information on the impact studies of the extent, cost and timescale for any required upgrade works, and a commitment to work with relevant parties to secure those upgrade works be submitted.
25. Relevant utility companies have raised no objections in respect of the provision of foul, water and electricity services. Whilst there is no confirmation in respect of gas or broadband, the site is in existing use within an urban area and satisfying utility requirements would be essential for the developer to progress the scheme from a commercial point of view. Both the Council and appellants have accepted that a planning condition could satisfy policy requirements to overcome this issue. Accordingly, there are no grounds to object to public utility provision on capacity grounds, subject to a planning condition being imposed, and thus, the proposal would comply with NP Policy SI11.

Obligation requirements

26. LP Policy 143B requires development to make provision for infrastructure consequences. The s106 agreement provides contributions towards public library facilities, travel plan evaluation and support, and the provision of a travel plan and fire hydrants. The UU provides for up to seven bedrooms to be provided at a discounted rate for 24 months with the ability of the County Council to nominate potential residents for those affordable bedrooms.
27. A demand for the use of library facilities would be generated by residents of the care home and the library contribution has been calculated in accordance with a justified methodology under the Hertfordshire County Council's (HCC) Planning Obligations Toolkit 2008. It would be used to enhance the local library in Harpenden. Given the number of bedrooms, the care home would generate an amount of traffic requiring a travel plan under NP Policy T3 and this policy requires sustainable transport modes to be maximised to reduce pollution levels. HCC require a contribution sum for the evaluation, monitoring and ongoing support of the required travel plan, and has submitted supporting costings that are justified and reasonable.
28. Given the nature and scale of development, fire safety measures are required. Under the toolkit, the Fire and Rescue Service requires a water scheme to be submitted for approval that provides for the construction and maintenance of fire hydrants such that they are always suitable for use and eventual adoption by the Fire and Rescue Service. Under the obligation, any required hydrants are to be provided prior to occupation.
29. For all these reasons, these provisions and contributions would meet the statutory tests of the Community Infrastructure Regulations 2012 (as amended) and paragraph 57 of the Framework. In particular, the contributions are necessary to make the development acceptable in planning terms, directly

- related to the development and are fairly and reasonably related in scale and kind to it. The proposal would comply with LP Policy 143B and NP Policy T3.
30. In respect of affordable care home rooms under the UU, there is an unmet housing need, including care home accommodation within the area. There is need for affordable housing for all age and groups justifying the need for affordable care rooms. Furthermore, the South West Hertfordshire Local Housing Needs Assessment (LHNA) 2020 indicates local authority care homes are not being built and that it may be appropriate to continue to seek the provision of some affordable bedspaces within private developments to meet social care needs.
31. The County Council, the consultee on social provision of care home accommodation, has objected on the grounds of the quantity and affordability of the care rooms being provided under the UU. However, there are no planning policies or documentation before me stipulating the necessary requirements. Both LP Policy 7 and NP Policy H6 affordable housing requirement do not relate to the provision of affordable care home rooms. For all these reasons, all the evidence indicates a significant need for affordable care home rooms and the UU contributes to meeting the need, albeit on a small scale. Accordingly, the obligation would meet the tests set out previously and this would be a small benefit in favour of the proposal.

Other matters

Housing supply and care home need

32. The agreed position on housing supply is 2.4 years which is well below the requisite five-year supply and the latest Housing Delivery Test Result 2020 (published February 2021) is low at 63%. As part of housing supply, the Council includes care home accommodation developments using a ratio from the Housing Delivery Test Rulebook (HDTR). Based on this, the development would contribute towards much needed housing through the equivalent delivery of 35 dwellings, based on the HDTR. The development would deliver a range of specialist housing options for older people and would release currently occupied dwellings back into the housing stock.
33. LP Policy 62 and NP Policy H8 support care home accommodation in suitable locations. There are bed surpluses in neighbouring local planning authority areas but the LHNA identifies significant need for nursing home bedrooms within SADCA in the period up to 2036. The Carterwood Comprehensive Planning Needs Assessment (PNA) 2021 indicates that unmet need is even more acute if beds are defined as 'Market Standard' bed spaces, that include ensuite facilities.
34. Both the LHNA and PNA establish a rising demand for residential care in general, especially for specialist dementia care provided by the development, and even taking account of the lower need measurement of LHNA, the provision of 63 beds would make an important contribution towards meeting identified local need, and based on the information supplied, this would be likely within the next 3 years. Elderly people requiring care home accommodation are less able to wait than those in the general population needing accommodation because their needs are immediate. Accordingly, there is an urgency in meeting this unmet need and for all these reasons, significant weight is given to these housing and people care benefits.

35. In encouraging small community homes in suitable locations, LP Policy 62 requires homes to be dispersed within the community and not being located close to one another. Such criteria are not conflicted with here. NP Policy H8 supports specialist accommodation in sustainable locations, requires developments to be well integrated with communities and have safe and stimulating design. The proposal would be in sustainable transport location, especially with a travel plan, and the building and its external areas would be attractively designed and finished. The site's accessibility, care of residents from the area and local employment opportunities would ensure integration, and the development would be safe and stimulating in design.

Alternative site assessment

36. The Alternative Site Assessment (ASA)² has considered suitability, availability and achievability of other potential sites from a wide initial list which has been narrowed down. Significant areas of land within the identified market catchment area of the development site have been excluded but it is based on detailed search from multiple sources, including the Council's Strategic Housing Land Availability Assessment 2018, property websites and land agent enquiries, and takes into account planning constraints such as the Green Belt. Furthermore, the Council has not identified any other sites that could have been covered by the ASA.
37. Under the ASA, a key availability criterion is that sites can be developed within 3 years which is based on the appellants experience and need to meet an acute need. For suitability, a fixed plot size has been used which excludes smaller and larger sites. Smaller sites would necessitate less bedrooms or an additional fourth floor resulting in considerably greater building costs. Once operational, greater staffing costs would also be incurred because of the need for proportionately more staff due to more floors. For larger sites, negotiations with other parties would also inevitably delay the timeframe for development. The ASA's methodology does not follow the approach for assessing housing and economic land availability in Housing and Economic Land Availability section in the Planning Practice Guidance, but nor should it have to, as this relates to housing supply. Overall, the ASA is comprehensive, well-reached and demonstrates the difficulties of finding alternative sites which lends further weight in favour of the proposal.

Employment and economy

38. The proposed care home would generate 75 full time equivalent (FTE) employees in comparison with 18 FTE for the existing A1 occupier. In addition, the proposed care home provides a range of different job types, including higher grade management positions, care workers and ancillary staff, including catering and maintenance. The existing use of the site is A1 retail use whilst local employment policies encourage B1 business use, both of which fall within a new Class E. The appellants' Economic and Social Value Impact Assessment³ demonstrates that the number of jobs that will be supported by the proposed development exceeds that supported by all other alternative uses under Class E and would represent a scenario with the potential to support the highest level

² Alternative Site Assessment, Elderly Care home, Chelford House, Coldharbour Lane, Harpenden, Hertfordshire, AL5 4UN, Carterwood, March 2021.

³ Economic and Social Value Impact Assessment, Chelford House, Harpenden, City & District of St Albans, Turley Associates, September 2020.

of employment for the site. Furthermore, the proposed development could generate an annual contribution of £4.4 million to the local economy.

39. The Council's South West Herts Economic Study (ES) Update (2019) has confirmed significant reduction in office and industrial floorspace over the last decade in the County. The Hertfordshire Local Partnership indicates that existing businesses are unable to expand due to the inability to find suitable floorspace. A local businessperson has objected that local premises are unavailable and that the Coldharbour Lane industrial estate has a high occupancy.
40. However, the ENA indicates that need for office and industrial land has been overestimated by the ES for the period 2018-2036 because of the influence of greater homeworking, even before the Corvid pandemic, higher employment floorspace densities, and use of a contingency allowance (safety margin). The latter results in inflated demand. The ENA indicates that the loss of the employment site would make little impact on the supply of employment land provision within the SADCA or wider PMA.
41. Indeed, the ratio of demand relative to office floorspace supply shows negative demand for the SADCA during the period 2020-2024 whilst the ratio for the PMA for the same period results in 15.2 years indicating considerable over supply. For industrial floorspace, the demand/ supply ratios are 11.8 and 9.3 years for SADCA and PMA for the same period which similarly indicates considerable over supply. Parties have agreed that Harpenden serves a localised demand, but the ENA details that nearby office and industrial clusters have currently substantial levels of available floorspace.
42. No substantiated evidence has been provided to support statements of shortage of business premises at the present time or challenge the conclusions of the ENS that postdates the ES. As a result, the ENA findings and the provision of the full time employment are more persuasive in demonstrating that the employment strategy of the LP and NP would not be adversely harmed though the redevelopment of this site.

Other benefits

43. For care home residents, there would be reduced loneliness through the provision of a care home with facilities and community interaction through community activities. In a well-designed and elderly friendly environment, there would be reduced falls. Together with the provision of beds reducing hospital bed blocking, this would generate cost savings to the NHS. Through implementation of an appropriate condition, there would be biodiversity improvements to the riverbank.

Class E, flooding and drainage, highways

44. The UCO changes have introduced a new Class E which permits greater flexibility for change of uses from A1 or B1 to non B1 uses contrary to the general aims and requirements of local employment policies. However, there is little evidence that this has occurred on a widespread basis and accordingly, such a consideration does not weigh in favour of the proposal.
45. The Environment Agency (EA) records show the site to be within fluvial Flood Zones 2 and 3 and Affinity Water (AW) details a nearby EA defined groundwater Source Protection Zone. However, the appellants more recent

flood modelling within a Flood Risk Assessment (FRA) show that most of the site is outside of the flood zones, the exception being small areas adjacent to the riverbank. The EA and the Lead Local Flood Authority have raised no objections to the FRA subject to conditions. Both the Council's EHD and AW have raised no objections to the proposal subject to appropriate conditions remedying any land contamination. On this basis, flooding and pollution concerns would be resolved though the imposition of planning conditions.

46. County Highways have raised no objection to the proposal, including in respect of vehicular and bicycle parking matters. There is no reason to disagree with their highway view in the absence of any contrary evidence. Cycle parking provision would be greater than that required by local transport policy. Although this policy is about 20 years old, such provision is acceptable given that the site's location within an area well served by walking and public transport.

Planning Balance

47. Planning law requires applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework makes clear that the planning system should be genuinely plan-led.
48. Both employment and care home policies are central to the consideration of the proposal given its nature and location. However, there is a significant imbalance between employment and housing provision within the area. The Council has only 2.4 years housing land supply (HLS) and yet considerable office and industrial provision. To address housing supply, work has started on a new Local Plan 2020-2038 but this is at a very early stage limiting any weight to it.
49. Whilst the proposal would result in the loss of employment site for Class B uses, the proposal would not adversely affect the employment strategy of the LP and NP by reason of the overall supply of office and industrial floorspace within the SADCA and PMA. In terms of consistency with the Framework, both LP and NP policies are more restrictive than national policy in the Framework. Paragraph 81 of the Framework requires policies to create conditions in which businesses can invest, expand and adapt, but does not restrict this solely to B Class uses. As such, the weight to these policy conflicts should be reduced. Accordingly, greater weight should be given to the proposal's accordance with LP and NP care home policies than its conflicts with LP and NP employment policies and the proposal should comply with the development plan as a whole.
50. The tilted balance of paragraph 11. d) ii of the Framework would apply given the absence of 5 year HLS. The proposal would boost housing supply and address the needs of a group, elderly people, with a specific housing requirement in accordance with paragraph 60 of the Framework. A favourable decision here would not help a B class use to invest, expand and adapt but it would for a care home business that would employ people and provide financial benefits to the local economy. The Framework places significant weight on the need to support economic growth and productivity. As a result, the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposal. The presumption in favour of sustainable development is a material consideration.

51. Even if I had concluded a departure from the development plan, the presumption in favour of sustainable development and other material considerations in favour are of sufficient weight to indicate that the decision should be taken otherwise than in accordance with the development plan and planning permission should be granted.
52. This proposal has been considered on its particular planning merits and therefore, this decision would not create a precedent for proposals elsewhere in the area, including instances where the harmful effects of proposals are not outweighed by their benefits.

Conditions

53. Suggested conditions have been considered in light of the advice contained in Planning Practice Guidance. Some have been amended, shortened and amalgamated in the interests of clarity and precision taking into account the guidance. There are pre-commencement condition requirements for the approval of details where they are a pre-requisite to enable the development to be constructed. The appellants have agreed to these.
54. For the avoidance of uncertainty and to allow for applications for minor material amendments, a condition is necessary specifying the approved drawings. In the interests of character and appearance of the area, conditions are necessary to ensure satisfactory external building finishes, landscaping, management of the landscaping and the retention of existing trees and vegetation of merit. To protect and encourage biodiversity, conditions are necessary to require details of native planting and wildlife infrastructure and implementation of acceptable management. A condition is necessary to require details of utility connections to minimise disruption to relevant networks. Given the commercial use of the site, there is potential for contamination within the site and therefore, a planning condition is required to ensure any pollutants do not harm people, water resources and ecosystems.
55. To ensure acceptable drainage of the site, conditions are necessary to require the implementation of an acceptable surface water drainage and management plan. In the interests of highway safety, a condition detailing the implementation of a Construction Management Plan is required. To safeguard residents' living environment, conditions are necessary to demonstrate that appropriate noise levels can be maintained internally. To ensure acceptable vehicular parking and access, conditions are imposed to ensure that the development is implemented in accordance with relevant plans.

Conclusion

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

Jonathon Parsons

INSPECTOR

Schedule A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1145PL-RDT-ZZ-XX-DR-A-0100 Rev PL1; 1145PL-RDT-ZZ-XX-DR-A-0101 Rev PL1; 1145PL-RDT-ZZ-GF-DR-A-0200 Rev PL1; 1145PL-RDT-ZZ-01-DR-A-0300 Rev PL1; 1145PL-RDT-ZZ-02-DR-A-0400 Rev PL1; 1145PL-RDT-ZZ-03-DR-A-0500 Rev PL1; 1145PL-RDT-ZZ-04-DR-A-0550 Rev PL1; 1145PL-RDT-ZZ-ZZ-DR-A-0600 Rev PL1; 1145PL-RDT-ZZ-ZZ-DR-A-0601 Rev PL1; 1145PL-RDT-ZZ-ZZ-DR-A-0602 Rev PL1 and 1145PL-RDT-ZZ-ZZ-DR-A-0603 Rev PL1.
- 3) No development shall take place above slab level until samples of the materials to be used in the construction of the external surfaces of the development 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.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of retained trees, including fencing, and appropriate working methods shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be strictly adhered to during the course of the works on the site. No unauthorised access or placement of goods, fuels or chemicals, soil or other materials shall take place inside the fenced tree protection area of the approved scheme.
- 5) No development shall take place above slab level until 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) schedules of plants noting species, plant supply sizes and proposed numbers/densities;
- (b) finished levels and contours;
- (c) boundary treatments/means of enclosure;
- (d) car parking layouts;
- (e) other vehicles and pedestrian access and circulation areas;
- (f) hard surfacing materials;
- (g) minor artefacts and structures, including furniture, refuse or other storage units, signs, and lighting);
- (h) proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc, indicating lines manholes, supports etc.);
- (i) retained historic landscape features and proposals for restoration where relevant;
- (j) existing trees to be retained;
- (k) existing hedgerows to be retained.

All hard and soft landscaping work shall be completed in full accordance with the approved details, prior to the first occupation of the development hereby permitted or in accordance with a programme agreed in writing with the local planning authority.

If within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted in replacement for it is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless otherwise the local planning authority gives its written consent to any variation. The tree or plant shall be planted within three months of felling/dying or if this period does not fall within the planting season by 31 January next.

- 6) No development shall commence above slab level until a biodiversity plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of native planting and boxes for birds and bats. The biodiversity works shall be completed in full accordance with the approved details, prior to the first occupation of the development hereby permitted or in accordance with a programme agreed in writing with the local planning authority.
- 7) No development above slab level shall take place until a landscape and ecological management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the local planning authority.

The plan shall also include the following details:

- (a) details of any vegetation/trees to be cleared; associated ecological risks involved and suitable risk avoidance, such as timing of works;
- (b) how any invasive species found will be managed;
- (c) maintenance regimes;
- (d) any new habitat created on the site;
- (e) management responsibilities;
- (f) treatment of site boundaries and/or buffers around water bodies;
- (g) details of silt mitigation/management measures in preventing silt and debris entering the adjacent watercourse.

Following the first occupation of the development hereby permitted, the plan shall be carried out as approved, and any subsequent variations shall be agreed in writing by the local planning authority.

- 8) No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority detailing the capacity and provision of existing utilities and proposed works to serve the proposed development and any necessary measures to safeguard existing residents and users of the utility network from disruption. Any required measures shall be carried out in accordance with the approved details when connections to relevant utilities are made.
- 9) No development shall commence until an assessment of the risks posed by any contamination within the site, including intrusive site investigation

as necessary, has been carried out, and the results have been submitted to and approved in writing by the local planning authority. The assessment shall include a survey of the extent, scale and nature of contamination and an assessment of the potential risks to human health, property (existing or proposed) including buildings, service lines and pipes, adjoining land, ground waters, surface waters, chalk groundwater table and ecological systems.

In the event that the assessment indicates that remediation is necessary, development shall not commence until a Remediation Statement has been submitted to and approved in writing by the local planning authority. The Remediation Statement shall include details of all works to be undertaken, proposed remediation objectives and criteria, a timetable for the carrying out of any necessary remediation works, and details of the verification or validation of those works. No part of the development hereby permitted shall be occupied until any necessary remediation scheme has been carried out and completed in accordance with the details thereby approved, and until any necessary verification or validation report has been submitted to and approved in writing by the local planning authority.

If any contamination is found during the course of construction of the approved development that was not previously identified, no further development shall take place until a scheme for the investigation and remediation of that contamination has been submitted to and approved in writing by the local planning authority. Any remediation works thereby approved shall be carried out and completed, and any necessary verification or validation report shall be submitted to and approved in writing by the local planning authority, before any part of the development is first occupied.

- 10) No development shall take place until a detailed surface water drainage and management plan for the site has been submitted to and approved in writing by the local planning authority. Such a plan shall be based on the Technical Note carried out by JBA Consulting, reference: 2018s0753 V2.0, dated: 17.01.2020 addendum to the previously submitted Flood Risk Assessment carried out by JBA Consulting, reference 2018s0753 version 4.0, dated February 2019.

The plan shall include;

- a) a detailed drainage plan including the location and provided volume of all SuDS features, pipe runs and discharge points into any storage features;
- b) detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs;
- c) appropriate SuDS management and treatment measures, such as permeable paving, rain gardens, bioretention planters etc. The aim should be to reduce the requirement for any underground storage;
- d) Provision of half drain down times less than 24 hours for proposed SuDS features;

- e) Detailed assessment of existing drainage system including CCTV survey to determine the full extent and details of the system including confirmation of the surface water and foul outfalls;
- f) Detailed management scheme setting out responsibilities, maintenance and adoption arrangements and any other arrangements to secure the operation of the scheme throughout its lifetime.

The approved scheme shall be fully implemented prior to the first occupation of the development hereby permitted.

- 11) No part of the development shall be occupied until a verification report for the implemented works, under the approved surface water drainage and management plan, has been submitted to and approved in writing by the local planning authority. The report shall be appended with substantiating evidence demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage and management plan. It shall also include photographs of excavations and soil profiles/horizons, installation of any surface water structure (during construction and final make up) and control mechanism.
- 12) No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the approved CMP. The CMP shall include details of the:
 - (a) construction and storage compounds (including areas designated for car parking);
 - (b) siting and details of wheel washing facilities;
 - (c) cleaning of site entrances, site tracks and the adjacent public highway;
 - (d) timing of construction activities to avoid school pick up/drop off times;
 - (e) provision of sufficient on-site parking prior to the commencement of construction activities.
- 13) No development shall take place until full details, demonstrating that the internal noise levels for all habitable rooms within the care home shall comply with the internal noise level criteria set out in Table A and the requirement below it, has been submitted to and approved in writing by the local planning authority. The internal noise level criteria are to apply to all external noise sources including, but not limited to, traffic, industry and construction. The development shall thereafter be fully implemented in accordance with the agreed details prior to the first occupation and such agreed details shall thereafter be permanently retained.

Table A

Activity	Location	0700-2300 hours	2300 to 0700 hours
Resting	Living room	35 dB $L_{Aeq, 16 \text{ hour}}$	
Dining	Dining room/area	40 dB $L_{Aeq, 16 \text{ hour}}$	
Sleeping (daytime resting)	Bedroom	35 dB $L_{Aeq, 16 \text{ hour}}$	30 dB $L_{Aeq, 8 \text{ hour}}$

The $L_{Amax,f}$ for night time noise in bedrooms should be below 45dBA.

- 14) Prior to the first occupation of the development hereby permitted, an acoustic report detailing the testing of noise levels in living rooms and bedrooms of all the flats, and the external amenity space has been submitted to and approved in writing by the local planning authority. Such a report shall demonstrate compliance with the internal noise level criteria contained within Table A and the requirement (below it) of the previous condition and be undertaken in accordance with standards set out within BS8233: 2014 Guidance on sound insulation and noise reduction for buildings (or in an equivalent British Standard if replaced). If the noise levels have not been achieved, the report shall detail what additional measures will be undertaken to ensure that they are achieved. These additional measures shall be implemented prior to the occupation of the building in accordance with the details so approved.
- 15) Prior to the first occupation of the development hereby permitted, vehicular parking, turning and loading/unloading shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.
- 16) Prior to the first occupation of the development hereby permitted, details of the construction of the vehicular access and associated kerb radii (shown on drawing number 19014/001 Rev B within Transport Statement, Milestone Transport Planning, May 2019) and arrangements for highway surface water disposal shall be submitted and approved in writing by the local planning authority. During the construction of the development hereby permitted, the access, kerb and drainage shall be completed in accordance with the approved details.

APPEARANCES

FOR THE APPELLANTS

Charles Banner QC	Keating Chambers
Mike Jones	Bidwells
Andy Williams	Define
Mark Powney	Savills
Robert Belcher	Carterwood
David Driscoll	Porthaven Care Homes Group
M Bashford	Chelford Fabrics

FOR THE LOCAL PLANNING AUTHORITY

Shaun Greaves BA (Hons) DipURP MRTPI	Director GC Planning Partnership Ltd
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DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

1. Appeal decision APP/B1740/W/20/3265937 Site of The Rise and Three Neighbouring Properties, Stanford Hill, Lymington, SO41 8DE PP.
2. Document titled Appendix H: Calculation of Travel Plan Evaluation and Support Contributions submitted 15 June 2021.
3. Head of Integrated Accommodation Commissioning & Workforce Development Adult Care Services comments on draft Unilateral Undertaking (setting out temporary provision of affordable homes) objection submitted 16 June 2021.
4. Unilateral Undertaking dated 24 June 2021.
5. Section 106 agreement dated 28 June 2021.
6. Agent response on the revised Framework dated 22 July 2021.
7. Local planning authority response on revised Framework dated 28 July 2021.

Appendix F

Extra Care Housing – where do residents come from? Carterwood Focus 2014

FOCUS

Carterwood Focus
Issue 13 • 2014

Extra care housing
where do residents come from?



Catchments for extra care schemes have, up until now, been paid little attention. In contrast to the care home market with its 5 mile or 15 minute drive time ‘norms’, there is no definitive benchmark in place for extra care facilities.

In collaboration with the Associated Retirement Community Operators (ARCO) and its members, Carterwood has conducted a national research project to ascertain if existing resident behaviour can inform the sector in setting its own industry standard catchments.

Who took part?

- 12 ARCO members, 87 extra care housing schemes, 3,823 elderly residents based in England and Wales.
- Different housing providers including affordable rent, private leasehold and mixed tenure schemes.
- Standalone extra care developments to full care villages.

Data was supplied on an anonymous basis, preserving complete confidentiality for residents.

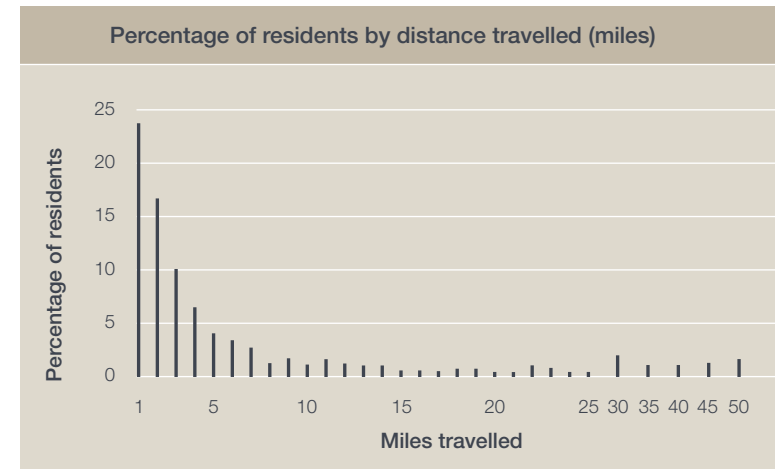
Sources: ARCO members, Land Registry, Ordnance Survey.

What we did?

For all residents, we calculated the distance between the postcode of their last residence and the postcode of the extra care scheme where they currently reside. We then cross referenced each dataset by a number of different variables, such as: geographical proximity, age profile and planning authorities.

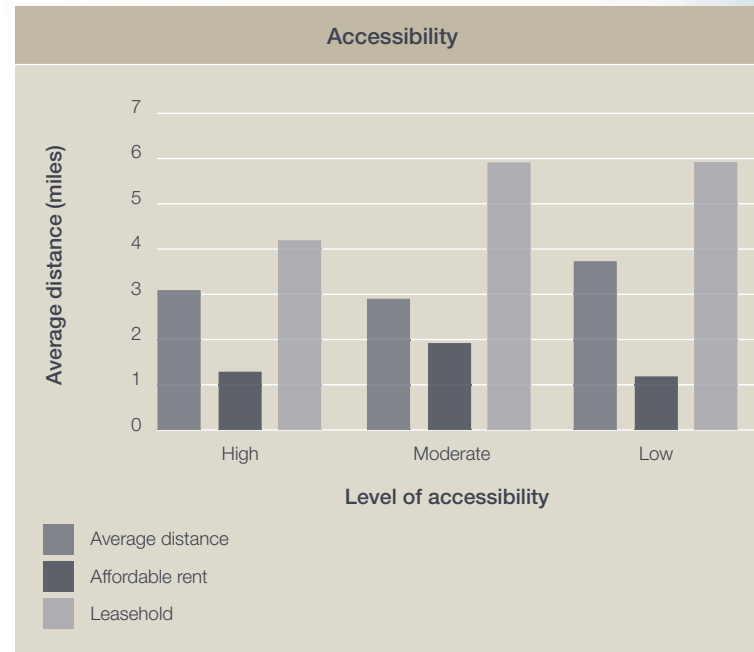
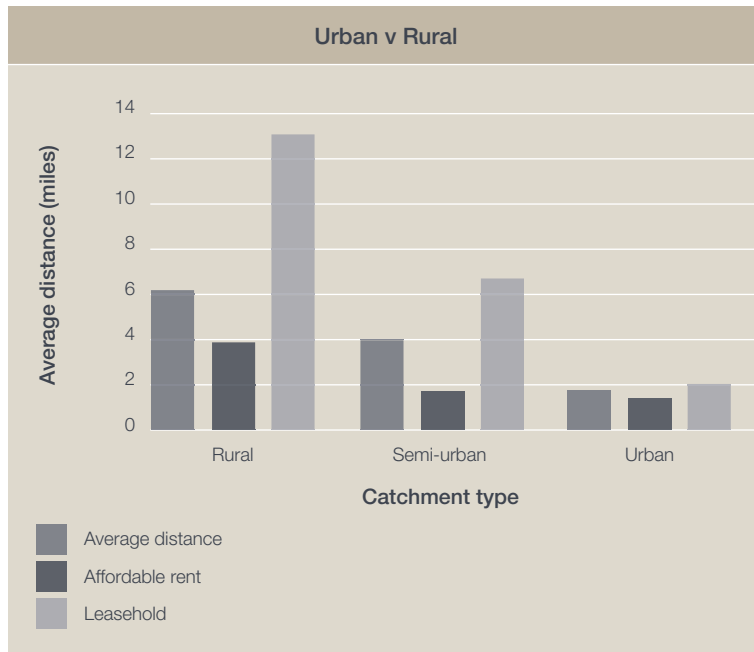
3.1

total average miles travelled



Geographical proximity

- 39% come from within 3 miles – local geography is the most significant influencing factor. (Although it should be noted that tenure does make a difference, especially when local authorities nominate residents. See page 4 for details.)
- 31% come from 10 miles or greater – influencing factors here are:
 - next of kin involved in the decision making process.
 - a lack of existing supply – necessitating the need for people to travel further than they would wish.
 - the ‘pull’ factor of the larger care villages, which may indicate residents making a lifestyle relocation choice.

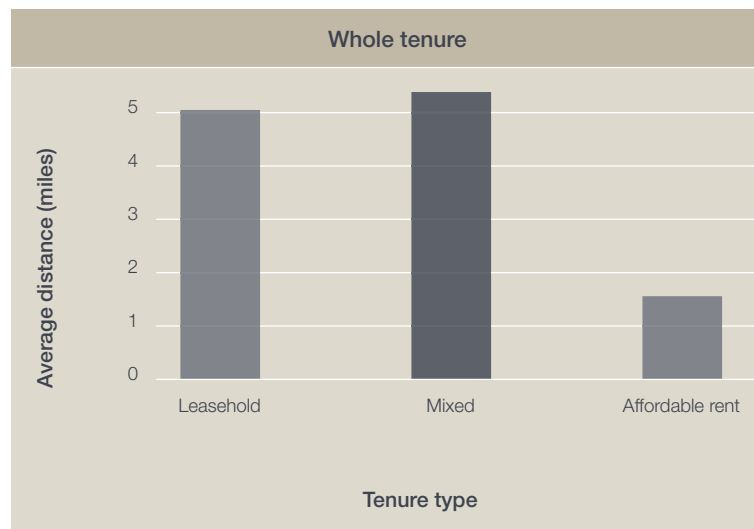


Does the type of catchment matter?

- There is a direct correlation between how urban or rural an area is and how far people will travel. The more 'urban' an area the shorter the average distance of travel. This is reversed in rural areas.
- This result is easily explained. Residents travel further in rural areas where schemes are fewer in number and travel shorter distances in urban areas where service provision is more widespread.
- Whilst this finding is common across both affordable rent and leasehold schemes, the relationship is significantly more pronounced in the leasehold data.

How important is good road access?

- There is no link between affordable rent schemes and accessibility. Average travel distances vary by less than 1 mile between locations with high to low accessibility. This confirms local geography as the dominant determinant.
- For leasehold schemes there is a negative correlation between proximity to transport networks and average travel distances. The more accessible a location, the shorter the travel distance.
- We consider that whilst urban residents have good accessibility to road networks, they prefer to stay within their own locality. Rural locations are less likely to be close to major road networks and therefore attract interest from much further afield. This is particularly important for the full CCRC or retirement village products offering a lifestyle choice.



Tenure and average distance – Private leasehold vs affordable rent

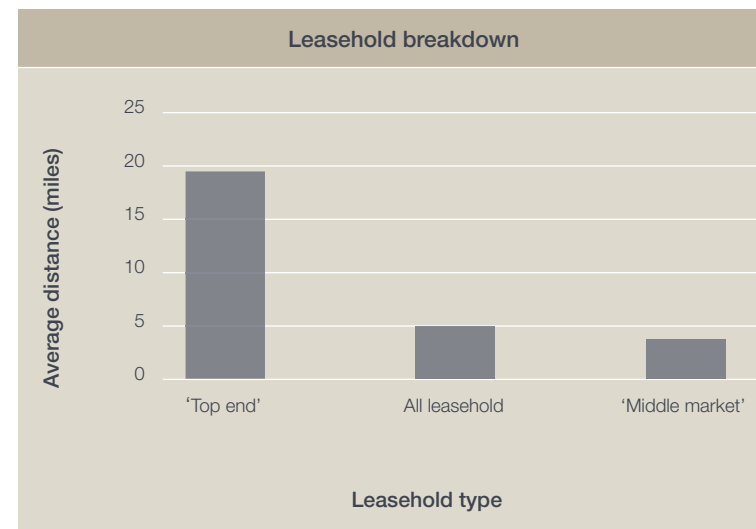
There are significantly different results when comparing the tenure:

- Residents in private long leasehold schemes will travel three times further, on average, than those within affordable rent schemes.
- It should be noted that in the majority of cases, the short moving distances in the affordable rented sector are likely to be explained by local authorities exercising their nomination rights to put forward residents from their area.

The private leasehold market – does specification influence demand?

We have separated out the private leasehold schemes into two groups:

- Standalone 'middle market' schemes – generally (with notable exceptions) between 40 and 70 units, with communal areas consisting of lounge, restaurant, etc, but limited other leisure facilities.
- Care village models, targeting the 'top-end' of the private market – typically developments of at least 80 units, usually including a central core with a wide range of communal facilities, such as: spa, shops, beauty treatment, cinema and restaurant.



The results confirm that high specification care village schemes pull residents from further afield. Travel distances for 'top end' schemes are more than five times that for 'middle market' schemes. This reflects not only the appeal of the comprehensive facilities on offer, but a lack of geographical penetration by this type of extra care model.

5.1

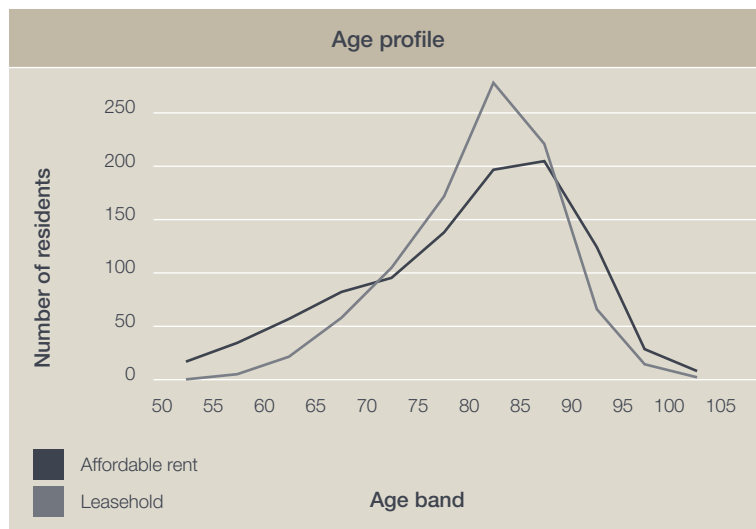
average miles travelled by residents to leasehold scheme

19.6

average miles travelled by residents to 'top end' full care village

3.4

average miles travelled by residents to a standalone 'middle market' extra care development



Does the age profile vary by tenure?

- Mean average ages within both schemes are very similar at 80 years for affordable rent and 82 years for leasehold schemes.
- Affordable rent schemes attract a much wider age range.
- Leasehold schemes have a greater proportion of residents in the 70 to 90 year old band than affordable rent schemes. This is to be expected as this age group is their key target demographic.
- At the lower age band, the extra care housing product appeals at the affordable end of the market because it often surpasses the quality of an individual's current home. A decision in the private market is usually to down-size, often resisted until as late as possible.
- At the upper age band the challenges in buying and selling a property on the open market can limit the potential resident pool for leasehold schemes. These challenges are not a factor in an affordable rental model, where a house sale is not required and there is less of an impediment to moving.

Care home comparison

- Our analysis of the extra care market suggests that there is a much lower overall average travel distance of around 3 miles compared to a more typical circa 5 mile average for care homes (based on other research we have conducted in this field).
- Ultimately, the immature extra care housing sector does not have to pull people from further afield; and therefore real justification is given to commentators who compare the UK experience with that of other developed nations who have many times the number of extra care housing units. Demand for extra care housing is not a problem – the only issue is the lack of supply.
- The care home sector is mature, established and arguably over-supplied with too many of the wrong type of beds to meet the requirements of future generations who need modern, future-proof care homes which cater to higher dependency client groups.
- Conversely, the extra care market is a relatively new fledgling industry where supply is very limited, particularly in the private sector, which suffers from a host of barriers to entry.

Appendix G

Appeal Decision: Ref: APP/K3605/W/20/3263347. Homebase, New Zealand Avenue, Walton-on-Thames Surrey KT12 1XA (June 2021)



Appeal Decision

Inquiry commenced on 9 March 2021

Site visit made on 28 April 2021

by Frances Mahoney MRTPI IHBC

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

Decision date: 21 June 2021

Appeal Ref: APP/K3605/W/20/3263347

Homebase, New Zealand Avenue, Walton-on-Thames Surrey KT12 1XA

- 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 Senior Living Urban (Walton) Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2020/0832, dated 31 March 2020, was refused by notice dated 21 October 2020.
 - Development comprising 222 units of care accommodation with associated communal facilities, landscaping, parking, accesses (vehicular and pedestrian), public realm, bicycle stores and sub-station following demolition of existing buildings.
-

Decision

1. The appeal is allowed and planning permission is granted for a development comprising 222 units of care accommodation with associated communal facilities, landscaping, parking, accesses (vehicular and pedestrian), public realm, bicycle stores and sub-station following demolition of existing buildings at the site of Homebase, New Zealand Avenue, Walton-on-Thames, Surrey in accordance with the terms of the application, ref 2020/0832, dated 32 March 2020, subject to the conditions set out in the schedule set out at the end of this decision.

Preliminary matters

2. The Inquiry sat from the 9-11 March, 16-19 and 22 March 2021 with an unaccompanied site visit on 28 April 2021.
3. The above description of development is not that which was originally set out on the planning application form. Following an exchange on the appropriate Use Class to categorise the nature of the residential units, along with a clarification of the name of the applicant, an amended description was agreed between the parties¹. The change in essence clarifies the nature of the development being proposed. I am satisfied the change was made early enough in the process² so that the proposal was considered, and a decision made by the Council, on the basis of this description. Therefore, the consideration of this appeal should be similarly based.

¹ Inq Doc 37.

² Not long after the original planning application was submitted.

4. At the site visit I noted that the works of demolition had already been completed and much of the rubble removed from the site leaving it construction ready³.
5. The Council refused planning permission for seven reasons⁴. At the Inquiry the Council did not defend reasons for refusal three to seven. They were satisfied that through the terms of the completed S106 agreement⁵ these matters could be appropriately dealt with. I have no reason to question the position of the Council in this regard and therefore do not propose to consider these matters further.

Planning Policy

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan for the District includes the Elmbridge Core Strategy (July 2011) (CS) and the Elmbridge Local Plan Development Management Plan (April 2015) (DMP)⁶.
7. Both the CS and the DMP pre-dates the National Planning Policy Framework (the Framework) and the weight to be ascribed to these policies is dependant on their degree of consistency with the policies within the Framework⁷.
8. The Council is engaged in the preparation of a new Local Plan through which they seek to deliver new and affordable homes supported by infrastructure and services, but delivered in such a way that also protects and enhances the distinctive character and environment of the Borough. Work commenced in 2016. Strategic options were consulted upon initially and the Council then considered the feedback from residents and others and carried out further studies and assessments accordingly. An options consultation was undertaken towards the end of 2019 focusing on the delivery of homes, including affordable housing. In 2020 the vision, objectives and direction for development management policies was also consulted upon. Clearly progress is being made, particularly in the face of the difficulties we have all being living with over the last year or so. However, the emerging Local Plan is not sufficiently advanced or examined and therefore, I can give it little or no weight in my decision-making.
9. As a result, it is the policies of the CS and the DMP which prevail alongside Government policy centred on the Framework.
10. It is an agreed position between the appellant company and the Council that only a 3.96 years supply of housing land can be demonstrated⁸.
11. Paragraph 11, footnote 7 of the Framework is clear where a Council cannot demonstrate a five-year supply of deliverable housing sites, the policies which are most important for determining the application are out-of-date. That position is qualified in that they are not to be ignored. It is for the decision-

³ These works of demolition were permitted development as confirmed by the Council by issuing a Prior Approval dated 3 July 2020 – Appendix 2 to the Planning Position Statement.

⁴ CD3.3.

⁵ Inq Doc 44.

⁶ This was produced under the commitment made in the CS to produce further Local Plan documents.

⁷ Framework para 213.

⁸ Statement of Common Ground (SofCG) para 9.3.

maker to determine the weight to be attributed to the conflict with those policies. This is a matter I will return to later in the decision.

12. The Council has also produced a series of Development Management Advice Notes which were intended to assist applicants when considering new homes in the Elmbridge Borough. I note that the Council has confirmed that the interpretation and application of the relevant development plan policies are consistent with but not dependant upon the Advice Notes⁹. These notes do not appear to have been adopted by the Council and so provide advice, but I can ascribe only limited weight to the content in the decision-making process. It is the policies of the development plan which prevail.

Matters for consideration¹⁰

Impact on streetscene

13. The appeal site is located on the edge of the Town Centre of Walton-on-Thames on a site previously occupied by a rather uninspiring retail 'shed', occupied by Homebase, along with an associated expanse of car parking. This corner site¹¹ has considerable visual prominence in the streetscene and being separated from the main Town Centre development by the A244, it serves as a site of transition between the large scale multi-storey development of the Heart¹², which includes predominantly retail and eateries at ground floor level with apartments above, and the green open expanse of the Cricket Ground and recreation park off to the south.
14. A significant row of mature trees along the New Zealand Avenue frontage of the appeal site links into an intervening small mature woodland which runs to the west and south of the appeal site. The shady tree canopy provides a welcoming verdant and natural area¹³ to sit and enjoy a slower pace of activity from the hubbub of the Town Centre. Well-trodden paths through this wooded area link through to the 'pay and display' car park next to the Cricket Pavilion, skirt the cricket pitch, and then link the Ashley Park Recreational area with neighbouring streets. This area of green space is clearly valued by local residents and was described as a 'green lung' within the urban sprawl of this part of the Borough.
15. To the east and south-east of the appeal site are the distinguished residencies of the Ashley Park Development. Domestic in scale the homes are set in pleasant mature, verdant landscaped gardens, all served from barrier controlled private roads.
16. The proposed design response to the appeal site takes into consideration the site context of the dense urban development of the Town Centre, along with the adjacent mature suburban residential development and wider woodland/park setting to the south.
17. The proposed built form fronting onto New Zealand Avenue would mirror the scale and height of the Heart Town Centre development on the opposite side of

⁹ Mantio email dated 12 April 2021.

¹⁰ Essentially these are matters raised by the interested parties and dealt with at the round table session at the Inquiry, not ones which the Council offered any evidence or opposition to the proposal.

¹¹ Corner of Ashley Park Avenue and New Zealand Avenue.

¹² Including the Sainsburys building – New Zealand Avenue including development between 2-7 or 8 storeys.

¹³ Including the presence of birds and other wildlife. I observed a mature fox foraging around the car park and on the appeal site.

the road, creating a sense of enclosure to the space either side of the main road. The frontage would be well defined by a generous set back from the main road allowing for the retention and safe-guarding of the mature frontage trees and the creation of an attractive public realm, maintaining the already identified linkage of New Zealand Avenue through to the woodland and parkland to the east and south.

18. The proposed contemporary design adopts a façade of division into bays with windows and balconies slightly recessed to create profile and light and shade, resulting in a sense of relief and depth to the expanse of the 8 storey building. That mass and design approach is continued into the proposed leg of the building which would front onto the woodland to the west. However, as the building would turn the corner into Ashley Park Avenue the proposed height and massing would reduce down to 4 stories adopting a series of juxtaposed angular, gable-ended elements which breaks up the building into what can be loosely described as a more domestic scale of development. Whilst not seeking to replicate the character and appearance of the established houses of the Ashley Park development this design approach would result in a complementary visual association which would add to the overall quality of the area¹⁴.
19. At ground level on the New Zealand Avenue frontage, running directly in line with the main throughfare between the Heart and the Sainsbury element of the Town Centre¹⁵, crossing the main road via the pelican crossing, the design proposes a pedestrian link passing through to a central plaza and then beyond out into the woodland to the south. This would be a landscaped walkway available for public use with space within the plaza area to linger. The proposed design would embrace this central area with apartments inward facing. The permeability of the scheme that the snaking route would create from the Town Centre to the park and beyond is an expression of the intention of creating a development which seeks to establish connections with the wider community.
20. The central plaza is proposed to be landscaped to draw the verdancy of the trees on the New Zealand Avenue frontage, as well as the park woodland to the south, through the development creating a green corridor far removed from the rather stark hard surfaces of the pedestrian areas within the Heart development just across the road. It would also be made available for community uses such as Farmers markets or exhibitions¹⁶.
21. The proposed design would be visually attractive and sympathetic to local character with an interesting layout responding to its context establishing a strong sense of place. The arrangement of the buildings and associated spaces would create an attractive and welcoming place to live, work and visit¹⁷. CS policy CS20 sets out that accommodation for older people should utilise creative design and be of high-quality specification.

¹⁴ Framework para 127 a).

¹⁵ Nettlefold Walk into Studio Plaza.

¹⁶ This community use and creation of increased green amenity space for the enjoyment of the wider community would make a positive contribution to the advancement of equality and good relations.

¹⁷ Framework para 127 b) to d).

Impact on trees¹⁸

22. A number of the trees on the appeal site are covered either individually or as groups by Tree Preservation Order EL 92/04¹⁹. The preserved trees which form part of the frontage avenue of trees along New Zealand Avenue and Ashley Park Avenue are proposed to be retained. The Arboricultural Report and supplementary information²⁰ sets out how these trees are to be protected during construction works and the improvement of their rooting environment for their long-term retention and well-being. The trees proposed for removal are located more centrally to the appeal site and whilst their loss would be unfortunate, they do not form part of the road-side avenues.
23. The proposed scheme includes in the order of 60 new trees to be planted which would certainly mitigate the impact of the loss of the preserved trees, particularly as these would be spread throughout the design layout, including the frontages and public areas.
24. The one regrettable loss would be the Kowhai tree which is of significant commemorative value having been given by the New Zealand High Commission in 1970 in recognition of the support of the people of Walton-on-Thames and Weybridge for the care shown to the personnel of the New Zealand armed forces, whilst hospitalised in the area after World War 1. The tree was re-dedicated in 2005 in commemoration of the on-going association. The appellant company has been engaged in consultations with the New Zealand High Commission to agree a meaningful way forward to maintain that element of commemoration through the planting of a replacement tree with appropriate explanatory signboards to ensure the significance of the association is not lost. The inclusion of a sculpture within the landscaped central plaza could also be a permanent expression of a time when conflict across the world cost so many lives and yet the selfless contribution of local people offering care to soldiers so far from home is still remembered and valued by their home country.
25. Whilst I acknowledge that some trees, including preserved trees, would be lost as a result of the proposed development, the main structure of avenue trees would be retained and enhanced through appropriate care and management. Significant additional tree planting would be undertaken to mitigate the loss of existing trees and would be incorporated within the comprehensive landscaping design which is integral to the overall design strategy of the development. In this way the existing trees to be retained would form part of an appropriate and effective landscaping scheme²¹.

Highways

26. The Council was advised on highway implications by the Highway Authority (Surrey County Council (SCC)). This body raised no objections subject to appropriate conditions and improvements to pedestrian crossings and the payment of the Travel Plan auditing fee²². As a result, this was not a matter in opposition pursued by the Council²³.

¹⁸ SofCG para 9.26 -the Council accept the loss of some TPOed trees.

¹⁹ CD8.15

²⁰ CD2.1.3.

²¹ Framework para 127 b).

²² Dealt with via S106 agreement.

²³ SofCG paras 9.18-9.21.

27. However, concerns were raised by interested parties in relation to the following matters:

- a) Impact on local levels of traffic congestion with associated implications for air quality;
- b) Safety of road users in relation to the vehicular entrance and exit to the appeal site;
- c) Impact on existing on-street parking provision and availability in the context of the adequacy of the level of car parking to be provided for future residents, staff and visitors.

- *a) Impact on local levels of traffic congestion – air quality*

28. The now demolished Homebase had 146 associated car parking spaces. By its very nature associated vehicular movements were likely to be relatively short stop-over journeys whilst using the store. The Transport Assessment²⁴ bears out this assessment, where at paragraph 5.7, it concludes that the trip generation associated with the proposed development would be less than half that previously connected with the use of the site as a retail unit. On that basis the level of traffic generated by the proposed scheme would be considerably less than that experienced as part of the Homebase site occupation. In conjunction with the appellant company's initiatives in respect of reducing car ownership by the provision of more sustainable means²⁵, the proposal would have a positive impact on the levels of traffic congestion in the immediate locality²⁶.

29. Consequently, it follows that with significantly reduced generated vehicular trips, the proposed scheme would have a positive impact on air quality in the immediate vicinity. The Air Quality Assessment²⁷ looked more closely at the wider implications of the proposed development for air quality and concluded that it would not give rise to any adverse impacts with regards to air quality or pollution, including light and noise, a conclusion with which the Council concurred and I have no reason to defer from.

- *b) Highway safety – scheme access*

30. The proposed scheme would take access from Ashley Park Avenue much as Homebase did when it was in operation²⁸. In fact, the proposed exit point would be a re-configured version of the main Homebase car park access. A new entrance would be provided some 60 metres south of the exit providing an in-out, one-way access arrangement which would minimise car manoeuvring within this frontage area.

31. There is no suggestion that the proposed design of the access points themselves or the one-way access arrangement would not meet the requirements of the Highway Authority. Having concluded that the proposed

²⁴ CD1.2.17.

²⁵ Car Club, Travel Plan & Village Transport Services – secured by conditions and within the S106 agreement.

²⁶ I am aware there is some concern over congestion and parking stress during the construction phase of the development. However, this has been taken into account within the Construction Management Plan, including lorry routing, which is secured by condition.

²⁷ CD1.2.1.

²⁸ It was claimed that Ashley Park Avenue was a private street. The Council confirmed that the road is only a private street from the point of the location of a gate across the road beyond the access to the public car park adjacent to the Cricket Pavilion.

development would generate less vehicular movements than the previous retail use, and in the knowledge that Ashley Park Avenue is blocked off beyond the proposed entry access with only the Cricket Club, Park and the public car park, along with Ashley Park Crescent sharing access from this road, I do not consider that the proposed access arrangements to the development poses a risk to highway safety as it is alleged.

- *c) Impact on existing on-street parking provision and adequacy of on-site car parking provision*

32. There already exists some time limited on-street parking in Ashley Park Avenue across the side frontage to the appeal site. There are also two car parks within easy walking distance available for visitors and possibly staff to use²⁹. Nonetheless, I recognise this area is likely to be subject to parking stress being so close to the Town Centre.
33. Ashley Park Crescent and Avenue, beyond their gates, are private roads and it is clear from the signage that this is the case and that there is to be no unauthorised parking with CCTV in place.
34. Following an individual assessment of the number of car parking spaces required for this development and, in the context of the nature of the parking in the immediate area, it was agreed that a total of 112 car parking spaces would be provided³⁰. 98 of these would be within the basement, accessed via a car lift, along with 14 spaces at ground level, close to the main building entrance which would be available for key staff³¹ and visitors. Secure cycle storage would also be provided in the basement area as well as at ground level.
35. I am conscious that this is a town centre location where there is ready access to public transport³². Further the appellant company, secured via the S106 agreement, would offer a car club programme offering shared vehicles to those who do not wish to use their own car. A shuttle bus is also proposed to be provided for residents for local trips out and appointments, along with a Travel Plan³³.
36. With the availability of nearby car parks for visitors, along with the mitigating measures offered by the appellant company and, in light of the advice of the Highway Authority and the Council, any overspill parking associated with the development would be likely to be minimal.

Impact on living conditions of existing residents³⁴

37. The proposed development would represent a transitional form of development stepping down from the multi-storey development of the Town Centre to the domestic scale of Ashley Park. Concerns expressed by local residents, centre on the potential for loss of privacy and outlook.
38. The apartments of the Heart, fronting onto New Zealand Avenue, are set in a distinctly urban, town centre location. In such a location it is reasonable to

²⁹ One immediately behind the appeal site adjacent to the Cricket Pavilion and the other as part of the Heart/Sainsburys shopping centre. Both, in the main, would incur a charge to park.

³⁰ Agreed between the Highway Authority and the appellant company.

³¹ Particularly those with peripatetic responsibilities within the wider community.

³² Buses and trains.

³³ Both secured via the S106 agreement.

³⁴ SofCG para 9.15 – the Council do not object on this matter.

expect that some mutual awareness of other residences would be apparent. Even from street level indirect surveillance by passers-by of the immediate balcony areas of the apartments is possible to varying degrees. Here the noise and activity of this busy commercial area are characteristic of the environment setting of the apartments and the levels of privacy would not be as one would expect in an area more of a domestic scale. The relationship between the apartments either side of the Nettlefold Walk is a good example of such town centre apartment living.

39. In this instance the separation distance between the proposed frontage block and the Heart would be in the order of 43.53 metres³⁵. This would be of sufficient isolation to maintain reasonable levels of privacy in the context of town centre living for both existing residents and the future residents of the proposed development.
40. The outlook from the apartments in the Heart would change were the proposed development to proceed. It would replace the Homebase store and car park with a much larger multi-storey building, which I have already concluded would be of a quality, contemporary design which would mirror the general form of the Heart itself. The new building would not be of an unusual form, mass or scale of building from those within the immediate locality. Therefore, whilst different from the building which had occupied the site previously, in the town centre, urban context, it would not be incongruous and would still provide a pleasant outlook for existing residents.
41. The separation distances between the houses fronting Ashley Park Avenue and the proposed development would be slightly less than across New Zealand Avenue. However, the Ashley Park Avenue element of the proposed building does reduce down to, in the main, 4 stories set more angularly to the street and, with the front of the existing houses also not addressing the street squarely the opportunities for direct invasive overlooking would be minimised.
42. The mature front gardens of the Ashley Park Avenue houses, as well as the remaining avenue trees and proposed landscaping within the parking/drop off and pick up/entrance area of the scheme, would also serve to restrict mutual observation between the developments on either side of the road. This existing and proposed planting would also serve to filter views of the development for existing residents. Their previous outlook of the Homebase building and parking area can only be improved upon by the quality of the design proposed.
43. In respect of whether the proposal would unacceptably overshadow existing properties causing a loss of sunlight and daylight a full assessment was carried out and submitted at the time the planning application was considered³⁶. The Council set out its evaluation of that assessment in their Committee Report at paragraphs 9.4.3 – 9.4.6³⁷. Taking into account the separation distances between the proposed development and the neighbouring homes along with the orientation of the buildings one to another I have no reason to question that appraisal nor the overall conclusion that the proposed development would not result in any adverse loss of light or privacy to the existing neighbouring residents.

³⁵ Inquiry Doc 9.

³⁶ CD1.2.6.

³⁷ CD3.1.

- *Overall conclusion on the impact on streetscene, trees, highways and living conditions*
44. The appeal proposal would represent development of a high quality and inclusive sustainable design, integrating sensitively with the locally distinctive townscape, urban landscape and protecting the amenities of those within the area. In this way the relevant terms of CS policies CS3, CS17 and DMP policy DM3 would not be compromised.
45. Further, the development would not have an unacceptable impact on highway safety, and with the general cumulative impact of the identified highway matters having a positive effect on the road network from that of the previous use, there is no question of the impacts being severe³⁸.

Main issues

46. So, having considered the matters raised by interested parties I shall now turn to the main issues in contention between the Council and the appellant company. These can be expressed as follows:
- whether the proposed care accommodation (C2 use class – residential institutions) would be an appropriate response to the development of the appeal site, making efficient use of land, in the context of a pressing unmet general housing need (including affordable housing) in the Borough; and
 - whether the proposal would undermine the promotion of a diversity in the mix of uses within the Town Centre with particular regard to the impact on its vitality and viability.

Whether the appeal proposal is an appropriate response to the development of the appeal site.

47. As a precursor to consideration of this matter as a whole it is necessary to establish what need there is for a development of this type in the context of the available supply.
- *The nature of the development*
48. The appeal proposal is for care accommodation in Class C2 of the Town and Country Planning (Use Classes) Order 1987 (as amended)³⁹. More specifically it would provide extra care housing for older people being 65 years and over with care needs⁴⁰. The delivery of care would support residents existing care needs on entry, and should those needs change, and increase, the facilities and services available would be capable of responding accordingly.
49. As a minimum, personal care needs would amount to 2.5 hours per week. Schedule 5A of Appendix 1A of the completed S106 agreement sets out a list, which is not exhaustive, of elements of personal care. There was considerable debate over whether having a cleaner come in once a week or using the on-site hairdresser would be considered as part of the personal care package to enable someone to 'fudge' qualifying for residency.

³⁸ Framework para 109

³⁹ Specified within the terms of the S106 agreement.

⁴⁰ This would be through the scheme being purpose built along with the presence of a domiciliary care provider (could provide 24 hour care packages). The care would include personal care, nursing care and dementia care. A qualifying person would be someone over 65 years of age who has demonstrated a need through an assessment by a suitably qualified person for the minimum care package.

50. Within Appendix 1A of the S106 the word 'assistance' is repeated throughout. A qualifying person would be someone over 65 years of age who has demonstrated a need through a qualifying person assessment by a suitably qualified person for the minimum care package and the regulated provider of domiciliary care would be registered with the Care Quality Commission⁴¹.
51. The terms of the S106 agreement and the explanation of the promoted model of the scheme occupancy, provides some reassurance that the proposal for C2 use would not be diluted in some way, resulting in an increasing degree of growth of C3 residential accommodation within the development.
52. There was concern expressed that the spouses or partners of the qualifying person who, themselves may not require assistance, may, in sad circumstances, end up alone in the apartment. When considered in isolation such a resident would not strictly comply with the terms of the definition of a qualifying person. However, this is not likely to be a common occurrence to a point of tipping the overall balance of the C2 use into C3 and it would seem an uncaring and insensitive action to expect a bereaved resident to leave. No doubt they themselves may require assistance over time and in any event would still be paying the management fee to cover the assistance package even if they did not require assistance in the immediate future⁴².
53. 193 Guild Living Residences would be available as private ownership options (leasehold). The other 29 units would be Guild Care Residences and Suites. These would be for rental and would offer larger accommodation seeking to support residents who still wish to live with independence but may have an escalating range of different health/care needs above the minimum, up to and including 24 hour care⁴³. Guild Living Residences would also be capable of further adaptation to accommodate increasing care needs.
54. The promoted care model primarily seeks to provide residents with appropriate care in their own home with the offer of increasing their package of care over time as their health circumstances change. The level of care on offer would be akin to that available within a specialist nursing home setting in some cases. Residents would be able to remain in their own familiar surroundings whilst having appropriate care readily available to them. The Guild Care Suites and Residences would also offer step down care for those coming out of hospital if required.
55. The proposed development would also provide services and facilities for use by residents along with the wider community. It is proposed that the café and restaurant⁴⁴ at ground floor level would be open to the public and the gym and wellness centre would be accessible to the public through membership. The central plaza and green spaces, linking through from the Town Centre to the woodland and Park to the south, would also draw the public through the development. All of these elements would offer the opportunity for interaction between residents and the local community. I will return to whether the

⁴¹ Service provider definition in the S106 agreement.

⁴² This could be a factor in any decision for them whether to remain or not. This reasoning also justifies the adoption of schedule 5A within the S106 in preference to the terms of schedule 5B. Schedule 5A meets the tests for planning obligations set out in Reg 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL).

⁴³ Being available for rent would allow for a more rapid move should care needs dictate.

⁴⁴ This would include further hospitality space for social gatherings and private functions.

- availability of the public facilities would actually be practicable in the circumstances of their design, location and management, later in this decision.
56. The aim of the Commissioning Statement produced by SCC covering Elmbridge Borough Council, entitled Accommodation with care, residential and nursing care for older people April 2019 onwards⁴⁵, is to maximise independence, choice and control⁴⁶. The Statement promotes a diverse range of accommodation with care options for people with a range of disabilities and needs. It would allow people, regardless of their financial circumstances, to access settings where the built environment and onsite support can address their current and future needs, and this would reduce the risk of having to access more restrictive environments as a result of crisis.
57. When measured against mainstream housing and care homes, extra care is considered by SCC as being in greatest shortage and that the increasing availability of attractive extra care options would reduce the likelihood of older people moving directly into a care home as their care needs increase. The offered reasoning for this is that extra care gives older people the opportunity to live in settings which are designed with increasing needs in mind, with shared facilities which encourage community living, and with care and support readily available should they need it. Housing with Care seems to me to be the overwhelming identified direction of care provision into the future for the County and consequentially the Borough. This model of Housing with Care embraces extra care along with enhanced sheltered housing.
58. Taking all of the above elements into account it is clear to me that this development is being promoted on the basis of a sound and thought through model to care for those whose care needs change as time progresses, and not to massage the entry requirements to admit those who have not yet reached a point of requiring assistance.
59. This model would allow the potential for those over 65, who are already experiencing a degree of requirement for care, to down-size to a new home where their long term care needs could be accommodated without the necessity for a later move to a nursing home. There is a growing awareness of a move away from residential care, to keep people in their own homes for as long as possible and this model of extra care contributes to the fulfilment of this objective.
- *The need for extra care housing.*
60. The National Planning Practice Guidance (PPG) has identified that the need to provide housing for older people is 'critical', given the projected increase in the number of households aged 65 and over accounts for over half of all households.
61. Paragraph 61 of the Framework advises that planning policies should assess and reflect the size, type and tenure of housing needed for different groups in the community, including older people.

⁴⁵ CD4.18.

⁴⁶ It is noted that the Commissioning Statement has not been formally adopted by the Council but it does form part of the evidence base informing the progression of the new Local Plan and has been produced by a tier of county government with some responsibilities, particularly in respect of direction, for the provision of care for the elderly. Therefore, it can be taken into account as a material consideration, to which I give some weight in these circumstances.

62. CS policy CS20 indicates that the Council would support development of specialist accommodation for older people in suitable locations to help to deliver the targets for housing provision for older people in Elmbridge.
63. To establish if the proposed development addresses national policy and is supported by CS policy CS20 it is necessary to consider whether there is such need for a C2 scheme of the size proposed in Elmbridge. The Council's position is that there is no proven short or medium term need for extra care or nursing care accommodation in the Borough and that the Town Centre of Walton-on-Thames is well served by elderly accommodation schemes⁴⁷. The applicant company take the converse view.
64. The terms need and demand have been very much mixed in the evidence and supporting documents. The term need implies a requirement for or a necessity. Demand as an economic principle would normally refer to a consumer's desire to purchase goods and services, in this case C2 accommodation, along with appropriate care packages. However, I have noted that in the Commissioning Statement, the defined future demand for extra care in Elmbridge is actually an expression of need supported by a calculation, using the nationally recognised methodology of Housing Learning and Information Network (Housing LIN). I have considered it accordingly.
65. The Elmbridge Borough Assessment of Local Housing Needs (ALHN) dated March 2020 sets out that by 2035 the number of those aged 65 or over in the Borough is projected to be 35,500⁴⁸. This represents a 37% increase on 2020 figures. Within this, the rate for the more senior groups that are more likely to place serious demand on care and health services is higher – a 46% increase is projected for those 75 or over (5,900 increase) and a 80% increase for those 85 or over (3,500 increase).
66. In terms of tenure, the number of couples over 65 owning their own homes outright in the Borough is 82%, with another 8% holding mortgages. 90% of owner-occupiers over 65 under-occupy their homes, including 64% with two extra bedrooms or more. This indicates a considerable scope for downsizing⁴⁹, and also, with a high percentage of owner-occupiers, in an area of high property values, appreciable spending power to make a move to a more appropriate home for those older households with changing needs, with the passage of time.
67. Assessing the need for private extra-care housing draws on the advice in the PPG - Housing for older and disabled people⁵⁰. At paragraph 63-004 reference is made to the possible need to assess future need for specialist accommodation for older people, including extra care by means of online tool kits and it specifically mentions SHOP@ (Strategic Housing for Older People Analysis Tool), which is a tool for forecasting the housing and care needs of older people. The Inquiry included a 'beauty contest' of possible assessment tools and their evolution⁵¹. Whatever model is used, its output will be determined by the assumptions on which it relies.

⁴⁷ SofCG section 10.

⁴⁸ 18% of the Elmbridge population: this is projected to increase to 23% by 2035.

⁴⁹ The consequential release of potential family homes onto the market is a benefit of the proposal of some weight.

⁵⁰ Gardner proof Appendix A7.

⁵¹ Inq doc 12.

68. Shop@ was the analysis tool of choice for the Council, although it was a starting point as adjustments were made. The fact it was mentioned within the PPG was taken as indicating a good place to start for analysis. However, I am conscious the mention of SHOP@ does not offer a firm endorsement of the product, nor does it suggest this is the only tool which can be utilised.
69. Since the PPG was published⁵² Housing LIN removed SHOP@ as a readily available (free) online tool. It is, however, still available from Housing LIN on the basis of commissions⁵³.
70. Housing LIN as part of their Analysis Tool Review⁵⁴ has identified that there is a need to consider if the methodology, parameters and prevalence rates⁵⁵ within the SHOP@ tool are relevant to replicate the current and predicted market conditions. A refinement to the tool is promoted as a recognition that the leasehold sector will grow in most areas of the country, especially the more affluent, at a greater rate than the public sector. In respect of trends within the service areas leasehold Extra Care is recognised as a growth area for certain more affluent areas. Taking into account the outcomes of the ALHN I give this trend significant weight in the context of Elmbridge Borough.
71. The appellant company favour the SHOP toolkit as they consider the prevalence rates better fit the relevant circumstances in Elmbridge⁵⁶ the key aspects of which follow:
- (a) a very affluent, property-owning cohort of residents aged 75+, growing in size;
 - (b) some examples of completed and permitted Housing with Care, so that one is not starting from a baseline market without any examples for the market to consider; and
 - (c) a proactive commissioning authority (SCC) which has specifically targeted a substantial increase in Housing with Care and away from care home provision.
72. The parties suggest that the assessment of need is a choice between the SHOP and SHOP@ outcomes. I do not see it as being so black and white. As already indicated each analytical tool kit is only as good as the built-in assumptions. These vary between the toolkits which makes comparison difficult, particularly as full details of neither analysis model are readily available. The argument over whether SHOP was unsubstantiated or that SHOP@ prevalence rates were outdated was not helpful particularly as we were unable to test the toolkit assumptions.
73. SHOP was still in use in other local authority settings in 2018 and its shelving by Housing LIN could, as the appellant company suggest, be part of a commercial strategy, much as SHOP@ has been taken back in-house, now only available for commercial gain. We just don't know.

⁵² 26 June 2019.

⁵³ It was clarified that Housing LIN accepted commissions to undertake housing needs assessments from both the public and private sector subject to there not being a conflict of interest – Inq Doc 6.

⁵⁴ Gardner Appendix 5.

⁵⁵ Can be considered as provision rates.

⁵⁶ It has been noted that SHOP was withdrawn by Housing LIN in April 2020.

74. There continues to be considerable uncertainty around the assessment of need. I am conscious that the Surrey County Council Commissioning Statement sets out that there is no single, recognised methodology for identifying future residential and nursing care need. They chose to use the Housing LIN methodology although they are specific about which one it is.
75. The County Council strategic direction is to maximise the impact of preventative services, provide additional support to carers and to diversify the range of community support on offer, so that people are able to live in their own homes for longer. They have an ambitious programme for the next 20 years for a more diverse range of accommodation with care options for people with a range of disabilities and needs, with the aim to maximise independence, choice and control. It would allow people, regardless of their financial circumstances, to access settings where the built environment and onsite support can address their current and future needs, and this would reduce the risk of having to access more restrictive environments as a result of crisis⁵⁷.
76. The prevalence rates for extra care and enhanced sheltered together, as defined by the Council are as follows⁵⁸:
- SHOP@ 45 per 1000 people over 75; and
 - Housing in Later Life/SHOP: 65 per 1000 people over 75
77. This is a significant difference which makes a considerable variation to the overall assessment of need. I am conscious that these prevalence rates do not take into account that there may be those in the age cohort 65-74 years of age who also require Housing with Care⁵⁹. In my view it would be unsafe to assume that those in that age bracket would not need appropriate housing for their care needs.
78. Each party also took a different view on what the catchment area should be in respect of the generation of the need figures. The Council concentrated on the local authority area, whilst the appellant company drew their net wider using a market assessment area, which is presented as an industry standard of a 5 mile catchment. I understand the reasoning for adopting this cross-boundary area⁶⁰, but it does not sit well with the other elements of evidence which are specifically related to Elmbridge Borough. I do recognise that some potential consumers would come from further afield than the Borough boundaries, either in respect of wanting to move nearer family, or chasing a particular product or location. Such an appraisal of need beyond Borough boundaries, which could be reliably factored into an assessment, is questionable outside of the

⁵⁷ CD 4.18.

⁵⁸ These are as reflected by the Council – they take into account pre-adjustments for an agreed tenure split (73% leasehold, 27% rental) and for health of the local population. I have noted the comments of the appellant company in respect of whether to include a health adjustment or not. The Council has indicated that their assessment is based on census data of some age and centres on those over 75 years of age whose activities are limited a lot. I am considering these figures with a firm 'health' warning as this does not take into account those within the 65-74 age range who could be eligible for residency, nor does it define the limits between 'limited a little' and 'limited a lot', along with the appellants claim that the time lapsed Census data in conjunction with longevity, healthy life expectancy and the lasting effects of the pandemic could suppress need for housing with care in favour of maintaining existing levels of residential care provision. I am also conscious that the population of 75+ year old residents is projected to increase in the Borough overtime.

⁵⁹ The appellant company offered the statistic, which was not challenged, that one in five residents in Housing with Care is likely to be 65-74 years of age (Some 20% of residents within housing with care schemes are between 65-74 years of age – an agreed point in Position Statement – Need for Housing with Care). This is borne out by the qualifying age for residency of the proposed development as 65.

⁶⁰ Cross-boundary between local authority areas.

formulation of the new local plan. In such a dense urban area of London Boroughs, it may be a factor to be considered in the duty to co-operate. Therefore, the local authority area seems to me to be a better fit in terms of assessing the area of need to be appraised.

79. The prevalence rates should be dependant on the Commissioning Strategy and current service provision. SCC Commissioning Strategy for Elmbridge is one of a movement away from nursing care to a future emphasis on Housing with Care. To consider this further it is necessary to consider current service provision in this product space.

- *Supply*

80. Within the Agreed Position Statement – Need for Housing with Care⁶¹ it is an agreed point that existing provision of private housing with care in the Borough is 116 units⁶² and proposed supply of private extra care in Elmbridge is 119 units⁶³.

81. The point in contention is whether the 44 units at Whitely Village should be included as part of the supply. These have yet to be constructed but form part of an extant planning permission which includes the provision of an extra 44 care home units, including communal and ancillary facilities. Whitely Village is a housing charity supporting the health and wellbeing of older people. Their focus is to support the health and wellbeing of up to 450 older people who are unable to buy or rent their own home on the open market. They do, however, offer residential and nursing care for those who can self-fund as well as a limited number of purchase leasehold options.

82. The Whiteley Trust helpfully provided some indication of at what stage the Charity finds itself⁶⁴. They do not know when the 44 units would come forward. This may depend on state funding as they are not in a position financially to self-fund. They did not rule out the provision of the units for private leasehold, but they did emphasise their primary focus is on provision for the poor and elderly people.

83. In considering whether the Whiteley units are deliverable the site has planning permission in place and it is consequently a suitable location for development. However, there is considerable doubt whether the development would be achievable with a realistic prospect that housing would be delivered on the site within five years. By the Trust's own assertion their intentions are uncertain. Their first intention would be to obtain state funding for the development to build homes for the elderly of an affordable nature.

84. Bearing in mind that permission was given in May 2017 and, as at March 2021⁶⁵ there was no indication that the project had moved forward in any direction, I consider, in these circumstances, there is clear evidence that the permitted development would not be achievable with a realistic prospect that the homes would be delivered on the site within five years. Therefore, the 44 units should not be included in the future supply and the supply both existing and permitted is as set out above.

⁶¹ CD9.37.

⁶² 51 units at Edward Place in Walton on Thames and 65 units at Austin Place in Weybridge.

⁶³ 43 units under construction at Campbell House in Weybridge (under construction) and 76 units at Audley Fairmile in Cobham (planning permission granted May 2020).

⁶⁴ Inq Doc 14.

⁶⁵ The date of the informative email Inq Doc 14.

– Overview on future housing provision for older people

85. Having established supply, it is now necessary to consider the overall picture.
86. The consideration of the beauty contest of toolkits to calculate need for Housing with Care essentially results in a comparison of apples with pears as elements in the various models vary and assumptions are inconsistent⁶⁶.
87. The SCC Commissioning Statement, whilst dated April 2019 onwards, is a leaping off point and one which adopts the methodology of Housing LIN. Whilst not specified, it is likely that this would have been SHOP@. It uses a prevalence rate of 25/1000 for extra care. This needs to be adjusted to include enhanced sheltered housing⁶⁷ at 20/1000 and the split tenure of 73/27⁶⁸ applied. It produces a need figure of 493 units with a population aged 75+ in 2025 being 15,000. Purely based on this figure up to 2025 with a supply of 235 there is a net need of 258. I am conscious that these figures do not pay any regard to those between 65 and 74 years of age who may generate further uncertain levels of need. Figures into the future suggest an upward trend for unmet need, but considering up to 2025 is sufficient to make the point.
88. I have also considered whether the COVID 19 pandemic may influence levels of demand into the future. I have no reason to question the appellant company's assertion that Housing with Care performed well in keeping residents safe. There is some logic to this as residents have their own self-contained apartments which provide some safe space for individuals. Staff would also have been available to assist with shopping, care, obtaining medicines etc. It is likely there may be some initial reluctance to consider a move to such a development⁶⁹ post-pandemic, but the drivers for people to move to an environment where appropriate care can be provided will still be there. Therefore, I give this factor little weight in my consideration.
89. Therefore, in respect of future housing provision the appeal proposal would make a significant contribution to this specific area of housing need to which I give considerable weight.
- Whether the proposal is an appropriate response to the development of the appeal site when weighed against other development needs*
90. Having established the need for the proposed development the Council then asks that the challenge to balance the competing demands for different uses in an area, where suitable development land is scarce, should be considered. This situation of the scarcity of development land is not uncommon in dense urban environments. The Council's aim is to establish if the proposal is an efficient use of land in this context.
91. CS policy CS1 identifies that new development will be directed towards previously developed land within the built-up area. The appeal site is just such a site.
92. The term 'efficient use of land' appears in the Framework at paragraph 123 c). This paragraph appears under the heading of 'Achieving appropriate densities'. There is no question that the appeal proposal, in respect of density, layout,

⁶⁶ As much as can be ascertained from the evidence before me.

⁶⁷ Agreed point.

⁶⁸ Agree point.

⁶⁹ Or any move to more communal living.

design, impact on local character and setting, and the promotion of sustainable travel modes does not make efficient use of the land in that context and does not offend Development Plan policy nor associated policies in the Framework in this regard.

93. The issue as promoted by the Council in its simplest form is whether the established need for Housing with Care in the Borough outweighs the need for other local housing needs in an environment of a scarcity of suitable land for such development. I agree with the appellant company that the reference in paragraph 122 of the Framework is more about not under using land in a development sense. In paragraph 123 c) the meaning of efficient use of land is more closely connected to a consideration of spatial/density related matters referred to in the following sentence to paragraph 123 in respect of living standards. It does not create a policy environment to place an overall housing need into an internal hierarchy of one type of housing need balanced against another. However, in any event I have considered the matter below.
94. The appeal site is designated as part of the Town Centre. It could therefore accommodate a range of town centre multi-uses, including residential⁷⁰.
95. It is an agreed point that the Council does not have a 5 Year Housing Land Supply being only able to demonstrate 3.96 years⁷¹. The appeal proposal would contribute 209 units to local housing need and this implies that the identified need for Housing for older people in the Borough, including Housing with Care, is an integral part of the Council's identified housing need.
96. That need will be reassessed as part of the new local plan process and no doubt some of the Council's work relevant to this appeal may be included in the evidence. Further, the duty to co-operate may also include discussions about cross-boundary migration of older people to access Housing with Care.
97. However, for the purposes of this appeal the need for Housing with Care, whether already expressed or to be included, is an integral part of the housing need of the Borough and the site would contribute to the supply of housing within the next 5 years.
98. I understand that across the Borough there are significant land use constraints, 60% being Green Belt or subject to other substantial planning or environmental constraints⁷². Of the remaining 40%, in a relatively dense urban area, much is already developed in providing infrastructure. Nonetheless, my attention was drawn to a number of sites close to the Town Centre which had potential for re-development for mixed uses, including housing. That said such ad hoc identification is only a short-term response. It is via the new local plan that allocated sites, including brownfield land needs to be identified and assessed.
99. The Council has a pressing need for smaller units of market housing⁷³ and, on the back of this would likely come affordable homes, again with significant unmet need in the Borough. The proposed development of C2 homes would not generate any affordable houses.

⁷⁰ CS policies CS3 & CS18 apply.

⁷¹ SofCG para 9.4.

⁷² Such as SPA, SSSI and areas susceptible to flooding.

⁷³ 1-2 bedroom units representing 70% of need. 1-3 bedroom homes represent 90% of need.

100. CS policy CS17 – Local character, density and design, sets out under the heading Local Character that new development will be required to deliver high quality and inclusive sustainable design, which maximises the efficient use of urban land. This is a design-based policy where the efficient use of land is placed in the context of character, design and density.
101. CS policy CS3, a policy specific to Walton-on-Thames, indicates that within the town centre, new development will be promoted in a way that delivers high quality, well designed public spaces and buildings, makes efficient use of land and adds to the centre’s attractiveness and competitiveness. Again, the efficient use of land is closely aligned with design and public spaces and buildings.
102. DMP policy DM10 does require development to promote house types and sizes that make the most efficient use of land and meet the most up to date measure of local housing need⁷⁴. Having concluded that there is an established need for Housing with Care and that this forms part of the overall local housing need this policy would not be offended by the proposal.
103. None of these policy references give policy support to the Council’s position. The term efficient use of land, in my judgement, in the main, is used in a different context relating to design and density.
104. Development Management Advice Note 1: Understanding Housing Need⁷⁵ sets out that in line with paragraph 123 of the Framework, schemes that do not make efficient use of land will be refused. I have already set out that these are just advice notes and so are of limited weight. Further I have commented on the context of paragraph 123 and its applicability in respect of balancing one housing use against another and I do not intend to repeat myself.
105. However, refusing development which is compliant with both development plan policy and national policy just because it is not what has been identified as housing of the type of most pressing need, would basically mean that no development on such land would be able to proceed until the pressing need for new small 1-3 bedroom housing is satisfied. This cannot be right. There is an established need for Housing with Care and a duty upon the decision-maker to advance equality opportunities between the elderly and younger members of society⁷⁶. It would create a hierarchy of development not reflected through adopted development plan policy, essentially stifling development in the Borough. The new local plan will be able to allocate development land as required and prioritise development through properly constructed and examined policy.

⁷⁴ There could be a tension between CS policy CS19 which seeks to secure a range of housing types and sizes on developments and resist an over concentration of any one type of dwelling if this is considered to have potential to adversely affect community cohesion, and CS policy CS20 which offers support for specialist accommodation for older people in suitable locations. However, the appeal proposal includes units of a range of sizes which respond to one sector in housing need, a response in respect of accommodation types which would not be uncommon or unexpected in a development of this type. A response to community cohesion has been designed into the proposal through public access to ground floor services and the creation of the central green pathway and space which would attract the community and create linkages with future residents. Therefore, I am content that the policy relationship between these policies is relaxed and not at odds in this case.

⁷⁵ CD4.9.

⁷⁶ Public Sector Equality Duty – created under the Equality Act 2010.

Impact on the Town Centre – vitality and viability

106. Whether the appeal proposal would contribute to the vitality and viability of the Town Centre is a key issue. It has already been established that this is a designated town centre site, but one which is not identified as being primary or secondary frontage as set out in CS policy CS18 or on the proposals map.
107. As already described above the proposed development frontage onto New Zealand Avenue mirrors the development of the Heart and this would include the nature of the ground floor uses, in particular restaurant food offers which are concentrated in this area. The issue for the Council is whether the proposed restaurant, which the appellant company promote as being open to the public as well as to residents, would, in the practicality of use, be so available. This also applies to the proposed gym and wellness suite.
108. Much play was made at the Inquiry of how future residents may take priority over public walk-ins in respect of bookings for restaurant tables. Schedule 9 of the S106 agreement is clear that there would be no preferential treatment in accessing the restaurant/café or the flexible/multi use space for future residents over members of the public. The agreement also requires the setting up of a booking system to which both residents and the public would have equal access⁷⁷.
109. The Council also suggested that the restaurant, along with other ground floor facilities, being located within an extra care setting, would be decorated and equipped to appeal more to those of the age of future residents which may not be appealing to the wider public. This seems an absurd suggestion. People over 65 years of age are also members of the public and no doubt enjoy frequenting local restaurants which will have a range of décor from smart, chic to themed and minimalist. It would be a wrong assumption that their style and decorative tastes widely differ in fashion from those of a younger age.
110. I visited the Audley Villages development at Nightingale Place, Clapham to observe a similar type of publicly accessible café/restaurant, gym and wellness centre offer. The café/bar/restaurant appeared as a well laid out and styled space more akin to a quality hotel. It was accessed through the main reception which was similarly styled and there were doors out onto an outside seating area. These would be similar arrangements to those proposed in this case. I saw no physical barriers in respect of putting off members of the public to using the facility and I would anticipate that would be the case for the restaurant/café now proposed.
111. I am also conscious that the restaurant/café would be located close to the thoroughway from the Town Centre to the proposed central plaza and the Park beyond. The proposal offers a convenient stop-off for coffee or a lunch for those walking through.
112. The proposed gym and wellness centre would be on the small size and certainly not akin to one of the national chain's facilities. However, the S106 agreement requires the setting up of a membership scheme, which would include members of the public. Gyms appeal to users in different ways depending on the type of training required and aspirations for outcomes. I have no doubt this smaller gym, along with the pool, wellness centre and yoga and pilates

⁷⁷ Schedule 9 - Management Plan of the S106 agreement is compatible with the tests for planning obligations set out at Regulation 122 of CIL.

classes would be attractive to those looking for a quieter, less intense training experience.

113. In conclusion, I am satisfied that the proposed ground floor uses would be equally available to future residents as well as to members of the public and there is a mechanism in place to secure this relationship⁷⁸.
114. With the above conclusion in mind the contribution of the proposed development to the vitality and viability of the Town Centre can be considered.
115. The impression given at the Inquiry by the Council was of a town centre in a state of vulnerability having recently lost some prime retailers. I made my site visit purposefully a few weeks after non-essential retail was allowed to open again after the lockdown which commenced in late December 2020. What I observed on a wet Wednesday morning was a town centre of some vibrancy with a considerable number of shops, food outlets and services such as hairdressers open for business and welcoming customers. Sainsburys was busy and there was noticeable footfall around the Heart as well as along New Zealand Avenue, the High Street and Church Street where many independent shops, eateries and services are located.
116. The proposed establishment of the restaurant/café on the Park side of New Zealand Avenue would extend the vitality of the Town Centre across the road drawing those enjoying the retail offer of the Heart into the communal spaces of the proposed development, through to the woodland and Park beyond, whilst offering another possibility to spend time at leisure, either inside the restaurant or in its tree shaded outside frontage space. This arrangement would add a different dimension of pavement café culture to this side of New Zealand Avenue to positively enhance its vibrancy and character.
117. In addition to the ground floor business contribution, the future residents of the apartments⁷⁹ could bring their spending power to the Town Centre. With Sainsburys only a very short walk across New Zealand Avenue from the main reception of the apartments, and other shops and services in the Heart, the High Street and the immediate surroundings, similarly a short stretch of the High Street, residents would almost certainly shop local and use convenient local services such as personal grooming, dentistry and the varied independent retailers and service providers within the locality. That is surely one of the advantages for future residents of the site's location, much as the residents of the Heart's C3 apartments benefit.
118. It was suggested that as the development would include hair and beauty services and the restaurant offer, residents would be more likely to stay within the confines of the development. Again, I consider this to be a misjudging of the likely benefits of the development location so close to the Town Centre where a greater mix of services, retail and leisure facilities would be on the doorstep ready to be enjoyed by future residents. That must be an obvious locational benefit.
119. The scheme would also generate some 59 FTE jobs, including within the restaurant, gym and well-being suite. These workers may also use the Town Centre to shop or dine.

⁷⁸ Schedule 9 of the S106 agreement which is compatible with the tests for planning obligations set out at Regulation 122 of the CIL.

⁷⁹ Over 350.

120. DMP policy DM3 sets out that diversity of uses in town centres will be encouraged and will resist large, single use buildings unless mixed use development has first been explored and discounted for viability and feasibility reasons. As already discussed above the appeal proposal includes a mix of uses at ground floor addressing the Town Centre frontage.
121. I am satisfied that the appeal proposal in the context of the terms of the S106 agreement in relation to the Management Plan would represent a building in mixed use which would positively contribute to the vitality and viability of the Town Centre offering the introduction of a diversity of uses, particularly at ground floor level, which would compliment and consolidate on the current leisure offer within the Town Centre, as well as provide a future resident population conveniently located to contribute to the viability of the Town Centre through their spending power. In this way the terms of CS policies CS3, CS18 and DMP policy DM3 would not be compromised.

Conditions and obligations

Conditions⁸⁰

122. A range of conditions was discussed and agreed (without prejudice) at the Inquiry. I have made minor amendments in the interest of precision.
123. Only conditions which are formally required to be discharged prior to works commencing on site have been promoted as pre-commencement conditions. These have been agreed by the appellant company⁸¹. These are imposed as they involve details to be approved for the arrangements of the work on site.
124. With the agreement of the appellant company the time limit for the implementation of this full permission has been reduced to two years. This is as a result of the development being promoted as making a significant contribution to the 5 year housing land supply. The early delivery of the development was an element taken into account in favour of the proposal.
125. A condition specifying the relevant drawings would be important as this provides certainty and clarity.
126. There are a number of highway related conditions. A Highway Condition Survey is considered necessary as the development construction works could have implications for the highway condition over the course of building works and a survey would set a baseline for condition assessment. A Post Construction Highway Survey would ensure that the development would not adversely impact on the condition of local highways. The Construction Environmental Management Plan would also seek to secure the free flow of traffic and highway safety. Improvements to pedestrian crossings in the immediate vicinity would safeguard highway safety particularly for future residents of the development. Timely provision of the access points onto Ashley Park Avenue would further safeguard highway safety along with the provision of parking and turning facilities.
127. A condition confirming the provision and retention of the pedestrian link through the development is also necessary to secure the community benefit

⁸⁰ Inq Doc 43.

⁸¹ Inq Doc 24.

- that was promoted in this regard, as well as the linkage between the wider community and future residents of the development.
128. To promote sustainable modes of transport and practices, conditions relating to cycle parking, travel plan, provision of fast charging electric sockets have been imposed.
 129. Taking into account the appeal sites previous use it is necessary to ensure that the land is uncontaminated so the development can safely proceed with no adverse effects from pollution on the environment, harm to human health or general amenity.
 130. To secure the satisfactory drainage of the site in the context of the general surroundings and any flood risk, details of surface water drainage are required to be submitted and agreed.
 131. Conditions in respect of the retention, maintenance and protection of existing trees along with the landscaping (both hard and soft landscaping) of the appeal site, external material samples to be agreed, detailed architectural drawings are imposed to secure the satisfactory external appearance of the buildings and protect and enhance the character and appearance of the locality.
 132. To secure the living conditions of existing and future residents, conditions are imposed relating to a limitation of noise from proposed fixed plant, low noise levels between commercial premises and dwellings, Construction Environmental Management Plan implementation, details of balcony privacy screens, restricted access to building 2, sixth floor terrace area and the restriction of delivery of goods and waste collections.
 133. To secure acceptable environmental conditions in the area conditions are imposed dealing with air quality, external noise, biodiversity (impact upon protected species), requirement for a Landscape and Ecological Management Plan and external lighting scheme.
 134. The appellant company suggested that an appropriately worded condition should be imposed to secure public access to the communal area facilities within the development (wellness suite, flexible fitness/event multi-use space and the café/restaurant – all at ground floor level). I do not agree. As at Nightingale Place these elements of the scheme could, at some point, be run by a third party. Further the setting up of a membership scheme for the wellness suite and booking to access the multi-use space and café/restaurant, in addition to the securing of a common pricing structure and avoidance of preferential treatment for future residents over other members of the public are all elements which go beyond that which can be reasonably be secured by condition. Whilst the appellant company might argue that Guild Living may have overall control, the securing of public access has been fundamental to my decision both in respect of the impact on the Town Centre as well as in considering the nature of the overall combination of uses of the proposed development. Therefore, these matters are best dealt with through the terms of the S106 agreement (see Schedule 9 Inq Doc 44).

*Obligations*⁸²

135. I have already referred to planning obligations in respect of sustainable transport provisions, including Travel Plan, Car Club provision and parking space and the Village Transport Service, being necessary and justified. The restriction of the residences within the scheme not to be used for Class C3 use, whilst acknowledging that spouses or partners of qualifying persons may continue to live in their homes even after the qualifying person may have moved on to a more intense care facility or may have passed, has also been referred to.
136. The planning agreement also contains obligations in respect of waste and recycling facilities. The intention is for this to be managed privately and it is important for details of the waste collection contract to be known to secure an adequate disposal and collection service.
137. The security management plan is necessary as the immediate locality of the appeal site falls within an area which has suffered from anti-social behaviour with a Public Spaces Protection Order being in place. The permeability of the proposed development, whilst being a community benefit of the scheme, was identified by Surrey Police as having potential to add to the poor behaviour already experienced. The Council and the appellant company have agreed that the security management plan should include the use of a security company for the lifetime of the development. The provision of this element does need to be secured by means of the terms of the legal agreement.
138. Overall, I find that all of the identified provisions are considered to be necessary, in order to make the development acceptable taking into account the terms of the Statement of justification for obligations. The statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations are met, and that the provisions of the planning agreement are material considerations in this appeal.

Overall conclusion

139. Due to a lack of a 5 Year Housing Land Supply it was an agreed matter that the tilted balance in favour of sustainable development should apply unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole⁸³.
140. Having assessed the proposal against the policies of the Development Plan, and the Framework as a whole, no policy harms have been identified.
141. There are a number of identified benefits which the appellant company detail in Mr Spence's proof para 5.6-5.7. These are generally uncontested, and I acknowledge the social, economic and environmental benefits, and would highlight that the appeal proposal does make a significant contribution to the supply of housing and specialist accommodation both locally and nationally⁸⁴.
142. In the absence of harm there are no adverse impacts of granting planning permission and so there is no balance to be drawn, harm v benefits.

⁸² Inq Doc 44 & CD8.20.

⁸³ Framework paragraph 11.

⁸⁴ Framework para 59 – in the particular circumstances of a lack of a 5YHLS.

Therefore, this appeal should be allowed and planning permission granted for the proposal⁸⁵.

Frances Mahoney

Inspector

⁸⁵ In reaching this decision I have taken into account the terms of the various appeal decisions brought to my attention in so far as they are relevant based on the limited submitted evidence in each case.

Schedule of conditions

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

2. The development hereby permitted shall be carried out in strict accordance with the following list of approved plans and documents:

- 19023-MPI-XX-XX-DR-A-01_001 Rev P1 LOCATION PLAN - EXISTING
- 19023-MPI-XX-XX-DR-A-01_002 Rev P1 LOCATION PLAN - PROPOSED
- 19023-MPI-XX-XX-DR-A-01_004 Rev P1 SITE BLOCK PLAN - PROPOSED
- 19023-MPI-XX-00-DR-A-20_001 Rev P1 PROPOSED ROOF LEVEL MASTER PLAN
- 19023-MPI-XX-B1-DR-A-20_002 Rev P1 LEVEL B1 MASTER PLAN
- 19023-MPI-XX-00-DR-A-20_003 Rev P1 LEVEL 00 MASTER PLAN
- 19023-MPI-XX-01-DR-A-20_004 Rev P1 LEVEL 01 MASTER PLAN
- 19023-MPI-XX-02-DR-A-20_005 Rev P1 LEVEL 02 MASTER PLAN
- 19023-MPI-XX-03-DR-A-20_006 Rev P1 LEVEL 03 MASTER PLAN
- 19023-MPI-XX-04-DR-A-20_007 Rev P1 LEVEL 04 MASTER PLAN
- 19023-MPI-XX-05-DR-A-20_008 Rev P1 LEVEL 05 MASTER PLAN
- 19023-MPI-XX-06-DR-A-20_009 Rev P1 LEVEL 06 MASTER PLAN
- 19023-MPI-XX-07-DR-A-20_010 Rev P1 LEVEL 07 MASTER PLAN
- 19023-MPI-ZZ-B1-DR-A-20_100 Rev P1 BASEMENT - LEVEL B1
- 19023-MPI-ZZ-00-DR-A-20_101 Rev P1 GA PLAN - LEVEL 00
- 19023-MPI-ZZ-01-DR-A-20_102 Rev P1 GA PLAN - LEVEL 01
- 19023-MPI-ZZ-02-DR-A-20_103 Rev P1 GA PLAN - LEVEL 02
- 19023-MPI-ZZ-03-DR-A-20_104 Rev P1 GA PLAN - LEVEL 03
- 19023-MPI-ZZ-04-DR-A-20_105 Rev P1 GA PLAN - LEVEL 04
- 19023-MPI-ZZ-05-DR-A-20_106 Rev P1 GA PLAN - LEVEL 05
- 19023-MPI-ZZ-06-DR-A-20_107 Rev P1 GA PLAN - LEVEL 06
- 19023-MPI-ZZ-07-DR-A-20_108 Rev P1 GA PLAN - LEVEL 07
- 19023-MPI-ZZ-08-DR-A-20_109 Rev P1 GA PLAN - ROOF LEVEL
- 19023-MPI-XX-ZZ-DR-A-20_200 Rev P1 SECTION AA, BB
- 19023-MPI-XX-ZZ-DR-A-20_201 Rev P1 SITE - SECTIONS
- 19023-MPI-XX-ZZ-DR-A-20_202 Rev P1 PROPOSED ELEVATIONS 01 AND 02

- 19023-MPI-XX-ZZ-DR-A-20_203 Rev P1 PROPOSED ELEVATIONS 03, 04 AND 05
- 19023-MPI-XX-ZZ-DR-A-20_204 Rev P1 PROPOSED ELEVATIONS 06 AND 07
- 19023-MPI-XX-ZZ-DR-A-20_205 Rev P1 SITE - ELEVATIONS
- 19023-MPI-XX-ZZ-DR-A-20_206 Rev P1 PROPOSED ELEVATIONS 01 AND 02 - TREES REMOVED FOR CLARITY
- 19023-MPI-XX-ZZ-DR-A-20_207 Rev P1 PROPOSED ELEVATIONS 03, 04 AND 05 - TREES REMOVED FOR CLARITY
- 19023-MPI-XX-ZZ-DR-A-20_208 Rev P1 PROPOSED ELEVATIONS 06 AND 07 - TREES REMOVED FOR CLARITY
- 19023-MPI-XX-ZZ-DR-A-20_209 Rev P1 SITE - ELEVATIONS – TREES REMOVED FOR CLARITY
- 19023-MPI-XX-ZZ-DR-A-20_290 Rev P1 SUBSTATION - 19023-MPI-XX-ZZ-DR-A-21_300 Rev P1 TYPICAL BAY STUDY – BAY 1- BUILDING 1 & 2
- 19023-MPI-XX-ZZ-DR-A-21_301 Rev P1 TYPICAL BAY STUDY – BAY 2 - PEDESTRIAN GATEWAY BUILDING 1
- 19023-MPI-XX-ZZ-DR-A-21_302 Rev P1 TYPICAL BAY STUDY – BAY 3 - BUILDING 3 & 4
- 19023-MPI-XX-XX-DR-A-30_100 Rev P1 TYPICAL UNIT LAYOUTS – 2 BED M4(2) & M4(3)
- 19023-MPI-XX-XX-DR-A-30_101 Rev P1 TYPICAL UNIT LAYOUTS - AGED CARE SUITES
- 602_S_00_100_P02 General Arrangement Landscape Sections A-A
- 602_S_00_101_P02 General Arrangement Landscape Sections B-B TPP 1 Rev 1 Tree Protection Plan for Demolition
- 602_P_00_100_P05 Landscape General Arrangement Plan; and - Arboricultural Report and Tree Condition Survey ref. 032020-8110 Rev 2 (March 2020 Revised September 2020).

3. No development shall commence until a Highway Condition Survey has been submitted to and approved in writing by the Local Planning Authority detailing highway condition before construction commences.

4. To ensure the potential for contamination has been investigated and the necessary action taken to make the development site suitable for its proposed use, the following steps must be completed to the satisfaction of the Local Planning Authority. No construction shall be commenced until step (a) has been completed by a competent person. Furthermore, there shall be no occupation of any part of the site by any end user prior to meeting the terms of this condition in full.

a) Site Investigation, Method Statement and Remediation

i) A written site-specific investigation plan using the information obtained from the preliminary investigation (Contaminated Land Assessment, Plowman

Craven, April 2020, ref CB/CS/P20-1989/01 Rev A), providing details of the investigation for soil, gas and controlled waters where appropriate, shall be submitted to, and approved in writing by, the Local Planning Authority.

ii) The site investigation shall be undertaken in accordance with the scheme agreed by the Local Planning Authority. The results of the site investigation, a refined conceptual model and a risk assessment of any contamination found shall be submitted to and approved in writing by the Local Planning Authority.

iii) A written Method Statement with verification plan, detailing any remediation requirements and how successful implementation of these requirements will be verified shall be submitted to and approved in writing by the Local Planning Authority.

b) Development in accordance with the Method Statement The development of the site shall be carried out in accordance with the approved Method Statement, and any addenda submitted by the developer, and agreed in writing by the Local Planning Authority. Any post remediation monitoring identified in the Method Statement shall be installed by the developer within the timescales identified in the Method Statement and maintained and operated for as long as identified by the Method Statement.

c) Unsuspected Contamination - If, during development, contamination not previously identified, is found to be present at the site then no further development shall be carried out until the developer has submitted a written addendum to the Method Statement detailing how the unsuspected contamination shall be dealt with and the addendum has been approved in writing by the Local Planning Authority. The identified measures shall be implemented as agreed.

d) Piling - Development approved by this permission shall not commence unless a Foundation Works Risk Assessment for piling foundations (if piling is to be used on site) has been submitted to and agreed in writing by the Local Planning Authority. The piling shall be undertaken only in accordance with the method outlined in the approved Foundation Works Risk Assessment.

e) Imported material - Clean, uncontaminated rock, soil, brick rubble, crushed concrete or ceramic only shall be permitted as infill material. The developer shall not import any material until a sampling program, including appropriate import criteria for the proposed end use and frequency of sampling, has been submitted to and approved in writing by the Local Planning Authority. The Developer shall carry out the approved sampling program to check that all imported material conforms to the agreed criteria. Where the permitted end use is residential, the sampling program shall also include samples taken from the imported material after final placement. Written confirmation of the suitability of all imported materials shall be provided to the Local Planning Authority as part of step (f). This shall include both the results of the sampling program and also details of the origin, transport, final deposition and any temporary stockpiling of the imported materials.

f) Completion of Remediation and Verification Report - Note: Verification by an independent, competent person must be carried out prior to occupation of any part of the site by any end user. Remediation detailed in the Method Statement shall be completed prior to occupation of any part of the site by any end user. Prior to occupation of any part of the site by any end user a written Verification

Report shall be submitted to and agreed in writing by the Local Planning Authority providing verification that the required works regarding decontamination and installation of post remediation monitoring, have been carried out in accordance with the agreed Method Statement and any addenda thereto. The verification shall be carried out and reported by an independent, competent person, stating that remediation was carried out in accordance with the approved remediation scheme and that the site is suitable for the permitted end use.

5. The development hereby permitted shall not commence (except for the demolition) until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design must satisfy the SuDS Hierarchy and be compliant with the national Non- Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:

- a) Evidence that the proposed final solution will effectively manage the 1 in 30 & 1 in 100 (+40% allowance for climate change) storm events, during all stages of the development. Associated discharge rates and storage volumes shall be provided using a maximum staged discharge rate of 4.9 I/s 1 in 1 year, 10 I/s 1 in 30 year and 11.6 I/s for 1 in 100 year +40%.
- b) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.).
- c) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected.
- d) Details of drainage management responsibilities and maintenance regimes for the drainage system [a compliance with which is subject to Condition 28].
- e) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational. The surface water drainage scheme shall be fully installed prior to the first occupation of the site in accordance with the approved details.

6. No development (excluding demolition) shall take place and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until a pre-commencement meeting has been held on site and attended by a suitable qualified arboriculturist, representative from the Local Planning Authority and the site manager/foreman. The site visit is required to ensure operatives are aware of the agreed working procedures and the precise position of the approved tree protection measures or/and that all tree protection measures have been installed in accordance with all documentation submitted to and approved in writing by the Local Planning Authority to comply with the Additional Arboricultural Information condition (7).

7. No development (excluding demolition) shall take place until all supporting arboricultural information has been submitted to and approved in writing by the Local Planning Authority. Arboricultural information is to be in accordance with the Arboricultural Report and Tree Condition Survey (Revised September 2020)

and are to be implemented and secured over the course of construction. This shall include further details of the:

- a) measures taken to protect existing trees and hedges during construction, including offsite trees where root protection zones encroach within the site area, delivery / storage of materials and machinery, including final specifications for all protection barriers to be used;
- b) location and installation of services/utilities/drainage/soakaways, including services to automated gates.
- c) details of construction and installations including methodologies within a root protection area or that may impact on retained trees, including off-site trees where root protection areas encroach within the site area.
- d) full specification for the construction of any roads, parking areas, driveways, hard surfacing, including details of no dig specification and extent of the areas to be constructed using no dig surfacing.
- e) detailed levels and cross sections to show that the raised levels of surfacing, where the installation of no dig surfacing within root protection areas is proposed (including off-site trees where root protection areas encroach within the site area), demonstrating that they can be accommodated.
- f) all arboricultural site monitoring and supervision required for the duration of the development.
- g) methods to improve the rooting environment for retained and proposed trees and landscaping. The development thereafter shall be implemented in strict accordance with the approved details.

8. No development (excluding demolition) shall take place until full details of all proposed tree planting have been submitted to and approved in writing by the Local Planning Authority. Details are to include species, sizes, locations, planting pit design, supports, and guards or other protective measures to be used. Details shall also include planting times and maintenance schedules for aftercare to ensure good establishment. Taking into consideration the size of the site and anticipated area for new planting, the Local Planning Authority expects a minimum of 66 new trees (with 20 of those trees to be planted at semi mature sizes - 25cm+ girth) to be planted to maintain future arboricultural amenity. All tree planting shall be carried out in accordance with BS 8545:2014 and the details approved prior to the occupation of any part of the development in accordance to the timetable agreed with the Local Planning Authority. If within a period of 5 years from the date of the planting of any tree, that tree, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of same size and species shall be planted at the same place, in the next available planting season or sooner. The development shall be completed in accordance with the approved details.

9. a) Development (excluding demolition) shall not commence until a scheme setting out the details of development to comply with the requirements of paragraph (b) of this condition have been submitted to and approved in writing by the Local Planning Authority.

b) The rating level of the noise emitted from fixed plant on the site shall be 5dB below the existing background level at any time. The noise levels shall be

determined at the façade of any noise sensitive property. The measurements and assessments shall be made according to BS 4142:2019.

c) The development shall not be occupied until the scheme approved pursuant to paragraph (a) of this condition has been implemented in its entirety. Thereafter the scheme shall be retained and maintained as agreed in perpetuity.

10. Construction works shall be carried out in accordance with the submitted Construction Environmental Management Plan (CEMP) dated February 2021 (revision 6) prepared by Wates Construction. All proposed mitigation measures must be implemented in full during the construction phases. The delivery of materials shall only occur during site working hours set out in section 5.0 of the Construction Environmental Management Plan (CEMP) dated February 2021 (revision 6): Monday to Friday: 0800 to 1800 hours Saturday: 0800 to 1300 hours Sunday and Bank Holidays: Site closed.

11. The development must be carried out in accordance with the submitted Air Quality Assessment, including any proposed mitigation measures, prepared by Hydrock Consultants Limited Project No. C-12025-C Document Ref: GLW-HYD-XX-XX-Y-RP-0003-P02 dated 31 March 2020. The approved scheme shall be maintained thereafter.

12. The development must be carried out in accordance with the submitted Environmental Noise Survey and Acoustic Design Statement prepared by Hann Tucker Associates document reference 26963/ADS1/Rev 4 dated 30 March 2020. The recommended mitigation measures within the report must be implemented in full and retained thereafter to ensure that the building design complies with the requirements of BS 8233:2014. A verification report to confirm that recommended mitigation measures within the report have been carried out in accordance with the Environmental Noise Survey and Acoustic Design Statement prepared by Hann Tucker Associates document reference 26963/ADS1/Rev 4 dated 30 March 2020 shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development.

13. The development shall be carried out in accordance with the recommended mitigation and enhancement measures as proposed in 'Ecological Enhancements and Mitigation' section of the Ecological Assessment by Tyler Grange ref. 12686_R02e_CC_HM dated 06/07/2020. The recommended mitigation and enhancement measures shall be shown on the landscaping scheme to be submitted to and approved in writing by the Local Planning Authority under condition 17. The mitigation and enhancement measures shall be implemented during the first planting season following the first occupation of the development following which, within 3 months of first occupation, a written statement confirming compliance shall be submitted to and agreed in writing by the Local Planning Authority.

14. No development above the ground level shall commence until an external lighting scheme, with incorporated zone plan and proposed mitigation measures, has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme is to provide details of the extent of light spill and details of the wavelength of lighting. The external lighting plan shall be based on the Lighting Strategy prepared by Gia Equation Lighting

Design Ltd ref: 3086 Rev. P3 dated 30 March 2020. The approved scheme shall be implemented before first occupation and maintained thereafter.

15. No development above the ground level shall take place until samples of the materials to be used on the external faces and roof of the building have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

16. No development shall take place above ground floor slab level until detailed drawings at a scale of 1:10 and sections at 1:5 of the following parts of the development:

- i) Windows and window surrounds,
- ii) External Doors and door surrounds, and
- iii) Railings/ Balconies, Overhangs and Awnings

have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and maintained thereafter in accordance with the approved details.

17. No development above the ground level shall take place until full details of both hard and soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. This scheme shall include indications of all hard surfaces, walls, fences, access features, the existing trees and hedges to be retained, together with the new planting to be carried out [also note the requirement of Condition 13]. The submitted details are to include the biodiversity mitigation and enhancement measures as proposed in 'Ecological Enhancements and Mitigation' section of the Ecological Assessment by Tyler Grange ref. 12686_R02e_CC_HM dated 06/07/2020. Additionally, the submitted information shall include details of the replacement Kowhai tree, as set out in the Arboricultural Report by Ruskins Tree Consultancy (RG Consultancy Ltd) dated March 2020 and revised in September 2020. The approved landscaping scheme shall be implemented during the first planting season following the first occupation of the development. Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or diseased, shall be replaced as soon as practicable with others of similar size and species, following consultation with the Local Planning Authority in writing, unless the Local Planning Authority gives written consent to any variation.

18. No development above the ground level shall take place until a detailed Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP should include details of the proposed impact and mitigation for the species and habitats, details of enhancement measures and adequate details of the following: - Description and evaluation of features to be managed and created including measures to compensate for proposed loss of tree and hedge removal; - Numbers and locations of bat and bird boxes, including provision integral to the design of the new buildings; - Details of the implementation timetable and monitoring of the LEMP; and - Aims and objectives of a long-term management; The approved details shall be implemented in full to the satisfaction of the Local Planning Authority in accordance with the LEMP.

19. An assessment of the pedestrian crossings associated with the site together with the suggested detailed works to improve the facilities for users of the development (as per section 5.8 of the Transport Statement) shall be submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall not be first occupied or first opened for trading until all approved works to the facilities have been provided. These shall be retained and maintained to the satisfaction of the Local Planning Authority for the lifetime of the development.

20. No part of the development shall be first occupied unless and until the proposed vehicular and modified accesses to Ashley Park Avenue have been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1.05m high.

21. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for the loading and unloading of vehicles and for vehicles to turn so that they may enter and leave the site in forward gear (plans no. 19023-MPI-XX-XX-DR-A-01_004 Rev P1 SITE BLOCK PLAN – PROPOSED and 19023-MPI-ZZ-B1-DR-A20_100 Rev P1 BASEMENT - LEVEL B1). Thereafter the parking / loading and unloading / turning areas and any mechanical equipment including the car lift and the stacking parking system necessary to ensure the functioning of the basement parking facilities shall be retained and maintained in full working order and for their designated purposes.

22. Details of the proposed basement secure and lit cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the development and thereafter retained and maintained for its designated purpose.

23. Prior to first occupation of the development, a Post Construction Survey shall be carried out, submitted to and approved in writing by the Local Planning Authority. The survey shall identify any damages to the highway associated with the construction of the development and how the repair works would be carried out. The works shall be implemented in accordance with the approved details in agreement with the SCC Highways Authority prior to first occupation of the development.

24. The approved 'Travel Plan' dated April 2020, Ref: 3019012/D/7B shall be implemented prior to the occupation of the development and for each and every subsequent occupation of the development. The Travel Plan shall be thereafter maintained and developed to the satisfaction of the Local Planning Authority.

25. Prior to the first use of the development, a detailed scheme shall be submitted to, and approved in writing by, the Local Planning Authority setting out how the construction of the separating floors/ceilings between and the residential and commercial premises shall exceed an airborne sound insulation value of 53 dB DnT,w+Ctr (i.e. 10 dB above the standard required by the Building Regulations Document E). The scheme approved by the Local Planning Authority shall be fully implemented in accordance with the approved details, before the use hereby permitted, commences. The works and scheme shall

thereafter be retained in accordance with the approved details. A suitably qualified person, on behalf of the developer, shall carry out post-completion testing to ensure that the above sound insulation value has been achieved, before the use commences. The approved scheme shall include an agreed timetable for the results of the assessment to be submitted in writing to the Local Planning Authority for a written approval.

26. The completion schedule/report of all arboricultural site supervision and monitoring submitted and approved in compliance with the Additional Arboricultural Information condition, shall be submitted to and approved in writing by the Local Planning Authority within 20 working days of the completion of the development hereby approved. This shall include evidence of compliance through supervision and monitoring of the agreed activities by a suitably qualified arboriculturist.

27. Balconies/terraces serving the following apartments hereby approved – at the first floor B2-112 and B1-101, at the second floor B2-213, B1-201, A1-203 and B1-206, at the third floor B2-313, B1-301, B1-306 and A2- 303, at the fourth floor B2-413, B1-401, B1-406 and A1-403, at the fifth floor B2-513, B1-501, B1-506 and A1-503, at the sixth floor B2-608, B2- 609, B2-612, B1-601, B1-606 and A1-602, and seventh floor B2-705, B2- 706, B2-707, B1-701, B1-702, B1-703, B1-704 (multiple), A1-701, A1- 702, shall be provided with a balcony privacy screen. No development above the ground level shall take place until the details of the balcony privacy screens, including the level of glazing obscenity proposed, have been submitted to and approved in writing by the Local Planning Authority. The screens shall be implemented prior to the first occupation of the development and permanently maintained in strict accordance with the approved details.

28. Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved in writing by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of the developer's or operator's management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls). The approved surface water drainage scheme as per Condition 5 shall be retained and maintained in perpetuity.

29. The development hereby approved shall not be occupied unless and until 20% of the proposed parking spaces (23 in total) are provided with a fast charge socket (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply), 12 of these to be located in the above ground parking areas and 11 of the spaces within the basement parking area. All other parking spaces shall be provided with the infrastructure to allow for a charging point to be added at a later date in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the development and thereafter retained and maintained to the satisfaction of the Local Planning Authority.

30. There should be no access to the southern terrace of Building 2 at the sixth floor (between apartments B2-608 and B2-609) unless for the maintenance

purposes. Reason: To preserve the privacy of neighbouring residents in accordance with Policy DM2 of the Elmbridge Development Management Plan 2015.

31. During the operational phase of the development, deliveries of goods to and waste collections from the premises shall only be carried out between the following hours: Monday to Saturday 07.00hrs to 21.00hrs, Sundays and Bank Holidays 09.00hrs to 15.00hrs. Reason: To avoid adverse impacts on health and quality of life from noise in accordance with paragraph 180 of the NPPF, Policy DM5 of the Elmbridge Development Management Plan 2015 and the Noise Policy Statement for England.

32. Pedestrian access is to be permitted to the through route linking New Zealand Avenue to the north and Ashley Park to the south, save for one day a year when this route will be closed to prevent a public right of way being established on the site and save in the event of an emergency or for maintenance works.

APPEARANCES

FOR THE COUNCIL

Charles Banner QC

He called

Justin Gardner

Justin Gardner Consulting

Blathnaid Duffy

Director Lambert Smith Hampton

Aneta Mantio

Special Projects Officer, Planning Team, EBC

FOR THE APPELLANT COMPANY

Rupert Warren QC

He called

Matthew Serginson

Development Director, Guild Living

Jessamy Venables

Associate Carterwood

Neil Mc Cullough

Associate Director, Oxford Economics

Tim Spencer

Associate Director, Nexus Planning

INTERESTED PARTIES:

Cllr Christine Richardson

Elmbridge Borough Councillor – Walton Central

Cllr Chris Sadler

Elmbridge Borough Councillor - Walton Central

Sue Cooper

Walton & Hershaw branch of the Labour Party

Tracey Blandford

Walton on Thames Trading Alliance

Documents submitted during the Inquiry

1	Appellant Opening Statement
2	LPA Opening Statement
3	Whiteley Homes Trust – Whiteley House care home strikes platinum for quality care
4	Whiteley House Unilateral Undertaking (application ref. 2016/3472)
5	Future Market Split - SHOP@ Dashboard - SHOP@ - SHOP - Strategy - Extra Care - Topics - Resources - Housing LIN
6	Email correspondence between Mr Gardner and Housing LIN
7	Agenda for Interested Party Session (11 March)
8	Appellant's response to Third Party comments
9	CD1.1 Site Block Plan – Proposed – with annotated dimensions
10	Appeal decision 3237026 – Oak Farm Solihull
11	Third Party Submission - C2 & C3 use schemes in proximity of the site
12	Older Peoples Housing Needs Assessment Timeline – Mr Gardner and Ms Venables
13	Appellant's Communal Spaces Comparison (Guild Living / Edward Place)
14	Whiteley Village – Email from Ms Venables 10th March
15	Link to The Options Consultation
16	Guild Living – Note on Monthly Management
17	Guild Living - Schemes comparison (Walton, Bath, Epsom, Uxbridge)
18	Ground floor plan - Bath
19	Ground floor plan - Epsom
20	Ground floor plan – Uxbridge
21	Ground floor plan - Walton
22	Appendix SOCG_8 Draft Planning Conditions (update 18 March)
23	Draft S106 Agreement – 18 March (changes tracked)
24	Appellant's email confirming agreement to pre-commencement conditions
25	Guild Living – Uxbridge application - Planning Statement
26	Vacancy Rates at Edward Place
27	Development Management Advice Notes – Status
28	Development Management Advice Notes – Status – email confirmation of meetings and decisions
29	Decisions 12th-Oct-2018 09.15 Individual Cabinet Member Decision Making - Planning
30	Decisions 23rd-Jan-2019 09.00 Individual Cabinet Member Decision Making - Planning
31	Printed minutes 12th-Oct-2018 09.15 Individual Cabinet Member Decision Making - Planning
32	Printed minutes 23rd-Jan-2019 09.00 Individual Cabinet Member Decision Making - Planning
33	Comparison of publicly accessible facilities between Guild Scheme & Audley Nightingale
34	CLlr Mrs Richardson – Extra Care Homes
35	CLlr Mrs Richardson – Note on Pollution

36	Cllr Mrs Richardson – WHO – Health risks of air pollution in Europe – HRAPIE project
37	Change of development description (at application stage) – please note Invalid Letter (in CD9.35 – Appendix D) and Letter from CMS dated 10 June 2020 (in CD2.2.7)
38	Change of development description (at application stage) - Email correspondence dated 4 May – 18 June 2020
39	LPA’s Closing Statement
40	Appellant’s Closing Statement
41	Horsham District Council v Secretary of State for Communities and Local Government and another [2015] EWHC 109 (Admin)
42	Site Visit route – map
43	Agreed list of suggested conditions
44	Agreed S106 legal agreement
45	Land Registry Document – Official Copy (Title Plan)
46	Land Registry Document – Official Copy (Register)

Appendix H

**Appeal Decision: Ref APP/D3830/W/3241644. Former Hazeldens Nursery,
London Road, Albourne, West Sussex (September 2020).**



Appeal Decision

Inquiry Held on 20-22, 24, 27, 28, 30, 31 July and 6 August 2020

Site visits made on 16 July, 7 and 16 August 2020

by Christina Downes BSc DipTP MRTPI

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

Decision date: 11 September 2020

Appeal Ref: APP/D3830/W/19/3241644

Site of the former Hazeldens Nursery, London Road, Albourne, West Sussex BN6 9BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by RV Developments Ltd and Notcutts Ltd against the decision of Mid Sussex District Council.
 - The application Ref DM/19/1001, dated 8 March 2019, was refused by notice dated 26 July 2019.
 - The development proposed is an extra care development of up to 84 units (comprising of apartments and cottages) all within Use Class C2, associated communal facilities. 2 workshops, provision of vehicular and cycle parking together with all necessary internal roads and footpaths, provision of open space and associated landscape works, and ancillary works and structures. Works to include the demolition of the existing bungalow on the site.
-

DECISION

1. The appeal is allowed and outline planning permission is granted for an extra care development of up to 84 units (comprising of apartments and cottages) all within Use Class C2, associated communal facilities. 2 workshops, provision of vehicular and cycle parking together with all necessary internal roads and footpaths, provision of open space and associated landscape works, and ancillary works and structures. Works to include the demolition of the existing bungalow on the site on the site of the former Hazeldens Nursery, London Road, Albourne, in accordance with the terms of the application, Ref DM/19/1001, dated 8 March 2019, subject to the conditions in Annex C to this decision.

PROCEDURAL MATTERS

2. A costs application was made by RV Developments Ltd and Notcutts Ltd against Mid Sussex District Council. This is the subject of a separate Decision.
3. The application was made in outline form with access as the only matter to be considered at this stage. It was accompanied by a Parameter Plan (drawing no: RETI150215 PP-01 rev G) along with a detailed plan of the access and traffic calming measures proposed along London Road (drawing no: 1701-56 SK08 rev B). Following discussion at the inquiry it was agreed that the Sketch Layout (drawing no: RETI150215 SKL-04 rev J) should also be treated as an application drawing.

4. At the request of the Appellants, I undertook an accompanied visit to Charters Village, one of Retirement Villages' extra care developments in East Grinstead, West Sussex.
5. The proposal is supported by a Planning Obligation by Agreement (S106 Agreement) and a Planning Obligation by Unilateral Undertaking (UU). Just before the close of the inquiry the Council and the Appellants were involved in further discussions about the definition of Personal Care in the UU, amongst other things. As a result, changes were made whereby the Council reviewed its position and agreed that the proposed development would fall with Use Class Use C2 rather than Class C3 in the *Town and Country Planning (Use Classes) Order 1987 (as amended)*. As a consequence, there was no longer a policy requirement for affordable housing and the reason for refusal relating to that matter was no longer pursued. In order to allow the completion and engrossment of the legal documents, I agreed to a short extension of time following the close of the inquiry.
6. The planning application was made with reference to Use Class C2 in the description of the proposal. I was told that the Council would not validate it unless this reference was removed, which the Appellants agreed to do although by accounts not altogether willingly. In any event, as indicated in the preceding paragraph there is now no dispute that the proposal would fall within Class C2 and so it remains in the description as originally submitted.

REASONS

PLANNING POLICY CONTEXT AND THE APPROACH TO DECISION MAKING

7. For the purposes of this appeal the relevant part of the development plan comprises the *Mid Sussex District Plan 2014-2031* adopted in March 2018 (the MSDP) and the *Albourne Parish Council Neighbourhood Plan* made in September 2016 (the ANP). I do not consider that there are any pertinent saved policies or allocations in the *Mid Sussex Local Plan (2004)* or the *Small Scale Housing Allocations Development Plan Document (2008)* in this case. I return to this briefly below. The *West Sussex Joint Minerals Local Plan (2018)* is agreed by all parties not to be relevant.
8. It is the Appellants' case that the presumption in favour of sustainable development applies as set out in paragraph 11 of the *National Planning Policy Framework (the Framework)*. This is on two counts each of which is considered below. The first is that the development plan itself is not up-to-date. If that is the case, then the Appellants agree that paragraph 11c) could not apply. The second is that the basket of most important policies for determining the application are out-of-date because they are inconsistent with Framework policies. It is agreed between the main parties that the Council is able to demonstrate a five-year supply of deliverable sites to meet its housing requirement.

Whether the development plan as a whole is up-to-date

9. The Council has chosen to adopt a two-stage approach whereby the MSDP only includes strategic allocations, with the smaller housing sites to be identified through a *Site Allocations Development Plan Document (SA DPD)* and neighbourhood plans. Policy DP4 in the MSDP anticipates the former document

being adopted in 2020, but the 2019 Local Development Scheme envisages this to be the summer of 2021. I was told at the inquiry that the Regulation 19 consultation had only just commenced and so there appears to have been further slippage and a more realistic assessment would be adoption later next year or even early in 2022.

10. The 2004 *Planning & Compulsory Purchase Act (as amended)* requires local planning authorities to identify strategic priorities for the development and use of land in their area. Policies in the development plan document must address these priorities. This is reflected in paragraph 17 of the Framework and similarly in the 2012 version of the Framework. The MSDP sets strategic priorities (termed objectives) in Chapter 2 and the policies to address them in Chapter 4. These include policy DP4. As mentioned above, policy DP4 specifically refers to the subsequent preparation of the SA DPD. If this had been required to have been produced at the same time it is difficult to see how the Examining Inspector could have been found it legally compliant in terms of consistency with national policy or legislation. However, it was found to be sound and as far as I am aware, no legal challenge was made to its adoption.
11. It is the case that the Examining Inspector indicated an expectation that the SA DPD would follow "*soon after this plan*" and recorded that the Council had committed to bringing it forward "*at an early date*". However, there was no clear indication as to the anticipated timeframe, apart from what is indicated in policy DP4. There has clearly been slippage but, the complaint that the MSDP does not adequately address small sites coming forward is as true now as it was when the plan was found sound. The Framework does not require a plan to necessarily allocate all of the housing land supply for the whole plan period. That is why it distinguishes between deliverable and developable sites during different stages of the lifetime of the plan.
12. In any event, the MSDP includes other means for bringing small sites forwards including neighbourhood plans. Mid Sussex District has a good coverage of such plans, albeit that most were made under the auspices of the 2004 Local Plan. Nevertheless, there is insufficient evidence to support the Appellants' assertion that this therefore means that the contribution of small sites from this source is "nominal" on a district-wide basis. Whilst the Albourne Neighbourhood Plan includes few allocations, it is one of around 20 such plans. Policy DP6 is permissive of settlement expansion and allows small sites of less than 10 dwellings to come forwards under certain conditions. The Examining Inspector considered that it provided the MSDP with extra robustness and flexibility in maintaining a rolling 5-year supply of housing land.
13. For all of the above reasons I do not consider that the development plan is out-of-date at the present time.

The most important policies for determining this application

14. The Council and the Appellants consider that the following policies, which are included in the reasons for refusal, should be considered most important:

- MSDP: DP6, DP12, DP15, DP21, DP31, DP34, DP35
- ANP: ALC1, ALH1

All of these seem to me to fall within this category, save for policy DP31

relating to affordable housing. This rested on the dispute about whether the proposal fell within Use Class C2 or Use Class C3 and this in turn was resolved by the tightening of the definition of "Personal Care" in the UU. This document was not finalised at the time that the planning application was being considered by the Council and there was thus scope for change, as indeed happened during the inquiry. There was no dispute that the policy does not apply to Use Class C2 housing proposals and so, whilst it is relevant, I do not consider policy DP31 is of key importance to the determination of the application.

15. There are a number of disputed policies, which are as follows:

- Policy DP4 relates to housing delivery and sets out the District's housing requirement and how it will be addressed. It also commits to the preparation of a SA DPD as referred to above. It is clearly relevant to the consideration of a housing proposal, but it is not a development management policy that plays a significant role in determining planning applications. It is thus not a most important policy in this case.
- Policy DP20 is included in the reasons for refusal and relates to securing infrastructure and mitigation through planning obligations or the Community Infrastructure Levy. This will be addressed through the legal Deeds and, whilst clearly relevant is not to my mind of most importance.
- Policy DP25 concerns community facilities and local services and the supporting text makes clear that specialist accommodation and care homes are included. This supports the type of development being proposed and is therefore a most important policy in this case.
- Policy DP30 relates to housing mix and the need to meet the current needs of different groups in the community, including older people. It is a most important policy to the consideration of this proposal.
- Policy ALH2 in the ANP is an allocation for 2 houses in Albourne. This is not of particular relevance to the proposal and is not a most important policy.

16. The Appellants consider the saved policies in the 2004 Local Plan and policies SSH/7 to SSH/18 in the 2008 Small Scale Housing Allocations Development Plan Document to be most important. These relate mainly to site specific matters and allocations. Both are based on an out-of-date housing requirement established in the West Sussex Structure Plan. They also do not address the need for elderly persons accommodation. However, their relevance to the current proposal is tenuous and they are not of pertinence to this application.

17. Drawing together the above points, the most important policies to the determination of this application are:

- MSDP: DP6, DP12, DP15, DP21, DP25, DP30, DP34, DP35
- ANP: ALC1, ALH1

Whether the most important policies are out-of-date

18. Whether the aforementioned policies are considered out-of-date in terms of paragraph 11d) of the Framework will depend on their degree of consistency with its policies. This was not a matter that the Council specifically addressed in its evidence, but I agree with the Appellants' assessment that policies DP21,

- DP34 and DP35 are consistent and can be considered up-to-date.
19. The Appellants' complaint regarding policies DP6, DP15, DP25 and DP30 is that they fail to address the way that extra care housing will be provided to meet identified needs as required by the Framework and Planning Practice Guidance.
 20. The assessment of need, including for older person's housing, was undertaken through the Housing and Economic Needs Assessment (HEDNA) and its Addendum and formed part of the evidence base for the MSDP. Whilst this has been strongly criticised by the Appellants on many counts it nevertheless does provide an assessment of the type and tenure of housing needed for older people. Furthermore, it is clear that the Examining Inspector considered the matter of older person's housing. Policy DP30 was found sound, subject to modifications that were subsequently incorporated.
 21. The matter of need is considered in detail later. However, policies DP25 and DP30 flow from the assessment of need in the HEDNA Addendum. Policy DP30 indicates that current and future needs of different community groups, including older people, will be met and that if there is found to be a shortfall in Class C2 housing, allocations through the SA DPD will be considered. There is an allocated site (SA 20) within that draft document for a care community. The Appellants are critical of this for various reasons, but the plan is still at an early stage and these will be considered at the examination in due course.
 22. Policy DP6 supports settlement growth, including to meet identified community needs. Bearing in mind the terms of policy DP25, this could include extra care housing. Policy DP15 addresses housing in the countryside and refers to policy DP6 as a criterion. The Planning Practice Guidance is not prescriptive as to how the housing needs of older people are addressed in planning policies. Overall, the aforementioned policies are, in my opinion, consistent with the guidance and Framework policy, including paragraph 61.
 23. Policy DP12 indicates that the countryside will be protected in recognition of its intrinsic character and beauty. It also refers to various landscape documents and evidence to be used in the assessment of the impact of development proposals. Whilst the wording could be improved, it does not seem to me to imply uncritical protection but rather a more nuanced approach that takes account of the effect on the quality and character of the landscape in question. To my mind this is consistent with the policy in both the 2012 Framework, under which the MSDP was considered, and the current version (2019). In that respect I do not agree with the Inspector in the Bolney appeal that the approach to protection has materially changed between the two documents.
 24. Policy ALC1 seeks to maintain and where possible enhance the quality of the rural and landscape character of the Parish. Overall, its terms seem to me to be similar to policy DP12.
 25. Policy ALH1 generally supports development on land immediately adjoining the built-up boundary, whereas policy DP6 permits such development if it is contiguous with an existing built-up area. Policy ALH1 also has the added requirement that other than a brownfield site the development must be infill and surrounded by existing development. These provisions are more restrictive than policy DP6 in the MSDP, which as the more recent policy in the development plan therefore takes precedence.

Whether the basket of most important policies is out-of-date

26. From the above, I have found that other than policy ALH1 in the ANP, the most important policies are not out-of-date and in the circumstances I do not consider that the basket overall is out-of-date either.

Conclusions

27. Paragraph 11 of the Framework sets out the approach to decision making within the context of the presumption in favour of sustainable development. In this case there are development plan policies relevant to the determination of this application and overall, I conclude that they are not out-of-date. Paragraph 11d)ii) is therefore not engaged.

28. In such circumstances it will be necessary to consider whether the proposal would accord with an up-to-date development plan and whether paragraph 11c) is engaged. This is a matter to which I will return in my final conclusions.

THE EFFECT OF THE PROPOSAL ON THE CHARACTER AND APPEARANCE OF THE AREA AND THE SURROUNDING LANDSCAPE, INCLUDING THE NEARBY SOUTH DOWNS NATIONAL PARK

29. The appeal site comprises about 4.4 hectares of land on the western side of London Road. Its previous longstanding use as a nursery ceased several years ago. The large glasshouses that once stood on the northern area have been demolished and all that now exists are remnant hardstandings. A small bungalow occupies the north-eastern part of the site. This building would be demolished, and the site would be redeveloped with 84 extra care dwellings within a mix of apartment buildings and bungalows. The site is outside the defined built-up boundary of Albourne and is therefore in the countryside for policy purposes.

Effect on the landscape

30. The appeal site is within the Hurstpierpoint Scarp Footslopes Landscape Character Area (the LCA) in the *Mid Sussex Landscape Character Assessment* (2005). Key characteristics include undulating sandstone ridges and clay vales; an agricultural and pastoral rural landscape; a mosaic of small and large fields; woodlands, shaws and hedgerows with woodland trees; expanded ridge line villages; traditional rural buildings and dispersed farmsteads; and a criss-cross of busy roads. In addition, views are dominated by the steep downward scarp of the South Downs.

31. The site boundaries are bordered by boundary tree and hedge lines, but in places these are patchy and their quality is diminished in places by the incursion of non-indigenous conifers. There is a small ridge running east to west across the northern part, which includes the roadways, hardstandings and bungalow along with conifer tree lines and groups. There is a narrow view of the South Downs framed by vegetation. The southern section is on the shallow valley side running down to Cutlers Brook and comprises rough grassland. From here there are open views southwards to the escarpment. Two lines of non-native hybrid black poplars cross the western section, which were grown as shelter belts for the nursery stock.

32. Unlike Albourne and the surrounding countryside, I do not consider that the

- appeal site is typical of the LCA of which it forms a part. Although it includes some characteristics such as the shallow ridge and some outward views to the escarpment, its tree and hedge lines are not particularly strong and its use as a nursery over many years has changed its character substantially. In my opinion, it is not well integrated with the wider landscape.
33. The appeal proposal is in outline, with the layout and external appearance to be considered at a later stage. However, the Parameters Plan and Sketch Layout help to establish some basic principles. The *Arboricultural Impact Assessment* indicates that a number of trees and tree groups within the site would be removed. These include the non-indigenous conifers and all those to be felled are judged by the Tree Survey to be of low quality and value. The better trees are mainly along the site boundaries and would be retained. Some of the hybrid black poplars would be removed but most would be assessed and, if necessary, there would be a phased programme of replacement with native tree stock. There would also be additional indigenous tree planting in the south-western corner in front of the incongruous conifer hedge along the boundary with Spurk Barn.
34. The built development would be within the western and eastern parts of the site with groups of cottages and apartment buildings set within landscaped gardens and interspersed with intervening belts of trees. The cottages would be one and a half storeys in height whilst the apartment buildings would be two-storeys with some higher elements incorporating accommodation in the roof. A 10m landscaped swathe between the trees along the London Road boundary and the adjacent apartment buildings is proposed. The largest building would be the two-storey clubhouse, which would be at the northern end of the site. There would be views maintained through to the South Downs escarpment, although these would be within the context of a built environment.
35. Undoubtedly the character of the site would change. The proposal would replace open and largely undeveloped land with buildings and hard surfacing within a green framework. However, as the site shares few of the features that provide this LCA with its identity and taking account of the large area that it covers, the overall impact would be small-scale and localised. In terms of the tree cover, the replacement of the non-indigenous species, especially the conifer stands, with native trees would be a landscape benefit that would increase as the new planting matures. For the reasons given below, I do not consider that the appeal scheme would be seen as an expansion of the ridgeline village. However, for the aforementioned reasons, the harm that would arise to landscape character would be relatively small and would reduce over time.

Visual effects

36. There are public footpaths close to the northern and western boundaries of the site and these run west and south into the open countryside. They appear to be well used and provide attractive routes that link up with a wider network of paths for informal recreation. Walkers are likely to particularly value the rural nature of these paths and the attractive views of the South Downs escarpment and Wolstonbury Hill. These people will be attuned to the environment through which they pass and thus highly sensitive to change. However, it is important to remember that this will be a kinetic experience, which will continually

change as the receptor moves through the countryside.

37. During my visits to the area, I walked along the adjoining footpaths and to my mind the place where the impact of the new development would be greatest would be from the stretch of Footpath 19/1AI that runs adjacent to the northern boundary. From the direction of London Road, the site is on the left. At present there are intermittent inward views between trees and vegetation, with a framed view of the escarpment about half-way along. However, this corridor is not altogether rural in character and the inward view includes the hard standings, roadway and bungalow as well as tall stands of conifer trees. In addition, on the other side of the footpath is the large, hard surfaced car park of the Brethren's Meeting Hall. Whilst this is relatively well screened by the mixed indigenous hedge along the boundary, there are glimpses through the green wire fence and a full view through the metal gate. In addition, the managed appearance of the hedge and tall lighting columns that project above it further detract from the rural ambience. Further along the path, the large barrel roofed building itself comes into view.
38. Nevertheless, the appeal development would result in a considerable change on the southern side of the footpath. Whilst the Sketch Layout shows some tree retention and a belt of new planting, the new buildings would be evident to the observer and most particularly the long rear elevation of the clubhouse. Whilst a view of the South Downs would be maintained this would be framed by built development rather than vegetation. The existing user experience would therefore be considerably diminished although the adverse effects would be reduced over time as the new planting matures. Furthermore, these effects would be experienced over a relatively small section of the walk. Once past the site the footpath emerges into open farmland.
39. Approaching the site along Footpath 19/1AI from the other direction, there is a wide panorama. At various points this includes the Brethren's Meeting Hall building, the houses in the village amongst trees, the vineyard and the roof of Spurk Barn with Wolstonbury Hill behind. There are glimpses through the trees along the western site boundary of the bungalow and the conifers along the London Road frontage. The understorey is variable, and following development I have little doubt that filtered views of the new buildings would be seen, especially during the winter months. Whilst reinforcement planting with species such as holly would provide more screening, I am doubtful that it would be wholly effective in the longer term. Although there would be large gaps between the clusters of new buildings, the context of Spurk Barn as a lone rural outlier would also be compromised.
40. Footpath 18AI runs close to the western site boundary but when moving southwards the walker's attention is likely to be particularly drawn to the open panoramic view of attractive countryside and the dramatic form of the South Downs escarpment in the background. Views into the site would be to one side and secondary in the overall experience. In the other direction, Spurk Barn is the first building to come into view on the right-hand side. With its relatively open frontage and domesticised curtilage, the effect of the new development behind the trees would not be particularly pronounced.
41. Along the eastern site boundary, the bank with trees and understorey vegetation provides a relatively good screen to London Road. However, in

- places the cover is patchier and there are filtered views into the site, which will be more pronounced in winter. Motorists would be concentrating on the road ahead and so would have a lower awareness of changes to the peripheral view. There is a footway along the eastern side of the road, and I was told that this is relatively well used by dog walkers and those working in the businesses further to the south. For these people there would be a change, but it would be on one side and within the context of a relatively busy road and the existing built development along the eastern side of London Road.
42. The north-eastern corner of the site would be opened up with a new section of footway along the frontage and a new engineered access. This would entail some frontage tree removal, although the higher value oak tree is shown to be retained. From this point there would be a considerable change with views of the new clubhouse, cottages and apartments. New landscaping would provide some mitigation and the change would be experienced within the context of other urbanising influences. These include the wide green metal gates and entrance to the Brethren's Meeting Hall adjacent and the relatively prominent historic stuccoed houses opposite.
43. I observed the site from more distant footpaths, approaching along London Road in both directions and from various points in Church Lane. However, taking account of the undulating topography and the benefit of distance, I judged that the visual impact would be largely benign. I walked up Wolstonbury Hill and to the Devil's Dyke but was unable to identify the site from these more distant locations due to the vegetation cover. It may be that there would more visibility following development and in winter. However, this would be within the context of a wide panorama that includes built development.
44. In the circumstances, even if it were to be seen, I do not consider that the appeal scheme would materially detract from the enjoyment of these panoramic views. The site is not within the Dark Skies zone of the South Downs National Park and whilst the development would introduce new lighting this could be controlled. In addition, it would be seen within the context of lights in other villages, towns and roadways. In the circumstances there would be no conflict with policy ALC2 or the dark skies initiative in the ANP.
45. For all of these reasons I consider that there would be some adverse visual impacts, particularly for footpath users and at the site entrance on London Road. However, these would be limited and localised. The adverse effects would be reduced but not eliminated as new landscaping and tree planting matures.

Effect on the character of the settlement of Albourne

46. Albourne is a ridgeline village and its main historic core is around The Street and Church Lane with a smaller historic group of houses to the north at Albourne Green. By the mid-20th century the space between these two areas had been infilled and later still the village expanded eastwards. The village therefore has a mixed character with the older parts in particular being defined by their wooded setting. The village boundary is quite tightly defined for policy purposes. However, as often happens, there is a more dispersed settlement pattern with linear development radiating outwards along the road frontages,

including along the eastern side of London Road as far as Cutlers Brook. The built-up area is therefore more extensive than the policy boundary.

47. The agrarian landscape provides the setting for this Downland village, but for the reasons I have given above the appeal site is not representative of its rural surroundings. Whilst it is largely undeveloped, in my opinion it contributes little to the context of the village. On the other hand, the proposed development would not appear as a natural expansion of the built-up area either. I appreciate that it would not extend it further to the west or south, but this is a factor of little consequence. The dispersed nature of the settlement is mainly due to frontage development, which the appeal proposal could not claim to be.
48. The Brethren's Meeting Hall is a development that physically, functionally and visually stands outside the village. The appeal scheme would be further to the south and appear as an outlier that would not conform to the prevailing pattern of development described above. On the other hand, it would share some of the features of the village. For example, the site benefits from a local ridgeline and over time the new buildings would stand within a well treed environment. Furthermore, the *Design Commitment Statement* indicates that the design approach is to create a development that reflects the surrounding architecture and landscape. The appearance of the new buildings is a matter that can be controlled by the Council at reserved matters stage.
49. There has been a great deal of local concern about the size of the development relative to the existing village. The Parish Council indicate that Albourne has about 250 households and some 650 residents. It therefore points to an increase in size of over 30%. For the reasons I have already given, I do not consider that this development would appear as a natural extension to the village. However, the proposed shop, lockers, electric charging points and workshops, which I discuss later, would allow a degree of community integration. The village itself has grown incrementally and cannot be viewed as a set piece that has not changed over time. There may be harmful impacts from an increasing population in terms of highway safety and insufficient infrastructure, for example and I consider these later. However, the size of the development in itself would cause little harm to the character of the village, in my judgement.

Effect on agricultural land

50. Paragraph 170 of the Framework seeks to recognise the benefits of protecting the best and most versatile agricultural land, which is classified as Grades 1, 2, and 3a. The appeal site is shown on the *Provisional Agricultural Land Classification Maps* as being within an area of Grade 2, which denotes very good quality farmland. However, these maps were not based on physical surveys. They were intended to provide strategic guidance for planners on a small-scale map base. Natural England in its *Technical Information Note TIN049*, advises that they are outdated and should not be relied on for individual site assessments.
51. The Appellants commissioned an *Agricultural Land Classification Report*, which was based on a site survey carried out in February 2020, including examination of 5 auger samples and a trial pit. This concluded that the land was grade 3b with shallow soils over a depth of dense clay subsoil. This is the best available

evidence and I am satisfied that the development would not result in the unacceptable loss of high value agricultural land.

Overall conclusions

52. The appeal site is located within the open countryside, outside the built-up area and not contiguous with its boundaries. There would be some residual adverse landscape and visual impact, although this would be localised and limited in nature. There would also be a small adverse effect on the character of the village of Albourne because the development would not be seen as an expansion to the main built-up area of the village nor reflect the frontage development along the peripheral roads. There would be no adverse impact on the South Downs National Park or views from within it. Nevertheless, there would be conflict with policy DP6, DP12 and DP15 in the MSDP and policies ALC1 and ALH1 in the ANP.

THE EFFECT OF THE PROPOSAL ON HERITAGE ASSETS

53. There is no dispute that the designated heritage assets affected would be the four Grade II listed houses on the eastern side of London Road. The effect would derive from changes to their setting and it is agreed that any harm would be less than substantial in nature and that paragraph 196 of the Framework would be engaged whereby harm is to be weighed against public benefits. Unlike the setting of the listed buildings, the setting of the Albourne Conservation Area is not protected by statute. Nevertheless, the same considerations will apply as a matter of policy in terms of weighing harm to significance against benefits. Spurk Barn is adjacent to the south-western corner of the appeal site and is a non-designated heritage asset. Paragraph 197 of the Framework makes clear that a balanced judgement should be made, having regard to the scale of any harm and the significance of the asset.

The listed buildings

54. There was much discussion at the inquiry about the contribution of the appeal site to the significance of the listed buildings. Elm House, Tipnoaks and Hillbrook House are two-storey stuccoed villas built in the early 19th century. These were modest country houses, which demonstrated their owners' aspirations for elegant country living with their classical, well-proportioned facades and convenient roadside location outside the main village. The immediate setting is provided by the gardens in which they stood but the wider rural environment, including the fields to the front and rear would have contributed to the pastoral context and significance of these houses. It can be seen on the 1874 Ordnance Survey Map that there are 4 subdivisions on the appeal site. This suggests that by this time the land was being used as a market garden or commercial nursery.

55. Mole Manor was of earlier construction and the 1839 Tithe Map shows it standing in an isolated position on the eastern side of London Road. It is a rare example of a modest Sussex cottage with a red brick and clay tile construction and an isolated countryside setting and these factors contributed to its significance. In my opinion its setting was significantly compromised by the building of Elm House and Tipnoaks. These more substantial houses overpower the cottage as they not only join it on either side but also stand well forward of its front elevation.

56. There is also significance derived from the listed buildings as a group. In this respect, Mole Manor makes a contribution through its style and character, which is in contrast to the classical form and proportions of the stuccoed villas.
57. The appeal site was clearly part of the countryside setting when these buildings were built and thus contributed to their significance. There is no indication on the 1874 map that there was tree planting at this stage and it is reasonable to surmise that originally the dwellings faced a relatively open landscape, which would have allowed the owners attractive views from the front of their houses. In any event, by 1910 the Ordnance Survey map shows a tree belt along the eastern boundary and some tree planting within the site itself. Whilst the context is therefore likely to have changed somewhat, the westerly outlook would still have been essentially green and rural with likely views through the trees into the site.
58. More substantial changes occurred in the mid-20th century as Albourne expanded and the London Road was re-engineered and widened. More recently still there has been further development along London Road, including to the south of Hillbrook House and the Brethren's Meeting Hall. The latter appears to have been on land formerly used as part of Hazeldens Nursery. The wider pastoral environment has thus been considerably eroded over time, which has diminished the historical understanding provided by the wider setting of these listed buildings. Their individual and group significance is now mainly derived from their fabric and the immediate setting of their garden plots.
59. Following development, the views towards the appeal site would change through the introduction of a new access, a footway along the London Road frontage and views towards a built environment. The effect would be greatest in respect of Tipnoaks, due to its position opposite the site entrance. Hillbrook House stands further back from the road in an elevated position and there would be filtered views of the new buildings from within its site through and above the roadside vegetation. There would therefore be some further change to the context in which the listed buildings would be appreciated but, for the reasons I have given, I consider that the effect on significance would be relatively small.
60. With respect of Elm House and Mole Manor the harm would be at the lower end of the scale of less than substantial harm. With respect of Tipnoaks and Hillbrook House it would be slightly higher but still lower than moderate, with a similar effect on the significance of these houses as a group. Whilst the choice of materials, design and landscaping of the new development would be controlled through reserved matters, the impacts I have identified are unlikely to be materially reduced over time.

Spurk Barn

61. This agricultural building is a non-designated heritage asset probably dating back to the 19th century. Its primary interest is in its form and fabric with flint and brick construction and the retention of many original features. The boundary lines on historic maps suggest that Spurk Barn was not functionally connected to the appeal site. Indeed, with no obvious connection to any local farms it was probably an isolated field barn associated with the agricultural land to the west.

62. Spurk Barn has been converted to residential use and windows have been added along with an extension. Its immediate setting is now a domestic garden and parking area. Along its boundaries with the appeal site is a thick conifer hedge. Although this could be removed it would seem unlikely due to the privacy it affords. The significance derived from the wider setting is mainly across the open agricultural land to the west. Nevertheless, the largely undeveloped nature of the appeal site does contribute to the sense of isolation of the building, particularly in views from Church Lane and sequentially when walking east along Footpath 19/1AI and south along Footpath 18AI.
63. As I have already concluded above, the proposed buildings would be seen, especially in the winter months, through gaps in the trees and understorey along the western site boundary. Whilst the effect would be to have an adverse effect on the appreciation of the barn as an isolated entity, its value as a field barn is now diminished on account of its residential conversion and the domestication of its grounds. To my mind this undesignated heritage asset has a relatively low level of significance. The small degree of harm that would arise from the appeal proposal would also be further reduced over time as reinforcement planting matures, including the band of new trees between the conifer hedge and built development.

Albourne Conservation Area

64. This comprises the original historic core of the village at the southern end of The Street and along a section of Church Lane. The only appraisal is found in *The Conservation Areas in Mid Sussex* (August 2018), which notes five features that contribute to its character. These include the trees and hedges; the sunken road relative to many of the houses with attractive retaining walls; the cottage style houses with small windows; the lack of a set building line or footway with varying road widths and a meandering rural character; and the attractive countryside views to the west and south. The latter is the only one relevant to setting.
65. At one time no doubt the appeal site, because of its relatively open and undeveloped character, would have played some part in this respect. However, modern housing on the south side of Church Lane and the construction of the Brethren's Meeting Hall building and car park has provided a visual intervention that has meant that it no longer contributes in this way. The main southerly aspect is provided by the fields beyond its western boundary. Even if there were glimpses of the new development through the trees from the southern part of the conservation area, which is doubtful, they would be peripheral and oblique.
66. It is also the case that the Council did not consider that the proposed development of the Brethren's Hall site would have any adverse impact on the conservation area, notwithstanding that the large building with its incongruous design would be in close proximity to the southern edge. I appreciate that this development was built on exceptional grounds of need but that does not negate the requirement to consider the effects on the setting of the heritage asset. Furthermore, the Council's *Strategic and Economic Land Availability Assessment* (2018) did not consider that a potential yield of 132 houses on the appeal site would negatively impact on the heritage asset. The Council's objection now in terms of harm to setting therefore seems to me to be

inconsistent.

67. It is likely that Albourne depended on farming and market gardening for its growth. However, in the absence of a detailed appraisal the only evidence of the features that contribute to its character are those in the aforementioned 2018 document. There is nothing to say that the tree nursery financed buildings in the village and even if it did this use has long ceased. This was certainly not a matter referred to in respect of the development of the land to the north, which was also part of the nursery at one time.
68. For all of the above reasons I do not consider that the appeal site provides part of the setting of the Albourne Conservation Area. It follows that the appeal development would have no effect on the significance of the designated heritage asset.

Overall conclusion

69. Drawing together all of the above points it is concluded that the appeal proposal would cause less than substantial harm to the significance of the Grade II listed buildings, Elm House, Mole Manor, Tipnoaks and Hillbrook House. This would be at the low end of the scale but nevertheless is a matter to which considerable weight and importance should be ascribed. There would be a small degree of harm to Spurk Barn, but this will need to be considered against the relatively low significance of the building. The relevant balancing exercise will be undertaken later in the decision and a conclusion reached as to whether the appeal proposal would conflict with policy DP34 in the MSDP. The Albourne Conservation Area and its setting would remain unaffected by the appeal scheme. The appeal proposal would therefore comply with policy DP35 in the MSDP.

WHETHER THE SITE IS WITHIN AN ACCESSIBLE LOCATION, GIVING NEW OCCUPIERS THE OPPORTUNITY TO TRAVEL BY MODES OTHER THAN THE PRIVATE CAR

70. There is an age restriction of 65 years for primary occupiers of the proposed development, although younger partners would not be excluded. Nevertheless, I was told that the average age of Retirement Villages' occupants is 82 years and that only about 25% are couples. Bearing in mind the nature of the scheme with its care component, it is reasonable to surmise that most people living there would be in the older cohort. That does not mean to say that some residents would not still drive but it is unsurprising that the evidence indicates a lower level of car ownership than general purpose housing and that car sharing is popular on other Retirement Villages' developments.
71. Residents living in the proposed development would occupy a self-contained cottage or apartment. The purpose, unlike a care home, is to maintain independence although the degree will vary depending on the care needs of the individual. Nevertheless, each dwelling is fitted with a kitchen and although there is also a restaurant within the communal building on the site, it is anticipated that many will also wish to cook for themselves. Albourne is a Category 3 village and has no shops or facilities apart from a village hall and primary school. There is a volunteer run community shop in Sayers Green, but other than that, the nearest shops are in Hurstpierpoint, where there is also a health centre, post office and pharmacy.

72. It seems unlikely that residents, even those with good mobility, would walk to Sayers Common or Hurstpierpoint. although a few may undertake the relatively short cycle ride. The nearest bus stops are some 85m from the site travelling north and 250m from the site travelling south. These serve the 100 bus to Burgess Hill, which is a Category 1 settlement with higher order shops, services and facilities. A bus journey would take about 11 minutes, although the bus only runs hourly and not on Sundays. Nevertheless, residents would not be making regular work journeys and it seems to me that the bus may be a viable choice for some trips such as visits to the supermarket or bank, for example.
73. The bus stops for the 273 service are some 560m away, north of the Albourne Road traffic lights. This service runs through Hurstpierpoint, which is a bus journey of about 5 minutes. However, the bus runs only every 120-160 minutes and, again, not on a Sunday. The journey would therefore need to be carefully planned and would be most likely to take the form of an outing rather than a trip for a dedicated purpose.
74. The proposal is that there would be a shift pattern for staff, with about 15 being on site at any time. The information from the Retirement Villages' other sites is that staff are in general drawn from the local area, with over half living within 5 miles and 82% living within 10 miles. The analysis indicates that most staff living within 5 miles are likely to come from Burgess Hill. This would be within cycling distance and the 100 service would also be an option for some shifts. However, the bus only runs until the early evening and not at all on a Sunday. There may well be some flexibility in terms of shift patterns, but the bus would not be an option for late evening, early morning or Sunday travel.
75. The Framework indicates that the opportunities to maximise transport solutions will vary between rural and urban areas and this should be taken into account in decision-making. It also says that significant development should be focused on locations which are or *can be made* sustainable. In this case the Appellants have included a number of provisions to improve the accessibility credentials of the proposed development.
76. A dedicated non-profit making minibus would be provided for use by residents and staff. The S106 Agreement includes a covenant for its provision and the evidence indicated that it could be used for shopping trips, GP and health related appointments and day outings. It would also be available for staff travel, subject to the payment of subsidised charges. I was told that this could be used for late evening shifts when the bus has stopped running or for pick-ups from bus stops or the railway station in Hassocks. Whilst some staff, especially those on a late shift or working on a Sunday may prefer the convenience of a car, the existence of this option would extend the available modal choice for staff, provided the subsidised charges are reasonably priced.
77. The proposed development would be subject to a Final Travel Plan before the development is first occupied. This would be based on the *Travel Plan* submitted with the planning application, which includes various targets to increase public transport, cycle and pedestrian trips. Measures include the provision of a length of new footway along the western side of London Road to link the site to the northbound bus stop; cycle parking facilities with changing and washing facilities for staff and discounts on bicycles and cycle equipment; and the minibus. In addition, the traffic calming measures would include an

uncontrolled crossing and pedestrian refuge. Along with the introduction of a 30mph speed limit, this measure would provide those residents wishing to cross London Road, for example on the way back from the bus stop, with a safe means of doing so.

78. The on-site facilities in the communal building are also a relevant factor. This includes a small shop to provide fresh products and basic groceries. I saw the shop at Charters, which had quite a good range of everyday goods including fresh fruit and vegetables, dairy products, tinned items and toiletries. The clubhouse would also have a small library, hair salon, therapy room, bar and restaurant. Clearly providing these facilities on the site would have the potential to reduce the number of external journeys that residents would have to make. I was told that the various facilities are not intended to be profit making and the UU includes a covenant that they would be operated and managed by the Owner or the Management Company. That they could not be leased to a commercial operator gives some comfort that they would continue to operate effectively in the longer term in accommodate daily needs of residents.
79. It seems to me that the appeal proposal has done what it can to enhance accessibility. Residents and staff would have genuine choices available to undertake journeys by modes other than the private car. This is a rural area where it is to be expected that travel options are more limited than in a town and the car would undoubtedly be used for some trips. Every decision turns on its own circumstances but, insofar as there are similarities, I have not reached the same conclusion as the Bolney Inspector for the reasons I have given. I consider that the appeal scheme would be relatively sustainable in terms of location to minimise the need to travel. Overall it would not conflict with policy DP21 in the MSDP.

THE BENEFITS OF THE PROPOSAL

80. For the avoidance of doubt, in ascribing weight to the benefits I have used the following scale: limited, significant and substantial.

The need for extra care housing

81. Paragraph 61 of the Framework requires that the size, type and tenure of housing needs for different groups in the community, including older people, should be assessed and reflected in planning policies. The glossary indicates that these are people over or approaching retirement age. They will include the active elderly at one end of the scale and the very frail elderly at the other. There will be a range of housing needs from adapted and accessible general needs housing to specialised accommodation with support or care.
82. The June 2019 version of the *Planning Practice Guidance* includes its own expanded section on housing for older and disabled people. It makes the point that the need to provide housing for this group is critical in view of the rising numbers in the overall population. Furthermore, it considers that older people should be offered a better choice of accommodation to suit their changing needs in order that they can live independently for longer and feel connected to their communities. Extra care housing is recognised by the Government as providing such benefits.

83. The Council's consideration of the housing needs of elderly people can be found in the *Housing and Economic Development Assessment Addendum* (the HEDNA Addendum) published in August 2016. This provided part of the evidence base to the MSDP and uses the 2014-based population and household projections (released in 2016). Amongst other things the HEDNA Addendum considers the need for specialist housing for older people, including extra care housing, using the *Strategic Housing for Older People Analysis Tool* (SHOP@), This is given as an example of an online toolkit for assessment in the *Planning Practice Guidance* but the document neither endorses its use nor precludes the use of other methodologies. It is important to bear in mind that whichever model is used, its output will be determined by the assumptions on which it relies.
84. The SHOP@ toolkit is preset with the number of units required per 1,000 of the population over 75 years old at 25 or 2.5%. This I shall refer to as the "provision rate" and it has been derived from *More Choice Greater Voice* (2008), which is a document that seeks to provide a strategy for housing with care for older people. It is important to have in mind that the provision rate is an assumption and is not evidence based. The Council pointed out that a provision rate of 25 is roughly double that for extra care housing nationally. However, that reflects the critical need across the country and is not particularly helpful in the consideration of how need should be met in Mid Sussex.
85. In December 2012 *Housing in later life: planning ahead for specialist housing for older people* sought to update *More Choice Greater Voice*. It recognises that extra care housing was becoming better known as an alternative choice for older people who do not necessarily want or need to move to a residential care home. Furthermore, it recognises a prevalence for home ownership in the elderly population and predicts that demand for extra care housing for sale will be twice that of extra care housing for rent¹. It provides a toolkit for use by local authorities in their planning for and delivery of specialist housing for older people. It seeks to improve housing choice for a growing ageing population and increases the provision rate to 45 or 4.5% per 1,000 of the population over 75 years old. Whilst a worked example is given for Bury Metropolitan Council, it seems apparent from the information provided that this provision rate is one that is more generally applicable. That said, it is important to understand that this is an aspirational figure and is also not evidence based.
86. The assessment in the HEDNA Addendum relies on population data that is now out-of-date. Its conclusions on elderly care needs justify reconsideration using the 2016-based population data. The only such assessment has been provided by the Appellants and, on the basis of a provision rate of 2.5%, this indicates a demand for extra care units of 386 in 2020. On the basis of a 4.5% provision rate the equivalent figure is 694 units.
87. In the Council's assessment the tenure split of extra care housing has been set at 73% rent and 27% purchase. In Mid Sussex private leasehold extra care provision is limited to a single development at Corbett Court in Burgess Hill. In terms of extra care units for rent, the database is out-of-date because since 2014, 68 units have been demolished. The Council conceded at the inquiry that the figures in the HEDNA Addendum for extra care provision are thus out-of-

¹ Extra care housing for sale is generally on the basis of a leasehold tenure.

- date. The current (2020) supply is lower, the need is higher, and the tenure split, based on existing provision and the corrected supply, would therefore be about 60% rent and 40% purchase.
88. In Mid Sussex the evidence indicates that the vast majority of older people are owner occupiers. Many of these people will be able to continue to live in their own homes through old age with the necessary adaptations and care support. However, not all homes are suitable. In such cases a homeowner may be attracted to an extra care facility where they can continue to own their own home and maintain a degree of independence whilst enjoying support and care within a secure environment. Within Mid Sussex such choice is largely unavailable.
 89. The Appellants have used a tenure split of 33% rent and 67% purchase in their modelling. Whilst this is recognised as favouring an owner-occupied solution it nonetheless reflects the local housing market in Mid Sussex. Furthermore, it aligns with national policy insofar as it redresses the balance towards greater flexibility and choice in how older people are able to live. It is to be noted that the SHOP@ toolkit itself recognises that the percentage of leasehold tenures will increase in the future and that areas of affluence will see a higher percentage increase by 2035. In such areas, which includes Mid Sussex, it suggests a tenure split more redolent of the Appellants' modelling.
 90. The Council argued that the tenure split is of less importance than the headline figure. However, the evidence indicates that the extra care properties for rent in this District are managed by Housing Associations and therefore an existing homeowner would be unlikely to qualify for occupation. It also appears that the pipeline supply of extra care housing is all social rented tenure. It is therefore reasonable to assume that maintaining a tenure split that favours rental units would be unlikely to allow realistic alternative options to the majority of older people who are currently homeowners. In the circumstances and based on the specific evidence I have been given, I consider that the Appellants' assessment of demand in terms of tenure is more credible and thus to be preferred.
 91. The existing supply, taking account of the aforementioned demolitions, is 142 extra care units. If need is defined as the difference between supply and demand, then even on the Council's favoured provision rate it currently stands at 244 extra care units. The information indicates that there are planning permissions for some 132 additional extra care units in the pipeline, including 60 on the Burgess Hill strategic site. Whilst there is no national policy imperative to maintain a 5 year supply of older person's housing as is the case with housing generally, this nonetheless signals a significant residual unmet need regardless of tenure. On the basis of the Appellants' higher provision rate it would be even greater at 552 units. Either way it would rely on the permitted units being built expeditiously. Using the tenure split favouring leasehold provision, the Council's assessment would be of a current need for 163 leasehold units whilst the Appellants' assessment would be for 368 leasehold units. The evidence indicates none in the pipeline supply.
 92. Whilst there is no requirement in national policy or guidance to specifically allocate sites for specialist housing for older people, the *Planning Practice Guidance* does indicate that this may be appropriate where there is an unmet need. The response in Mid Sussex is to apply a flexible approach through policy

DP30 and the Council pointed out that the strategic allocations include provision for a range of housing, including for older people. Policy DP30 also indicates that further allocations may be made in the SA DPD if a shortfall is identified. Policy DP25 has a similar provision to meet local needs for community facilities, which include care homes and specialist housing. In the SA DPD there is a single residential allocation in East Grinstead that includes a "care community". There is though no detail as to the number or type of units and, in any event, the emerging status of the document means that very little weight can be given to it at the present time.

93. In the circumstances I consider that the evidence indicates a significant level of current unmet need, in particular for extra care leasehold housing, whichever provision rate is adopted. Furthermore, this will significantly increase over the local plan period. This situation has not been helped by the slow progress on the SA DPD and the failure to recognise an unmet need that is clearly evident. The Council's riposte that it is not being inundated by enquiries or applications for this type of development does not seem to me to be a very robust or objective yardstick on which to rely. For all of these reasons I consider that the provision of extra care units by the appeal development to be a matter of substantial weight.

Freeing up family sized homes

94. As has already been said, in Mid Sussex a large proportion of those people 65 years of age and above are owner occupiers. Furthermore, the evidence indicates that a considerable number of older householders under occupy their homes. Indeed, the MSDP indicates in the supporting text to policy DP30 that providing suitable and alternative housing for this cohort can free up houses that are under occupied. It also records that a significant proportion of future household growth will generate a need for family sized homes, including those with over 3 bedrooms. This is reflective of the national picture.
95. There is though insufficient evidence to determine the proportion of new occupiers that would necessarily derive from the local area. Whilst Retirement Villages' analysis indicates that a third of moves to its developments have been from a 5 miles radius it also indicates that about 40% come from further than 20 miles. There is therefore likely to be some benefit to the local housing market as well as a contribution made in terms of the national housing crisis. Overall, I give this benefit significant weight.

On site facilities for use by the public

96. The appeal development would include some facilities that would be available for use by those living outside the development. Albourne has no village shop and whilst the proposed unit would be relatively small with a limited range of goods it would stock day-to-day staples as I have already indicated. Residents in the village could walk or cycle to the shop and it would, in my opinion, provide a useful facility for those living nearby. I give this benefit significant weight.
97. The lockers would allow those living nearby a point from which to collect online deliveries. This would provide a convenient option if the person who ordered the goods was not going to be at home. However, many delivery companies offer specific time slots or the opportunity to nominate a safe place at home

where the package could be left. These options would clearly be more convenient and, although the availability of the lockers could be useful in some circumstances, I give the benefit limited weight.

98. The two workshops would be available for local artisans as well as residents. However, I am not convinced that there is evidence of a demand for such facilities. In the circumstances, I give this benefit limited weight.
99. Three rapid electric charging points would be available for use by the general public as well as by residents. I am not aware of any similar facilities for public use in the vicinity. This would therefore provide an opportunity to those who wish to take advantage of a fast charge, perhaps combining it with a visit to the shop. I therefore give this benefit significant weight.

Highway safety and traffic calming

100. There was local concern that the appeal proposal would be harmful to highway safety. I am satisfied from my observations that lines of sight and the geometry of the new access would be satisfactory to allow for safe entry and exit. West Sussex County Council has a statutory responsibility to ensure the safety of the local highway network. It has not raised objections to the scheme on these grounds and this is a matter of considerable importance. The forecast trip generation would be relatively small and there is no evidence that London Road would have insufficient capacity to accommodate the additional vehicles safely. The proposed parking provision would exceed the Council's minimum standards. There is therefore no reason why there should be any overspill parking onto London Road.
101. The application drawing no: 1701-56 SK08 Rev B shows a number of measures to improve road safety within the vicinity of the appeal site. These include gateway features with kerb build outs and pinch points and a new 30 mph speed restriction between a point south of the limit of the built development on the eastern side of London Road and a point between the junction with Church Lane and the junction with Albourne Road. In the vicinity of the site entrance the road width would be narrowed and to the south of this would be an uncontrolled crossing with a refuge island and dropped kerbs.
102. These measures would be controlled by a planning condition. For the reasons I have given I consider them necessary to encourage reduced traffic speeds and allow residents to cross safely from the bus stop on the eastern side of London Road. However, it also seems to me that there would be some wider benefit due to decreased traffic speeds in the vicinity of the Church Lane junction, which is one of the main entrances into the village. I note that the ANP includes an aim to develop a scheme to improve the safety of road users utilising the local stretches of London Road and Albourne Road. It seems to me that this proposal would play some part towards achieving this objective. This benefit is attributed significant weight.

Economic and social benefits

103. There would be employment benefits in terms of the provision of jobs during the construction phase and also longer term in connection with the operation of the site. There would also be some further spending within local shops and facilities by the new population.

104. There is evidence to indicate that elderly people who live in an extra care environment, with all that it offers, benefit in terms of health and wellbeing. The secure community environment and sense of independence can reduce social isolation and encourage greater fitness and healthy lifestyles. It is reasonable to surmise that these factors are likely to result in a lower number of visits to the GP, reduced hospital admissions and overall savings to the National Health Service. The social and economic benefits are matters to which I give significant weight.

OTHER MATTERS

Ashdown Forest

105. The appeal site is outside the 7km zone of influence of Ashdown Forest Special Protection Area and therefore the issue of potential recreational disturbance would not be of concern. It is though necessary to consider whether there would be any effect on the Ashdown Forest Special Area of Conservation as a result of increased nitrogen deposition from vehicle emissions. The Council's Screening Report indicated that the in-combination transport model that supported the District Plan showed no overall traffic impact in terms of its strategy for housing and employment growth. The County Council considered that there would be about 4.6 additional daily trips that would travel to or through the Forest. I am satisfied with the conclusion of the Council that this would not result in a significant in-combination effect.

Ecology

106. There have been a number of local representations relating to the ecological interest of the site. The Appellants' *Ecological Assessment* records the site as having relatively low value with much of its central area comprising managed semi-improved grassland. The most important areas for wildlife comprise the boundary trees and hedgerows, which are to be retained and protected during the construction period. The assessment includes a programme of mitigation prior to site clearance to take account of reptiles and in the unlikely event that Great Crested Newts are found to be present. These are protected species and it is an offence to undertake development that would cause them harm. Similarly, there is a requirement to protect birds during the nesting season.
107. There is no evidence that bats are using the bungalow as a roost. If that were found to be the case during demolition, work would have to cease to allow the proper licence protocols to be followed. Bats will use the site for commuting and foraging, especially along the retained hedgerow lines. A condition is therefore required to control the level and type of lighting to ensure habitats are not disturbed. Overall, I am satisfied that the development would not give rise to unacceptable harm to ecological interests.
108. There are also proposed enhancements to biodiversity including introducing species rich grassland, new hedgerows, a wild flower meadow and a new pond. Swift bricks and bat boxes would also be provided.

Local healthcare services

109. There was local concern that the local healthcare facilities would be inadequate to serve the new residents. It is appreciated that existing residents often have to wait a considerable time to get a doctor's appointment

but that unfortunately is a much wider issue and applies to many places. Inevitably new residents will need medical care from time to time. However, there have been no representations from the local NHS Foundation Trust or local doctors objecting to the scheme or indicating an issue with capacity.

Residential amenity

110. Objections have been raised that the proposed development would result in overlooking and loss of privacy, particularly to properties on the eastern side of London Road. However, the Parameters Plan indicates a 10m inset of new development from the boundary treeline. Furthermore, the outline form of the proposal means that matters such as window positions would be determined at a later stage. In the circumstances, I am satisfied that there would be no unacceptable harm to the living conditions of existing residential occupiers.

Other appeal decisions

111. My attention was drawn to a number of appeal decisions, including some relating to other Retirement Villages' developments. A number were cited in relation to the Use Class matter, which is no longer an issue in this appeal. Most concerned other local authority areas and turned on their own evidence.
112. The appeals relating to Bolney were the subject of a recent decision in Mid Sussex District. One appeal was for a care home and the other for a care home and 40 age-restricted dwellings. The latter were classed as a C3 use. The conclusions of my colleague on need seem to relate to the care home (Class C2) element of the scheme rather than the extra care dwellings. In any event, I do not know what evidence was presented in respect of that scheme or whether tenure was a particular issue. I have commented on my colleague's conclusion on accessibility above. Overall, I do not consider that this decision is of particular assistance or relevance to the present appeal.

PLANNING OBLIGATIONS

113. The S106 Agreement and UU were considered in detail at the inquiry. They were each engrossed on 20 August 2020. I have considered the various obligations with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in paragraph 56 of the Framework. It should be noted that the Deeds contain a "blue pencil" clause in the event I do not consider a particular obligation to be justified in these terms. In reaching my conclusions I have had regard to the supplementary planning document: *Development Infrastructure and Contributions Supplementary Planning Document* (2018) (the SPD) and development plan policies, including policy DP20 in the MSDP, which relates to securing infrastructure.

The S106 Agreement

114. This is made between the Council, West Sussex County Council, the Owner (Notcutts Ltd) and the Developer (Retirement Villages Developments Ltd). The library contribution is based on a formula set out in the SPD and a worked example is provided in the First Schedule. This cannot be definitive at this stage as the final housing mix is not yet determined. In addition, the cost multiplier will change annually. Although the clubhouse would include a library, no details have been provided. The one I saw at Charters was very

limited in terms of its size and breadth of reading material. I consider that residents of the development would be likely to use the public library in Hurstpierpoint. The County Council indicates that its facilities would require expanding to cope with the additional population. In the circumstances I consider that the library contribution would be justified.

115. The TRO Contribution would be used to promote and advertise a Traffic Regulation Order to reduce the speed limit from 40 mph to 30 mph in the vicinity of the site. This would be part of the traffic calming measures, which have been referred to above. I was told that £7,500 reflected the fixed cost to West Sussex County Council of consultation and review and it therefore seems reasonable and proportionate.
116. The dedicated minibus would be provided prior to the occupation of any dwelling and the covenant includes its use for residents and staff in accordance with the Travel Plan. This is necessary to enhance the accessibility of the development as I have explained above.
117. For all these reasons I am satisfied that all of the obligations are necessary, directly related to the development and fairly related in scale and kind. They comply with Regulation 122 of the CIL Regulations and paragraph 56 of the Framework. They can be taken into account in any grant of planning permission.

The UU

118. A primary resident is a person who is 65 years or older and is in need of at least 2 hours of personal care a week. The basic care package, which it is obligatory to take, is defined to include a range of services that are needed by reason of old age or disablement following a health assessment. The health assessment is to be undertaken by the partner domiciliary care agency who must be registered by the Care Quality Commission. There is also provision for a periodic review of the health assessment to establish whether a greater level of care has become necessary. The domiciliary care agency would also provide a 24-hour monitored emergency call system.
119. The Communal Facilities would be provided in the clubhouse on the northern part of the site. They would include a number of facilities such as a restaurant, bar, lounge, library, therapy and exercise room, hair salon, function room, shop and collection facility. The covenants also require construction of the clubhouse prior to the occupation of any dwelling and all residents and their guests would have access to it. The shop and collection facility would also be accessible to non-residents. Restrictions on the operation of the communal facilities may be imposed by the Management Company, including in respect of the hours of opening of the shop.
120. The scheme would include 2 workshops within the clubhouse with details to be approved at reserved matters stage. These would be made available for use before more than 50% of the dwellings are occupied. They would be made available for use by residents and local businesses and subject to restrictions by the Management Company, including hours of operation and the nature of the use.
121. The Management Company would be established prior to the occupation of

any dwelling as a non-profit making legal entity. It or the Owner would manage the sustainable drainage system (SuDS). It or the Owner would also operate the workshops, shop and collection facility. Any profit received by the Management Company from operating the Communal Facilities and workshops would be used to offset against the annual service charge payable by each homeowner. There is also a restriction on the disposal of the communal facilities or workshops.

122. The Covenants by the Owner to the Council are contained within the First Schedule to the Deed. They are required to ensure that the development would operate effectively as an extra care facility within Use Class C2, which formed the basis of the planning application and on which it has been assessed. They would ensure that the communal facilities are operated and managed for the long-term benefit of the residents living on the site and that the drainage system remains effective and fit for purpose during the lifetime of the development. I consider that all of the obligations are necessary, directly related to the development and fairly related in scale and kind. They comply with Regulation 122 of the CIL Regulations and paragraph 56 of the Framework. They can be taken into account in any grant of planning permission.

PLANNING CONDITIONS

123. A list of planning conditions was drawn up by the main parties and these were discussed at the inquiry. My consideration has taken account of paragraph 55 of the Framework and advice in the Planning Practice Guidance. In particular I have had regard to the Government's intention that planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. The Appellants have confirmed acceptance in writing of those pre-commencement conditions that have been imposed. I have changed the suggested wording in some cases to ensure that the conditions are precise, focused, comprehensible and enforceable.
124. The Appellants have agreed to a shorter implementation period in this case to reflect the case that it has put forward about the scale of the current unmet need. I was told that Retirement Villages will be developing the site itself and thereafter managing the development as part of its extra care portfolio. Much store was set on the high quality of the development and the way the proposed layout had been designed to respect the existing landscape and views. In order to ensure that this is carried forward into the scheme that eventually materialises it is necessary to require compliance with the Parameter Plan and Sketch Layout. For similar reasons and to ensure that the development fulfils its intended purpose, a condition limiting the number of dwellings to 84 is required.
125. A relatively recent *Ecological Impact Assessment* has already been submitted and so I consider it unnecessary to require further details to be submitted. A condition is though necessary to ensure that the mitigation and enhancement measures are implemented in order to protect ecological interests and improve biodiversity. The suggested condition on ecological management requires details that have already been submitted in the above assessment. I have therefore reworded the suggested condition accordingly. Although landscaping is a reserved matter, it is appropriate at this stage to ensure that

protective measures for retained trees and hedgerows are provided during construction in order to protect wildlife and visual amenity. I have reworded this to take account of arboricultural information that has already been submitted. For similar reasons a condition requiring the arrangements for the management and maintenance of the landscaped areas is required.

126. The landscaped grounds would be communal areas and individual dwellings would not have amenity space other than a small patio area for sitting out. The erection of individual private enclosures would not fit in with this ethos or the open character of the site. In the circumstances a condition is necessary to remove permitted development rights for the erection of such features and to retain the gardens as places for all residents to enjoy.
127. The construction period would inevitably cause some disturbance and inconvenience to those living and working in the area as well as to road users. A Demolition and Construction Management Plan is therefore required to help minimise adverse impacts. Separate conditions have been suggested to prevent the burning of waste material and restrict working hours. This is unnecessary as both of these matters would be covered by the provisions of the Plan.
128. A desk-based assessment submitted with the planning application concluded that the archaeological potential of the site was low. It recommends further investigation in the form of trial trenching. The County Archaeological Officer commented that there was nothing to indicate that remains were of a standard that would require preservation in situ. A condition is therefore appropriate to require a written scheme of investigation. There are significant gradient changes across the site. In order to ensure that the development would be visually acceptable, details of ground and floor levels are required.
129. The site has been previously used as a tree nursery with various buildings and glasshouses. The evidence suggests that contamination risks would be generally low. A precautionary but proportionate response is justified with a sequence of conditions that would require actions depending on whether contamination is found to be present.
130. Separate conditions are necessary for foul and surface water drainage. The *Flood Risk and Drainage Strategy* submitted with the application indicated that the site has a low flood risk and that surface water would be satisfactorily disposed by means of a sustainable drainage system (SuDS). In order to ensure this operates effectively in the longer terms it is necessary to require details of the management and maintenance of the system. The UU includes a covenant that the Owner or Management Company would be responsible for the SuDS, but it is not unreasonable to require that information be submitted of any adoption arrangements going forward. With these safeguards in place there is no evidence that there would be a flooding risk either on the site or elsewhere as a result of the appeal proposal.
131. A *Travel Plan* was submitted at application stage and its objectives include reducing the need for staff, residents and visitors to travel by car. It also contains targets to increase pedestrian, bus and cycle trips with milestones over a 5 year period. Various measures are included to encourage sustainable travel choices as already discussed above. A Final Travel Plan will be required

to be submitted based on the already submitted document before the site is first occupied.

132. In order to encourage sustainable solutions and comply with the Government's objective of moving towards zero emission road transport, the provision of electric charging points is necessary. These would include the three rapid active charging points in the communal parking area. Parking for residents is not assigned and it is understood that the use of the private parking spaces would be subject to a separate agreement. In such circumstances these spaces would be provided with passive provision, which can be activated by a socket as and when required.
133. Means of access is not a reserved matter and the details of this along with the new footway and traffic calming measures are shown on drawing no: 1701-56 SK08 Rev B. In order to ensure the safety of road users and pedestrians it is necessary to require the details to be implemented prior to the occupation of the development. I have reworded the condition to be comprehensive and concise. It is also important that before a dwelling is first occupied it is served by a pedestrian and vehicular access in order to ensure a safe and secure residential environment.
134. External lighting, especially along roadways and within public areas, can be intrusive and detrimental to ecological interests as well as the visual amenity of neighbouring residents. I have amended the wording to make the condition more concise bearing in mind that the approval of the relevant details is within the control of the Council. In order to meet the requirements of the Water Framework Directive and policy DP42 in the MSDP a condition is necessary to restrict water usage to that set out in the optional requirement in Part G of the Building Regulations.
135. Conditions relating to materials and landscaping are unnecessary as these will be considered at reserved matters stage.

PLANNING BALANCE AND OVERALL CONCLUSIONS

136. I consider that the development plan is up-to-date and that the basket of most important policies for determining this application are not out-of-date. The development would conflict with policies DP6, DP12, DP15 and DP34 in the MSDP and ALC1 and ALH1 in the ANP and in my judgement it would be contrary to the development plan when taken as a whole. The "tilted balance" and the presumption in favour of sustainable development in paragraph 11 of the Framework would therefore not apply.
137. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations determine otherwise. The MSDP was adopted relatively recently and the Framework makes clear that the planning system should be genuinely plan-led. Nevertheless, in this case there are a number of material considerations to be taken into account. The provision of extra care leasehold housing to meet a considerable level of unmet need is of particular importance, but there would also be various other benefits. I have explained why I consider them of pertinence and the reason for the varying degree of weight that I have attributed to them. Overall, I consider that the package of

benefits delivered by this appeal development is a matter of very substantial weight in the planning balance.

138. There would be harm to the landscape and the character and appearance of the area, including the village of Albourne. For the reasons I have given this would be relatively limited and localised.
139. There would be harm to the significance of designated and undesignated heritage assets by virtue of development proposed within their setting. In terms of the listed buildings the less than substantial harm identified in each case would be relatively low on the scale but nevertheless these are irreplaceable assets and the harm should be given considerable importance and weight. Nevertheless, in my judgement the harm would be outweighed by the very substantial public benefits I have identified. Spurk Barn is an undesignated heritage asset and the scale of harm relative to its significance would be low. The balance in that case is also that the benefits would outweigh the harm.
140. Drawing all of these matters together my overall conclusion is that this particular development would result in benefits of such importance that they would outweigh the harm that I have identified and the conflict with the development plan. In such circumstances, material considerations indicate that planning permission should be granted otherwise than in accordance with the development plan.
141. I have taken account of all other matters raised in the representations and in the oral evidence to the inquiry but have found nothing to alter my conclusion that, on the particular circumstances of this case, the appeal should succeed.

Christina Downes

INSPECTOR

ANNEX A: APPEARANCES

FOR THE APPELLANTS:

Mr Christopher Young	Of Queen's Counsel
Ms Leanne Buckley-Thomson	Of Counsel, both instructed by Ms L Wilford, Barton Willmore
<i>They called:</i>	
Mr G Flintoft BA(Hons) DipTP DipUD MRTPI	Planning Director of Retirement Villages Ltd
Mrs L Wilford BA(Hons) DipTP MRTPI	Planning Associate of Barton Willmore
Mr J Donagh BA(Hons) MCD MIED	Development Economics Director of Barton Willmore
Mr P Clark BA MALscArch CMLI	Landscape Associate of Barton Willmore
Mr J Darrell BSc(Hons) CMILT MCIHT	Associate Director of Transport Planning Associates
Richard Garside MRICS	Director and Head of Newsteer
Mr J Smith BA(Hons) MA PGCE DGDip MCIfA IHBC	Deputy Operational Director of Heritage at RPS
Mr T Kernon BSc(Hons) MRAC MRICS FBIAC	Director of Kernon Countryside Consultants Ltd
*Ms J Burgess LLB Law(Hons)	Solicitor with Aardvark Planning Law

*Participated in the Planning Obligations session

FOR THE LOCAL PLANNING AUTHORITY:

Mr Jack Parker	Of Counsel, instructed by Mr T Clark, Solicitor and Head of Regulatory Services, Mid Sussex District Council
<i>He called:</i>	
Mr D McCallum BA(Hons) MPhil MRTPI	Project Director of DPDS Ltd
Mr W Harley BSc(Hons) CMLI	Director of WH Landscape Consultancy Ltd
Mr C Tunnell BSc(Hons) MPhil FRTPI FAcSS FRSA	Director of Arup and Leader of the London Planning Group
Ms E Wade MA MSc	Conservation Officer at Mid Sussex District Council

FOR THE RULE 6 PARTY:

Ms N Ernest	Councillor of Albourne Parish Council
Mr G Stafford	Chair of Albourne Parish Council
Mr J Butler	Vice Chair of Albourne Parish Council
Mr J Drew	Councillor of Albourne Parish Council

- 14/2 Suggested viewpoint and map from Wolstonbury Hill, submitted by the Parish Council
- 15 Amendments to Document 4 and the proof of evidence of Mr Donagh, submitted by Mr Young
- 16 Agreed position on the Mid Sussex extra care housing supply, submitted by Mr Young
- 17/1 Costs application by Mr Young on behalf of the Appellants
- 17/2 Costs response by Mr Parker on behalf of the Council
- 18 Correspondence by the Council and Appellants regarding the Use Class of the proposed development
- 19 Planning Obligation by Agreement
- 20 Planning Obligation by Unilateral Undertaking

PLANS

- A Application plans
- B Sketch Layout Plan

ANNEX C: SCHEDULE OF PLANNING CONDITIONS

1. Details of the appearance, layout, scale and landscaping of the site (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and development shall be carried out as approved.
2. Application of the approval of reserved matters shall be made to the local planning authority before the expiration of 2 years from the date of this permission.
3. The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters.
4. Any reserved matter applications made pursuant to the development hereby permitted shall demonstrate compliance with the Parameter Plan (drawing no: and RETI150215 PP-01 rev G) and Sketch Layout (drawing no: RETI150215 SKL-04 rev J).
5. No more than 84 extra care dwelling units shall be built on the site.
6. No development shall take place, including any works of demolition, until a Demolition and Construction Management Plan (DCMP) has been submitted to and approved in writing by the local planning authority. The DCMP shall provide plans and details of the following:
 - a. Location of site offices
 - b. Demolition and construction traffic routeing
 - c. Location of plant and materials storage
 - d. The area within the site reserved for the loading, unloading and turning of HGVs delivering plant and materials
 - e. The area reserved within the site for parking for site staff and operatives
 - f. Wheel washing facilities

- g. A scheme to minimise dust emissions from the site
- h. Measures to control noise affecting nearby residents. This should be in accordance with *BS5228:2014 Code of practice for noise and vibration control on construction and open sites*, with particular regard to the noisiest activities such as piling, earthmoving, concreting, vibrational rollers and concrete breaking
- i. A scheme for recycling and disposal of waste resulting from the demolition and construction works
- j. Delivery, demolition and construction working hours
- k. Erection and maintenance of security hoarding, including decorative displays and facilities for public viewing where appropriate
- l. Site contact details

The approved DCMP shall be adhered to throughout the demolition and construction period for the development.

- 7. No development shall take place until an archaeological written scheme of investigation and programme of works has been submitted to and approved in writing by the local planning authority. The investigation and works shall be carried out as approved
- 8. The development shall be carried out in accordance with the mitigation and enhancement measures in the *Ecological Impact Assessment* by Lloyd Bore dated 7 March 2019.
- 9. No residential occupation shall take place until an Ecological Management Plan has been submitted to and approved in writing by the local planning authority. This shall include the arrangements for the maintenance and management of the biodiversity measures carried out in accordance with Condition 8. The development shall be carried out in accordance with approved Ecological Management Plan.
- 10. No development shall take place, including works of demolition, until an Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority. This shall detail protective measures for trees and hedgerows to be retained in accordance with the principles outlined in the *Arboricultural Impact Assessment* and *Arboricultural Report*, both by Lloyd Bore Ltd (26 February 2019 Rev P05 and 22 November 2018 Rev P02, respectively).
- 11. Before the development is first occupied a Landscape Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The Landscape Management Plan shall be carried out as approved.
- 12. The landscaped grounds of the development hereby permitted shall be provided and managed as communal shared spaces. Notwithstanding the *Town and Country Planning (General Permitted Development) Order 1995* (as amended) or any subsequent Order revoking or re-enacting that order, no fences, gates, walls or other means of enclosure shall be erected for the purpose of creating an enclosed garden or private space for the benefit of any extra care dwelling unit.

13. No development shall take place, other than works of demolition, until details of existing and proposed site levels and proposed ground floor slab levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
14. No development shall take place, including works of demolition, until an assessment of any risks posed by contamination has been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken to remediate the site and render it suitable for the development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and a verification report shall be submitted to and approved in writing by the local planning authority. The assessment and any necessary remediation measures and verification shall be undertaken in accordance with a timescale that has been first submitted to and approved in writing by the local planning authority.
15. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended on the site and additional measures for remediation shall be submitted to and approved in writing by the local planning authority. The remediation shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed. It shall thereafter be approved in writing by the local planning authority and carried out as approved before any further work on the site recommences.
16. Before the development is first occupied details of the foul drainage system for the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
17. Before the development is first occupied details of the sustainable drainage system (SuDS) for the site, which shall be in general accordance with the *Flood Risk and Drainage Strategy* by Quad Consult dated May 2017, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
18. Before the development is first occupied details of the implementation of the SuDS approved under condition 17 shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - a. A timetable for implementation;
 - b. A management and maintenance plan for the lifetime of the development;
 - c. Arrangements for adoption by any public body or statutory undertaker or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.

19. Before the development is first occupied a Final Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Final Travel Plan shall be in accordance with the *Travel Plan* by TPA Consulting, dated March 2019. The development shall be carried out in accordance with the approved Final Travel Plan.
20. Before the development is first occupied, three rapid active electric charging points shall be provided in the communal parking area serving the shop for use by the general public and residents of the development. The electric charging points shall be retained for their intended purpose for the lifetime of the development.
21. No more than 75% of the extra care dwelling units shall be occupied until no less than 84 parking spaces have been equipped for passive vehicle charging, to allow for the integration of future charging points. Once the charging points have been provided, they shall be retained for their intended purpose for the lifetime of the development.
22. Before the development is first occupied:
 - a. The site vehicular access shall be constructed and open to traffic
 - b. The new section of footway along London Road shall be constructed and available for pedestrian use
 - c. The off-site traffic calming scheme shall be completedIn accordance with the general arrangement shown on drawing no: 1701-56 SK08 rev B.
23. Before a dwelling is first occupied the internal access roads and footways serving that dwelling shall have been laid out and constructed in accordance with details that have first been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
24. No above ground development shall take place until details of external lighting, including light intensity, spread and shielding, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
25. The extra care units shall include water efficiency measures in order to meet the optional requirement of Building Regulations part G to limit the water usage of each extra care dwelling unit to 110 litres of water per person per day.

End of conditions 1-25.

Appendix I

Summary of existing and planned provision of private extra care

Summary of existing private housing with care schemes

No	Catchment	Scheme	Manager / operator	Distance to subject site (miles)	Total units	Private units	Scheme type	Year of construction
1	Market and local authority	Abbeyfield Girton Green, Wellbrook Way, Girton, Cambridge, CB3 0GQ	Abbeyfield	6.3	76	47	Extra care	2012
2	Market catchment only	Cornell Court, Smallbridge Road, Radwinter Road, Saffron Walden, Essex, CB11 3HY	L&Q Living	9.6	73	13	Extra care	2019
3	Market catchment only	Goodes Court, Baldock Road, Royston, Hertfordshire, SG8 5FF	YourLife Management Services	10.5	52	52	Extra care	2012
4	Market and local authority	Cavendish Court, Sackville Way, Great Cambourne, Cambridge, Cambridgeshire, CB23 6HB	Kingsdale Group	10.6	48	48	Enhanced sheltered	2003
5	Market catchment only	Debden Grange Retirement Village, off Burywater Lane & Whitechurch Lane, Newport, Saffron Walden, Essex, CB11 3TZ	Retirement Villages Group Ltd	11.4	81	81	Enhanced sheltered	2020

Summary of planned provision – Housing with care							
No	Catchment area	Site address and applicant	Scheme (with planning ref/date granted)	Net extra care units	Construction commenced/ estimated earliest year of delivery	Distance from subject scheme (miles)	Notes
Granted							
1	Market only	Cherry Hinton, Coldhams Lane, Cambridge, CB1 9XG Marshall of Cambridge (Airport Properties) Limited	<u>18/0481/OUT – 18/12/2020</u> Outline planning application (all matters reserved except for means of access in respect of junction arrangements onto Coldhams Lane, Cherry Hinton Road and Airport Way) for a maximum of 1200 residential dwellings (including retirement living facility (within Use Class C2/C3)), a local centre comprising uses within Use Class A1/A2/A3/A4/A5/B1a/D1/D2, primary and secondary schools, community facilities, open spaces, allotments, landscaping and associated infrastructure.	90	No 2025	3.6	Outline planning application granted in December 2020 which includes 90 C2/C3 units. We have assumed units will be 'with care' and included in our analysis. Application for approval of details reserved by conditions (Contamination: completion of preliminary scheme of investigation for the design verification stage of groundwater remediation) submitted September 2021.
2	Market and local authority	73 High Street, Meldreth, Royston, Hertfordshire, SG8 6LB Samved Holdings Ltd	<u>S/2291/15/FL – 09/02/2016</u> Alterations and refurbishment of the homestead, including demolition of previous extension, together with new vehicle access from high street and restoration and rebuilding of front boundary wall.	5	No 2023	7.3	The building currently forms part of the Maycroft care home which is in the process of being extended. This application proposes that 'The Homestead' will become independent to the care home.
3	Market and local authority	Waterbeach Barracks and Airfield Site, Waterbeach Cambridge, CB25 9QZ Defence Infrastructure Organisation	<u>S/0559/17/OL - 27/09/2019</u> Construction of up to 6,500 new homes, including up to 600 care home units. Works will also include 3 primary school, sports and fitness centres, shops, offices, industrial units, community centres and places of worship, medical centre's, a lake side hotel and supporting infrastructure.	80	No 2025	9.3	This application includes plans for up to 600 C2 use residential units that will be "a care home or similar". This application forms part of a major development which includes application S/2075/18/OL.
4	Market and local authority	Land off Rampton Road, Cottenham, Cambridge, Cambridgeshire, CB24 8TJ Gladman Developments Ltd	<u>S/2413/17/OL – 09/08/2017</u> Outline application for the construction of up to 200 houses (including up to 40% affordable housing) and up to 70 apartments with care (C2) 1 includes SUDS, demolition of no.117 Rampton Road, introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access points from Rampton Road and	70	No 2024	9.7	Documents do not specify the number of affordable houses so for the purpose of this research we have assumed all 70 are private. Reserved matters, which included the reduction in units to 57, was refused in October 2019 and no re-submission to date. The Committee report for that application stated that the development of the residential element and apartments with care would come forward as two separate phases by two separate parties.

Summary of planned provision – Housing with care							
Map ref.	Catchment area	Site address and applicant	Scheme (with planning ref/date granted)	Net extra care units	Construction commenced/ estimated earliest year of delivery	Distance from subject scheme (miles)	Notes
			associated ancillary works.				
Pending							
5	Market only	Anstey Hall Hotel, Maris Lane, Trumpington, Cambridgeshire, CB2 9LG Trumpington Investments Ltd	<u>20/01426/FUL</u> Construction of 87 two bedroom apartments, flanking a new public park to the south of Anstey Hall in order to provide assisted-living accommodation for people over 65 and includes natural ventilation and SUDs. The listed house will be adapted to serve as the central facilities for the retirement community.	87	No (Pending application) 2025	2.6	-Anstey Hall is Grade 1 listed. Should planning permission be forthcoming it is likely that any conditions will be onerous and the proposed scheme will have a protracted timescale.
6	Market only	Land to rear of 163 - 187 High Street, Bottisham, Cambridgeshire, CB25 9BJ Axis Land Partnerships	<u>20/00296/OUM</u> Development of retirement care village in class C2 comprising housing with care, communal health , wellbeing and leisure facilities.	170	No (Pending appeal) 2025	6.8	This application is for a care village. The exact breakdown of units is to be determined by a subsequent reserved matters application, but the application states a maximum of 170 extra care units.
7	Market and local authority	Land Adjacent to Waterbeach Barracks and Airfield Site, Waterbeach, Cambridgeshire, CB25 9LY RLW Estates Ltd	<u>S/2075/18/OL</u> Outline planning permission (with all matters reserved) for development of up to 4,500 residential units, business, retail, community, leisure and sports uses, new primary and secondary schools and sixth form centre, public open spaces including parks and ecological areas, points of access, associated drainage and other infrastructure, groundworks, landscaping, and highways works.	80	No (Pending application) 2025	9.0	App is directly adjacent to S/0559/17/OL – A mixed development. The Planning Statement states that the development will include ' up to 450 units of institutional use (class C2), which could take the form of elderly or other care provision'. For the purpose of this research we have assumed the units will be for elderly residents. The Planning Statement also suggests that the amount of affordable housing has not been decided yet so we have assumed that the tenure for the sheltered housing units will be private. Assumed scheme size of 60/80 but noted rest of units in report and could be either CH or OPH.
8	Market only	Land South Of Radwinter Road, Ashdon, Saffron Walden, Essex, CB10 2RE McCarthy & Stone Retirement Lifestyles Ltd	<u>UTT/20/2175/DFO</u> Details following outline approval: utt/17/3426/op (approved under appeal app/C1570/w/19/3227368) for extra care housing (use class 2) together with associated infrastructure including road, drainage and access - details of appearance, landscaping, layout and scale.	16 (+56 granted pp)	No (Pending application) 2024	9.8	A subsequent detailed application has been granted which reduces the number of extra care units to 56. The original application is currently subject to an appeal which may increase the number to 72. We have therefore included 56 units as granted and 16 as pending in our analysis.

Source: subscribed data sources and relevant planning departments. Research completed 4 October 2021

Appendix J

Appeal Decision: Ref: APP/F0114/W/21/3268794. Homebase Site, Pines Way, Westmoreland, Bath BA2 3ET (September 2021)



Appeal Decision

Inquiry Held on 22 June – 2 July 2021

Site visit made on 23 June 2021

by R. Catchpole BSc (hons) PhD MCIEEM IHBC

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2021

Appeal Ref: APP/F0114/W/21/3268794

Homebase Site, Pines Way, Westmoreland, Bath BA2 3ET

- 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 Ms O Birtwistle (Senior Living Urban (Bath) Ltd) against the decision of Bath & North East Somerset Council.
 - The application Ref: 20/00259/FUL, dated 20 January 2020, was refused by notice dated 5 January 2021.
 - The development proposed is a new care community (Use Class C2) comprising care residences and care suites and ancillary communal, care and well-being facilities, offices in Use Class E(g)(i) together with associated back of house and service areas, pedestrian and vehicular access, car and cycle parking, landscaping, private amenity space and public open space.
-

Decision

1. The appeal is allowed and planning permission is granted for a new care community (Use Class C2) comprising care residences and care suites and ancillary communal, care and well-being facilities, offices in Use Class E(g)(i) together with associated back of house and service areas, pedestrian and vehicular access, car and cycle parking, landscaping, private amenity space and public open space at the Homebase Site, Pines Way, Westmoreland, Bath, BA2 3ET in accordance with the terms of the application, Ref: 20/00259/FUL, dated 20 January 2020, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The Inquiry sat on non-consecutive days between 22 June and 2 July 2021 and an unaccompanied site visit was carried out on 23 June 2021. The site visit was carried out according to an agreed itinerary [CD 10.5.11] which included views of the appeal site from the habitable rooms and outdoor areas of Nos. 6-8 Albert Crescent.
3. The Council gave four reasons for refusal in its decision notice but has since withdrawn the third and fourth reasons which, respectively, relate to car parking provision and the mitigation of tree loss. A Statement of Common Ground [CD 10.5.1] states that this resulted from further clarification of the parking arrangements, the submission of a revised landscaping scheme [ID1] and the submission of a completed s106 planning obligation through which a financial contribution towards off-site tree planting has been secured [ID25]. I am satisfied that there are no substantiated grounds that would lead me to

question the Council's position on these matters. The Council continued to defend its position in relation to the first two reasons for refusal and this is the basis on which this appeal has been determined.

4. As the proposal potentially affects the setting of listed buildings I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
5. The National Planning Policy Framework 2021 (the Framework) and a new National Model Design Code were published after the close of the Inquiry. The main parties were given an opportunity to highlight any effect that these publications might have on their respective cases. I have taken the responses I have received into account in my decision-making.

Main Issues

6. The main issues are:
 - the effect on the character and appearance of the surrounding area, having particular regard to the City of Bath World Heritage Site (WHS) and special regard to the settings of the Bath Conservation Area (BCA) and other designated heritage assets; and
 - the effect on the living conditions of occupants of residential dwellings on Albert Crescent, Western Terrace and The Mews with regard to privacy and outlook.

Reasons

Background

7. The appeal site is located in close proximity to Bath city centre and covers an area of approximately 1.8 ha. The main access lies the south west, via Pines Way, and an ancillary access is also present from Stothert Avenue, which lies to the west. The site is currently occupied by a large, Homebase retail shed that is no longer in active use. This structure occupies the southern part of the site with the northern part being occupied by an extensive area of car parking.
8. The surrounding land use is mixed with residential dwellings located immediately to the north and north west, a Sainsbury's petrol filling station to the south west, two large office buildings (Pinesgate) to the south and a Sainsbury's overspill car park immediately to the east. A number of light industrial units are also located near the south eastern corner of the appeal site.
9. The River Avon passes in close proximity to the north eastern boundary, as does a riverside walkway, linking the overspill car park with the Bath Western Riverside (BWR) development. A pedestrian route and a mature belt of trees flank the opposite bank nearest to the appeal site beyond which lies the Grade II* Norfolk Crescent and an associated public open space/ green. The southern bank of the river delineates the boundary of the BCA and the site lies within the City of Bath UNESCO WHS.
10. The scheme is regenerative and seeks, among other things, to create residential units and care suites in the C2 use class. A total of 288 units would be created with the majority (approximately 253) comprising accommodation designed to support the long-term needs of residents who are capable of

independent living but who require some ongoing care or support. There would also be approximately 30 'care suites' and 5 'care residences' that would be designed to support those residents who have a greater need for care on a shorter-term basis.

11. A number of other uses would also be present including a range of communal facilities comprising a restaurant, café/bar, occupational therapy/wellness centre, a gym, a library, treatment and therapy rooms and around 1,865 m² of office space for independent use that would not be directly related to the day-to-day operation of the scheme. Consequently, the proposal would deliver a mixed-use development whilst being a predominantly residential scheme.
12. The appeal site forms part of a larger site which has been allocated for redevelopment under policy SB7(B) (Sydenham Park) of the Bath and North East Somerset Core Strategy and Placemaking Plan for Bath 2017 (PPB) [CD 4.2]. This states that residential development should account for a significant proportion of floor space with over 500 residential units being allocated. It also has a B1 employment floor space requirement of around 14,000 m² and a 150-bed hotel as well as complementary food and drink establishments.
13. It is common ground between the parties that the principle of developing the appeal site to provide an extra care community is acceptable within the context of Policy SB7(B) and that the remainder of the Sydenham Park allocation has sufficient capacity to accommodate the residual quantum of development that is required. It is also common ground that the appeal scheme would not compromise the future redevelopment of the remaining, allocated area.

Character and Appearance

14. The vision for the Sydenham Park area, as set out in the commentary to the above policy, states that it represents 'an exciting opportunity to create a new city destination ... that responds to the bold architectural presence of Green Park Station' and creates 'a new city quarter that complements the new residential development of Bath Western Riverside and represents a confident new stage in the evolution of the city.'
15. This contrasts with the existing townscape that is characterised by low rise utilitarian sheds, extensive areas of car parking and a gyratory system with a poorly related development at Pinesway which the Council acknowledges is 'an anomaly within the fabric of the city' [CD 10.4.10]¹. The Council also acknowledges that the wider area has 'few commendable characteristics' [CD 10.4.10]².
16. The appellant goes further and characterises the townscape quality of the appeal site as poor [CD 10.3.14]³. Among other things, a lack of spatial enclosure, poor legibility, a lack of active frontages, poor architectural quality and underutilisation are identified as detracting elements and I agree. I observed that the immediate area has a stark, utilitarian character that is dominated by car use with very few positive, placemaking attributes and entirely lacking in architectural merit.

¹ Paragraph 4.4

² Paragraph 4.3

³ Paragraph 4.7

17. Turning to the wider area, I observed that the context of the site is strongly influenced by the scale, massing and materials of the BWR development to the west which the Council accepts as defining the current context of the site [CD 10.4.10]⁴. I observed a range of building heights up to eight storeys. Whilst the latter was associated with two landmark buildings nearest the river, I also observed that Fredrick House has up to seven storeys and an extensive frontage facing onto Midland Road. The massing of this building is such that it dominates the street scene of Midland Road and is clearly visible from the junction with the Lower Bristol Road. A mixed palette of materials has been used throughout the scheme which includes the extensive and prominent use of dark metal cladding on the recessed, upper storeys of these buildings.
18. The site context is also influenced by the development closest to the northern boundary, along Albert Crescent and Western Terrace, which has a more intimate and varied scale. This also utilises areas of metal cladding, as part of the upper storey detailing, which has a light-coloured finish. The development contributes to a distinctive and modern river frontage and is a well-considered continuation of the residential use of the south bank of the river. The fresh modernity of its design and the prominent visual break provided by the River Avon and its flanking vegetation clearly differentiates it from the Georgian city beyond.
19. The design response to the appeal site is founded on the requirements set out in Diagram 10 of SB7 [CD 4.2] and would result in three mixed-use buildings (A/B, C and D) fronting onto two routes that pass through the appeal site on an east-west alignment. One of these would maintain the line of Sydenham Park Street through the creation of a pedestrian precinct between buildings C and D. This would be characterised by active commercial frontages, as set out in the appellant's design proof [CD 10.3.19]⁵. The other throughfare to the north would provide the main vehicular access to the site and would be situated between buildings A/B and C. This would provide access to an underground parking facility as well as the internal courtyard associated with building A/B.
20. The proposed building heights would vary between two and six storeys with the heights generally rising towards the southern part of the appeal site where the ridge heights of building C and D would be around 21 m above ground level with a parapet height of around 20 m [ID 19]. Building A/B would be a mix of two and four storeys with the top of the latter being set back from the main elevation. The design steps down to two storeys where it is adjacent to Albert Crescent/Western Terrace and at the corner of the northern throughfare, when approached via Stothert Avenue [CD 10.5.12]⁶. Building C would be predominately six storeys, with a four-storey element fronting onto Pinesway, whilst building D would be six storeys. Both buildings would have a similar setback to their upper floors, as would also be the case for building A/B.
21. In terms of urban typology, whilst the scale, massing and density of the proposed buildings would mark a significant change in the appearance of the site, it would nevertheless be in keeping with the evolving character of the post-industrial river corridor as expressed through the BWR development. I find that the proposal would create a highly legible street scene that would be read as a complementary, visually modulated neighbourhood with clear

⁴ Paragraph 3.4

⁵ Figure 43, paragraph 5.1.15

⁶ Artist's Impression - View 1 from Stothert Avenue

- circulation routes that would be re-enforced by changes in building height, such as the two-storey element of the south eastern corner of building A/B. An active and engaging public realm would also be created along the river frontage [CD 10.5.12]⁷ with clear pedestrian links to Victoria Bridge and beyond.
22. The Council's position on the townscape effects and cohesiveness of the design narrowed during the course of the Inquiry to the relationship with the two-storey element of building A/B, as defined above, and building C. It was established in cross-examination that it was the difference in the height and massing of these two buildings that went to the heart of the Council's concerns over design cohesiveness [ID24]. The appellant has drawn my attention to the chamfered layout of this corner, the width of the street and the parapet height of Building C. Taken together, I find that the variation in height, building articulation and common architectural language adds significant visual interest in addition to supporting the legibility of the public realm. As noted above, the chamfered corner invites the eye towards one of the main routes through the site. The elevational language is also varied in more subtle ways with the window recessing, engaged brick columns, corbelled brickwork and the setback of the upper floors all creating a clearly stratified, lively and cohesive, vertical architectural composition.
23. Given the above, I find the concerns over cohesiveness lacking in merit and inconsistent with the guidance in the BWR Supplementary Planning Document 2008 (BWRSPD) [CD 5.1] which states that heights should not be 'consistently applied across a site or across development blocks'.
24. Turning to materials, I note that neither the Council's design nor heritage witnesses objected to the use of sheet metal or buff brick in the proposed scheme and that this was also the position of the case officer who recommended the granting of planning permission. Mr Neilson, in response to a direct question that I put, acknowledged that the use of brick should be encouraged and would be a more authentic response to the appeal site that would have been historically characterised by a diverse range of materials, including brick.
25. However, the Council's planning witness maintained that the use of buff brick and sheet metal was prohibited in the BWRSPD despite the widespread, prominent and highly contrasting use of the latter throughout the BWR scheme. When questioned about the use of this material, Mr Griggs-Trevarthen conceded that it is a prominent feature of this development. Bearing this in mind, as well as its use at Albert Crescent/Western Terrace and the extensive corrugated metal sheeting of Green Park Station, I find that this aspect of the guidance can only be given limited weight when the evolving character of this area is taken into account.
26. Turning to the matter of buff brick, the established character and therefore the relevance of the BWRSPD is less equivocal and I accept that it is not a frequently encountered material in the locale. However, there is a tension with SB7(B) which notes that 'the location would benefit from a clear identity and point of differentiation, one with a strongly defined built environment'. In urban design terms, it is hard to see how the use of a light-coloured brick and pointing would fail to meet this requirement or how the use of an alternative

⁷ Artist's Impression – View 2 Riverwalk

- facing material, such as Bath Stone, would result in anything other than a bland contextualisation lacking clear differentiation and identity.
27. Consequently, I find that both brick and sheet metal would offer a more honest and grounded expression of the industrial heritage of the site which is visually and topographically distinct from the Georgian City and, as such, is capable of accommodating a greater degree of townscape change and the adoption of a more clearly articulated identity.
 28. Turning to building heights, the Bath Building Heights Strategy 2010 [CD 10.2.6] places the appeal site in Zone 3, the Valley Floor, which it describes as being 'visually distinct from the Georgian City with a fragmented townscape and a variety of building heights'. I note that this guidance has not been formally adopted and cannot be considered part of the development plan but that it is nevertheless a material consideration. It recommends that building shoulder heights in this zone should generally be 4 storeys with one additional, setback storey within the roofscape. It also suggests that an additional storey may be acceptable in certain circumstances. The most relevant being where a building fronts onto public space and marks key locations, such as corners or gateways.
 29. The strategy provides area-based guidance on the appropriate height of new development to ensure the protection of the Outstanding Universal Value (OUV) that defines the WHS. I deal with townscape effects at this point and shall address the effect of the proposed heights on OUV and heritage assets in the following section. I note that the design steps down with its 2, 3 and 4 storey elements and also steps up to 6 where there would be a clear urban design purpose. Although there was disagreement over the nature of the public realm at the western end of the appeal site, where Sydenham Park Street would meet the existing road network, the Council's design witness accepted that this would have a nodal function in cross-examination and I agree.
 30. As such, I note that building D would act as a clear point of demarcation within the public realm in terms of signifying the gateway to a broad, pedestrianised zone linking the proposed development to Sainsbury's and the city centre, when looking east, along the line of Sydenham Park Street. The four-storey element of building C sweeps round to these higher, facing elements which draws attention to the gateway thus stressing its architectural function. I do not find the heights of building C or D to be excessive or out of proportion with the proposed townscape bearing in mind the separation distance between buildings C and D, setback of the upper floors and the width of the Pines Way gyratory.
 31. Notwithstanding my heritage conclusions, I find that the proposed building heights would accord with the principles of good urban design and be consistent with the BWRSPD insofar as it supports building heights of between 4-6 storeys. I also note that building height and massing vary considerably across the city given the monumental scale of some of its historic buildings and that the location of the proposed scheme on the valley floor would not lead to any significant townscape disruption as a result.
 32. Given the above, I find that the proposal would not harm the character and appearance of the surrounding area and would be consistent with policy SB7 of the (PPB) [CD 4.2] as well as policies D1, D2, D3 and D5 of the Bath & North

East Somerset Core Strategy Placemaking Plan – District-Wide Strategy and Policies 2017 (DSP) [CD 4.2] that seek, among other things, to ensure that new development contributes positively to local distinctiveness, identity and history, creates legible connections and buildings that are flexible and adaptable, improves areas of poor design, responds to urban morphology, contributes positively to urban fabric through an appropriate grain and delivers well designed and articulated buildings with active frontages.

Historic Environment

33. The Council identified direct harm to the WHS as well as harm to the setting of the BCA and a number of listed buildings. The heritage assets potentially affected, as well as the scope of the impact on the WHS, could not be agreed between the parties [CD 10.5.7]. The Council's heritage witness confirmed during the course of the inquiry that the potential harm to the assets results from the top two floors of building C and D, as set out in his proof [CD 10.4.8]. This is consistent with the views of Historic England but only insofar as the potential harm that would be caused to the setting of Norfolk Crescent, the WHS and the setting of the BCA because these were the only three assets for which it expressed any concern [CD 10.3.17]⁸.
34. In its heritage proof, the Council maintains that the proposal would also cause harm to the setting of a Grade II* Watchman's Box located on the edge of the green near Norfolk Crescent, a group of Grade II buildings that are mostly arranged along the Lower Bristol Road comprising Victoria Buildings, Belvoir Castle and Park View and the Grade II Green Park Station to the east of the site. The Council offers no reasoning concerning why the significance of these assets would be affected and simply concludes a 'moderate impact' in all instances according to ICOMOS guidelines [ID10].
35. My questioning during the inquiry elicited no further elucidation of how the significance of these assets would be affected beyond visual juxtaposition of the top two floors of buildings C and D and a failure of the appellant to adhere to a 'rule of thumb' that new buildings must always be subservient. The rule of thumb not only lacks policy support but also fails to account for the significant variation in height and scale in the Georgian City, as previously noted. In response to a question I put, the Council's planning witness confirmed that the assessment of harm to the heritage assets was based entirely on intervisibility and the intrusion of the proposal into general views. I find this approach unsatisfactory because it has not been grounded in an objective analysis of how the settings of these assets contribute to their special interest and how that would then be affected by the proposal. Taking each in turn.
36. The Watchman's Box (Ref: 1395748) dates from around 1810 and the design is attributed to John Palmer who was also responsible for the first phase of Norfolk Crescent. Given its proximity to the Crescent and the nearby green, its historical function and setting is highly localised and directly related to the past protection of the residents of Norfolk Crescent. The proposal would not detract from this group value or its neo-classical style which is closely matched by the nearby buildings. Consequently, there would be no loss to the evidential value of this asset, as a police shelter, when experienced within this context nor would it be so visually overwhelmed that this relationship would, in any way, be disrupted.

⁸ Appendix 9

37. Turning to the listed buildings that the Council identify along the Lower Bristol Road, these form an intact Georgian terrace of varying height comprising 1-6 Victoria Buildings (Ref: 1395093), Nos. 7-10 Victoria Buildings (Ref: 1395094), 11-24 Victoria Buildings (Ref: 1395096), Nos. 25-27 (Ref: 1395099) and Nos. 30-32 - Belvoir Castle (Ref: 1395102). The Council has also identified harm to the setting of 1-6 Park View (Ref: 1394334) which is located at the rear of the western end of the main terrace and orientated at approximately 90° to the Lower Bristol Road.
38. I observed that the buildings fronting onto the Lower Bristol Road are all of a similar style, material and era and date from the mid-late 19th century. They are illustrative of modest, speculative Georgian development along one of the key historic routes into the city. They are faced with limestone ashlar with low parapets and shallow roof pitches. The architectural language is restrained and consistently expressed to give a relatively homogenous façade with tiered pediments on scrolled brackets above many of the doorways and a first-floor banding course that provides a degree of architectural integration. The simplicity of expression and scale of these dwellings gives them an artisanal charm that contrasts with the larger set pieces within the city, such as Norfolk Crescent. Park View terrace has a more vernacular character and comprises a short row of dwellings with detached gardens facing the main elevation which, whilst faced in limestone ashlar, lacks any significant architectural detailing. This is suggestive of lower status dwellings when placed in the context of their cramped arrangement and lack of any street frontage. Overall, this group of buildings of modest scale and mixed character evoke the varied uses and fortunes of the historic community that would have inhabited this part of the city.
39. With the exception of Park View, which is almost wholly self-contained, the experience of these buildings is essentially kinetic given their compact linear form along the Lower Bristol Road. As such, they are experienced and appreciated at close quarters as movement occurs along this road which provides the setting in which they must necessarily be understood. I observed that there is an abrupt change in scale and character of the townscape when moving east towards the appeal site with a contemporary context dominating after the junction with Brougham Hayes and Victoria Bridge Road.
40. Whilst the proposal would form a relatively prominent feature of the streetscene at this point, it would be read within the context of a much altered, modern townscape [CD 1.12.8]⁹ with only limited juxtaposed views from the south side of the road being present in the area proximate to the eastern end of the terrace [CD 1.12.8]¹⁰. Moreover, there would be no material intervisibility with 1-6 Park View and my own observations suggest that the legibility of its backland setting and historical juxtaposition with the buildings fronting onto the Lower Bristol Road would remain unaffected given the fine-grained arrangement of these buildings.
41. Consequently, I find that the setting and thus the special interest of these listed buildings would not be harmed nor would the development compromise an understanding of the pattern and form of Georgian town planning that these buildings signify as part of their group value. In this regard, I note that the prominent juxtaposition of Fredrick House with Belvoir Castle and the fact that

⁹ View 2 – Brougham Hayes junction with Lower Bristol Road - Proposed

¹⁰ View 1 – Lower Bristol Road Looking East at Lorne Road - Proposed

- the latter remains clearly differentiated despite the significant massing of the former.
42. Bearing in mind the separation distances and clearly differentiated materials of the proposed scheme, I also find that it would preserve the OUV and thus the significance of the WHS because this historic route into the city and the remnant Georgian town planning would remain clearly legible. The buildings would not be overwhelmed by the proposal which would be located in a modern townscape context and set back, at an oblique angle, to the line of the Lower Bristol Road.
 43. Turning to Green Park Station (Ref:1396267), I do not find the Council's views credible in relation to this building because its primary orientation and architectural engagement faces east, towards the city, rather than towards the appeal site. Its main elevation, which denotes its principal architectural significance, comprises a neo-classical composition, faced in limestone ashlar with a rusticated ground floor. The rear elevation is dominated by the former mouth of the train shed comprising a Victorian wrought iron structure on limestone rubble walls.
 44. The western context of this building is much altered with only an iron lattice bridge denoting the line of the rail route to the former marshalling yards and engine sheds. As it has already been established that the proposal would preserve the associated corridor identified in Diagram 10 of SB7(B), the only question that remains is whether the scale and massing of the proposal would be so large and incongruent that it would visually overwhelm the train shed and undermine its legibility. I observed that this would not be the case because of the monumental scale of the station as well as the considerable separation distance and intervening vegetation that is present. Added to this is the fact that the historic relationship between the station to the appeal site would remain legible given the alignment and industrial character of the lattice bridge which clearly denotes the historic route of the rail line to the west.
 45. The Council has highlighted differences in the conclusions of the heritage statements submitted with the application and the conclusions of the appellant's heritage witness [CD 1.2.19, CD 1.6.4 and CD 1.10.4]. These were summarised in a table that was submitted during the course of the Inquiry [ID14]. I have carefully considered this evidence in relation to the above heritage assets and nothing would lead me to reach a different conclusion. The reasoning, as it relates to impact, is limited and goes to matters of judgement upon which I hold a different view for the reasons I have set out above.
 46. Furthermore, this evidence relies, in part, on the application of the DMRB¹¹ heritage impact assessment methodology to the setting of listed buildings. I note that irrespective of its commonalities with the ICOMOS guidance [ID10], its use is not supported in HE guidance [CD 6.14], the Planning Practice Guidance 2016 (as amended) (PPG) or the Framework in this particular context and carries very little weight as a result.
 47. Consequently, the outstanding heritage issues that remain to be determined relate to the effect of the proposal on the WHS, the setting of the BCA and the setting of Norfolk Terrace.

¹¹ Design Manual for Roads and Bridges 2007 (as amended)

48. The City of Bath WHS is a designated heritage asset of the highest significance. It was inscribed in 1987 and the designation covers the entire city which encompasses an area of around 29 km². The WHS Management Plan (WHSMP) identifies six headline attributes which express the essential qualities of the OUV [CD 6.5]. Of these, the parties agree that Attribute No. 5 'The Green Setting of the City in a Hollow in the Hills' and Attribute No. 3 'Georgian Town Planning' are the ones most relevant to this appeal with the Council also identifying Attribute No. 4 'Georgian Architecture' as being important as well as some additional components of the first two attributes [CD 10.5.7].
49. In terms of Attribute No. 3, the visual homogeneity arising from a limited palette of colours and the 'uniform scale and height of buildings' are identified as well as views and vistas that have been deliberately created. This links to the transposition of Palladio's ideals to the specific geography of the valley that has been expressed in terms of a picturesque landscape which is described in the OUV statement as a precursor to the garden city movement. This is also reflected in, among other things, the layout of crescents with adjacent open areas which are expressed on a monumental scale by the Royal Crescent and to a lesser extent, Norfolk Terrace.
50. Turning to Attribute No. 5, this reflects the importance of the wider landscape in terms of the verdant, undeveloped hillsides that surround the city as well as the sylvan skyline that is apparent from many locations throughout the city. The preservation of these elements, as well as the presence of defensive walls that provided the nucleus for the 18th century remodelling of the city, has led to a compact form of development within the topographic basin that has avoided the extensive and unattractive urban sprawl characteristic of most English cities.
51. Turning to Attribute No. 4, this identifies the importance of particular set pieces and the works of noted architects which includes John Palmer who is associated with, among other things, the design of Norfolk Crescent. The extent, quality and consistency of expression of the neo-classical, Palladian architecture over the course of a century has led to a well-integrated and harmonious city that has not relied on a single masterplan or patron but instead has arisen through opportunistic means which the WHSMP describes as a 'testament to the architects and visionaries of that period'.
52. Given the above, the special interest of the WHS, insofar as it relates to this appeal is the planned relationship of the built environment to its landscape setting as well as the consistent and sustained architectural expression of neo-classical, Palladian ideals, at different scales, as expressed through a common palette of building materials.
53. Turning to the BCA, it was first designated in 1968 and is city-wide conservation area covering approximately 1,486 ha. Although covering a wider area and intended for another purpose, the Bath City Wide Character Appraisal SPD 2005 nevertheless describes its character [CD 5.2]. It notes that there can be considerable variation in height between buildings of the same number of storeys due to different floor to ceiling heights that were traditionally defined by the 'rates' system¹². Consequently, the generally uniform heights and scale of the city, typically expressed as comprising 3-4 storeys, must necessarily be considered within this context.

¹² Paragraph 6.4.1

54. It also emphasises the inherent quality of buildings that result from the use of a limited palette of natural materials mainly comprising Bath stone, Welsh slate, painted iron and painted timber. It notes that the colours and subtlety of natural weathering gives rise to a highly cohesive visual quality that is further supported by the widespread use of fine ashlar facings with thin jointing. However, other materials are also highlighted in terms of the use of Bath stone rubble in back and side walls as well as red brick, pennant sandstone and white/grey lias limestone in outlying areas.
55. The BCA itself is divided into 16 different character areas with a narrow section of the Brassmill Lane, Locksbrook and Western Riverside area running along the southern bank of the river, immediately adjacent to the appeal site, whilst the City Centre area incorporates the facing northern bank of the river and the built environment that lies beyond. The Brassmill appraisal [CD 6.2] identifies the River Avon as the dominant feature with a character that has largely arisen from extensive post-industrial redevelopment, most notably at the BWR site. It highlights a mixed, light industrial and commercial character with pockets of residential dwellings largely comprising Georgian terraces, Victorian villas and modern apartment blocks. It identifies the increases in building height, as a result of the BWR development, as a potential threat.
56. In contrast, the City Centre Character Appraisal [ID26] notes that the facing area marks the westernmost extent of Georgian city which terminates in the 'fine curve' of Norfolk Crescent and the other buildings facing onto the adjacent green. This area also includes Green Park Station which is highlighted as a demonstration of Georgian Bath's influence on Victorian architecture as expressed in the design of its principal façade by J.H. Saunders for the Midland Railway.
57. Given the above, as well as my own observations, I find that the setting of the BCA, insofar as it relates to this appeal, comprises the transitional, post-industrial river corridor that is characterised by modernist architectural forms juxtaposed with glimpses of the westernmost extent of the historic city, as experienced by the recreational users of the river corridor and the occupants of riverside dwellings. The Council confirmed, in response to one of my questions, that no defined, historic views associated with the BCA would be affected by the proposal.
58. Turning to Norfolk Crescent, this comprises the two separate Grade II* listings of 8-18 Norfolk Crescent (Ref: 1395745) and Cumberland House (Ref: 1395744). The listing for the latter notes that it is part of symmetrical crescent that originally comprised 18 large houses since converted into flats. It describes these as being situated behind a fine ashlar facade dating from around 1810 that was most likely designed by John Palmer, completed by John Pinch and reconstructed in the 1960s following severe war damage. The listing for the former notes that it originally comprised a total of eleven houses and was constructed between 1800-1820.
59. The architectural significance of the Crescent is linked to its main façade which is on a monumental scale. It reflects Palladian ideals comprising a balanced composition with a high degree of uniformity and repetition of features such as the giant order, Ionic pilasters at each end with set forward bays, continuous ground floor rustication, a consistent attic storey and continuous first floor, wrought iron balconies. The central section is set forward and denoted by six

giant order, Ionic pilasters that are spanned by a simple, unadorned pediment. It faces across an open green and the western reaches of the river with only oblique views of the appeal site and what would have originally been Sydenham Park Meadow at the time of its construction [CD 10.3.14]¹³.

60. The listing notes that Norfolk Crescent was part of an ambitious proposal, on land leased in 1792 to an attorney named Richard Bowsher. The appellant's heritage evidence suggests that the green may have originally been a formal garden but that by 1848 it had assumed a more informal character [CD 10.3.14]¹⁴. There is also a suggestion that Bowsher's original intent was to develop the whole of this area for housing which would have led to a more enclosed setting¹⁵. However, these elements of the scheme were never to see fruition and the area remained open. Consequently, any relationship with land on the southern bank of the river which incorporates the appeal site can only be viewed as opportunistic at best in terms of Georgian town planning and not in any way equivalent to other planned, set pieces such as the Royal Crescent.
61. Given the above, as well as my own observations, I find that the setting of Norfolk Crescent, insofar as it relates to this appeal, to be associated with the juxtaposition of this building with the green and nearby palace-fronted terrace of Nelson Place that is also attributed to John Palmer. They mark the westernmost extent of the Georgian city and have no planned, historic relationship with either the river or the land beyond which appears to have been deliberately screened from view in subsequent years by riverside tree planting [CD 10.3.14]¹⁶. They are to be appreciated through movement in and around their immediate environs and through the glimpsed views across the river from its southern bank.
62. Turning to the potential impacts of the proposal, these have been explored through a Landscape Visual Impact Assessment (LVIA) [CD 1.3.27] and a series of Visually Verified Montages (VVM) [CD 1.12.8]. It is common ground between the parties that the LVIA methodology is sound and that the images are complete and have been prepared in accordance with best practice. The Bath Preservation Trust has suggested that more viewpoints should have been considered to fully appreciate the impact. However, I have carefully reviewed the LVIA and have visited the site and evaluated the proposal from the different viewpoints, as well as a significant number of other locations and I am satisfied that the views are representative. I find the most relevant to comprise VVM 5, VVM 6, VVM 8 and VVM 12.
63. VVM 5 shows a view of the site from the adjoining pavement near the eastern end of Nelson Place. This shows that there would be a limited occlusion of views of the sylvan skyline to the south during the winter months and that views would be maintained, to a lesser extent, by one of the 2 storey elements of building A/B nearest to Albert Crescent/Western Terrace. My own observations suggest that this effect would not be present during the summer months given the thick belt of trees along the northern bank of the river. Whilst the proposal would be visible from the riverside path during these months, the angle of view as well as the height of the existing structure is such that there would be no significant loss of more distant views directly across the

¹³ Paragraph 4.21-4.22

¹⁴ Paragraph 6.19

¹⁵ Appendix 4, figure A4.10

¹⁶ Paragraph 6.23

- river to the southwest when moving along this route. Even if this were the case, they would be peripheral to the main views of users which are orientated along the river on a broad east-west axis. Consequently, I find the landscape impact would be slight (adverse) from this perspective.
64. Turning to VVM 6, this shows a view of the site from Victoria Bridge. It is clear from this image that the currently expansive views of the wooded hillsides to the south would be restricted. However, the Inquiry established that this would be limited to up to around 70 m of kinetic views as individuals move south along Victoria Bridge Road. As such, I accept that the occlusion would be transient and that a significant extent of the view would nevertheless remain unaffected, as is apparent from Figure 18 [CD 1.12.8]. Consequently, I am satisfied that no significant adverse impact would result in relation to this particular view. As a result, I find the landscape impact would be negligible from this perspective.
65. Turning to VVM 8\8b, this shows two different views of the site from Stothert Avenue. This demonstrates how the view would change with the falling gradient of this road with more distant views of the sylvan hillsides to the east being largely occluded and only visible through the gap created by the two storey, southwestern element of building A/B. Moving closer to the appeal site, it becomes clear that the existing structure obscures more distant views of the surrounding hillsides and that there would be no significant material change to more proximate views. Whilst partial views of the upper floors of Norfolk Crescent would be obscured during the winter months, which would reduce the juxtaposition of the Georgian city at this point, I only give this limited weight because such views are only glimpsed with the nearby listed buildings of the Lower Bristol Road providing a more prominent expression of Georgian town planning. Given the above, I find the landscape impact would be moderate (adverse) from this perspective.
66. Turning to VVM 12, this shows a more distant viewpoint from Kelston View in the vicinity of Bath City Farm. This demonstrates that the compact form of the city would be maintained and that the proposed building heights would not lead to an incongruent built form capable of competing with important set pieces, such as the Royal Crescent. Moreover, the light-coloured brick would lead to a harmonious integration with the lighter colour palette of the surrounding city. The massing, varied heights and sheet metal of the proposed scheme would simply be read as a less prominent continuation of the BWR development. Consequently, I find the landscape impact would be slight (beneficial) from this perspective.
67. Whilst the proposal would be visible from the BCA, I find that it would be clearly read within the context of the post-industrial river corridor and the modern placemaking of BWR and Albert Crescent/Western Terrace rather than as part of the Georgian city. This would be further re-enforced by the clear visual break provided by the river and its vegetation. I also find that the poor quality of the site currently detracts from the setting of the BCA and that this is exacerbated by its unkempt and derelict appearance.
68. Consequently, I find that the proposal would have a positive effect on the immediate setting of the BCA and that this would consequently enhance its significance thus gaining support from paragraph 206 of the Framework. For similar reasons and bearing in mind the circumscribed setting of Norfolk

Crescent and visual break of the river and intervening vegetation, I find that there would be a neutral effect on its setting thus preserving the special interest of this listed building.

69. I note the concerns of Historic England in relation to harm to the setting of the BCA and Norfolk Crescent [CD 10.3.17]¹⁷ [ID28]. Whilst I have given them careful consideration, I have nonetheless reached a different conclusion in relation to the setting of these assets for the reasons I have given. The proposal would be read as a clearly differentiated phase in the development of the city in an area that is able to accommodate new placemaking which has suffered from a post-industrial legacy that has clearly detracted from the setting of at least one of these assets and thus its significance.
70. Turning to the WHS, I do not find that the consistent and sustained architectural expression of neo-classical, Palladian ideals, at different scales, as expressed through a common palette of building materials would be compromised despite the use of buff coloured brick and sheet metal. This is owing to the individual site characteristics and historical antecedents for, albeit darker, brick and sheet metal at this location as well as the considerable precedent that has been set by the BWR for use of the latter. Moreover, the capacity of the site to accommodate a wider range of materials and architectural forms is much greater than one more directly juxtaposed with the historic core of the city which would be considerably and justifiably more constrained.
71. I can find no harm to any of the other elements of Attribute 4 of the OUV because views of key visual landmarks would not be disrupted, there would be no harm to the setting of any monumental buildings or ensembles designed by notable architects and the fact that the widespread survival of Georgian fabric, including historic street furniture, would be unaffected. Nor can I find any harm in relation to Attribute 3 of the OUV given the lack of any impact to the setting of the buildings along the Lower Bristol Road, the modern context provided by the BWR and the transitional, post-industrial nature of the appeal site.
72. However, the planned relationship of the built environment to its landscape setting is a different matter and whilst the compact form of the city would not be compromised, for the reasons I have already given, I nevertheless find harm from the occlusion of distant views of the green hillsides and sylvan skylines at key viewpoints (VVM 5 and VVM 8). The proposal would therefore fail to preserve Attribute 5 of the OUV of the WHS and consequently, given the expectations of paragraph 199 of the Framework, I give this harm substantial weight in the heritage and planning balances of this appeal.
73. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Bearing in mind that such views would not be completely occluded and the geographical extent of the WHS, I find that the proposal would lead to less than substantial harm to this heritage asset.

¹⁷ Appendix 9

Paragraph 202 of the Framework advises that such harm should be weighed against the public benefits of the proposal.

74. Whilst the main parties agree that there would be less than substantial harm to the WHS, no agreement could be reached over the level of harm within this category. The Council maintains that the effect on a wider range of attributes would lead to moderate harm [CD 10.4.8]¹⁸ whilst the appellant maintains that the effect on a narrower range of attributes would only lead to slight harm [CD 10.3.14]¹⁹. I find a narrower range of attributes at play for reasons I have given which would necessarily lead to a more limited effect on the WHS than the one the Council envisages. As was the case for other heritage assets, the Council has sought to rely on ICOMOS guidelines [ID10] and the heritage statements submitted with the original application [CD 1.2.19, CD 1.6.4 and CD 1.10.04] to set the level of impact rather than on any detailed reasoning.
75. As the appellant points out²⁰, an assessment of moderate harm requires a significant impact according to the ICOMOS guidelines. In particular, I note in Appendix 3B of the latter that a moderate impact to historic urban landscape attributes would need 'changes to many key historic building elements, such that the resource is significantly modified' whilst a moderate impact to historic landscape attributes would need 'change to many key historic landscape elements, parcels or components ... visual change to many key aspects of the historic landscape'. It was established during cross-examination that the Council had applied these criteria to a localised area rather than the whole of the WHS despite the fact that paragraph 207 of the Framework requires account to be taken of the relative significance of any elements that may be affected and their contribution to the WHS as a whole.
76. As such, I find the Council's case in relation to the level of harm to be overstated given the extensive geographical context of the green bowl and the localised, adverse effects of the scheme on a very limited number of general views. In ICOMOS terms, I find that this would equate to a minor impact because there would only be 'change to few key historic landscape elements, parcels or components'. Despite being at the lower end of the 'less than substantial spectrum', I nevertheless give this harm substantial weight. As with the other heritage assets, nothing in the heritage statements submitted with the original application would lead me to a different conclusion.
77. Given the above, I find that the proposal would be contrary to policy HE1 and B4 of the DSP [CD 4.2], CP6 of the Bath & North East Somerset Core Strategy 2014 (CS) [CD 4.1] that seek, among other things to ensure that all development helps to sustain and enhance the historic environment, support the delivery of the WHS Management Plan, avoids harm to the OUV of the WHS that is not outweighed by public benefits and ensures environmental quality is fostered both for existing and future generations.

Heritage Balance

78. Turning to the public benefits of the proposal, the main parties were unable to reach an agreement on a discrete range of benefits which necessitated the submission of a comparison table during the course of the Inquiry [ID12]. In

¹⁸ Paragraph 5.8

¹⁹ Paragraph 8.13

²⁰ ID24, footnote 65

general terms, the Council acknowledges that the scheme would provide benefits but that these are overstated and subject to 'double counting' [ID23]. More specifically, it suggests that the contribution the scheme would make to extra care housing, the site allocation, 5-year housing land supply and the short-term delivery opportunity all amount to the same thing, *i.e.* housing delivery.

79. I accept the Council's argument that the contribution that the scheme would make to the Sydenham Park allocation and 5-year housing land supply amount to the same thing and that delivery of a scheme of this scale within five years would be unremarkable. However, the overarching fact remains that approximately 253 units of long-term housing would be created that would help to deliver more than half the allocated housing for the site and that this would consequently make a significant contribution to the 5-year housing land supply and help to address the national housing crisis. Added to this is an additional 35 units that are intended to meet a higher level of need although admittedly this would be on a shorter-term basis and thus carry reduced weight. Nevertheless, I give this public benefit substantial overall weight for the above reasons.
80. In terms of the extra care housing, there is an acknowledged shortfall in the rationale of policy H1 of the DSP [CD 4.2]. It highlights the identified need at that time as comprising 479 extra care units with an additional 192 specialist dementia units²¹. The appellant's evidence suggests that the unmet need for extra care units is likely to rise to around 515 by 2023 with an escalating number thereafter that will reach around 768 units by 2040 [CD 10.3.7]²².
81. In cross-examination the Council confirmed that these estimates and the underlying methodology of the assessment undertaken by the appellant [CD 2.2] are not disputed and that the scheme would help to meet the identified unmet need. The Council also confirmed that the moderate weight it gave to this benefit only flowed from the contribution it would make to general housing targets despite the fact no other schemes had come forward in the plan area to address this need. However, I find this benefit to be more nuanced because it goes beyond merely delivering general needs housing.
82. I am mindful of the fact that the PPG has identified that the need to provide housing for older people is 'critical' because their proportion of the overall population is increasing. It emphasises that offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems²³. Bearing this in mind, as well as the established unmet need, I give this public benefit substantial weight.
83. In terms of improved health outcomes and reduced NHS costs, the Council's closing position disputed the weight to be given to this benefit because it would be no more than would be expected from well-designed, general needs housing that complies with the National Design Guide 2021 [CD 6.11]. This states that 'well-designed places include a variety of homes to meet the needs of older people, including retirement villages, care homes, extra-care housing,

²¹ Paragraph 360

²² Paragraph 6.2

²³ Paragraph: 001 Reference ID: 63-001-20190626

sheltered housing, independent living and age-restricted general market housing. They are integrated into new settlements with good access to public transport and local facilities'²⁴.

84. It follows that various types of specialist housing that are well integrated into new areas of development are envisaged rather than a 'one size fits all' approach to general needs housing or wholly voluntary toolkits that promote health and wellbeing [CD 10.4.2]²⁵. In any event, I have no alternative scheme before me that provides any evidential basis for such a comparison. I consequently find this assertion to be unsubstantiated and that the scheme would offer something that goes beyond the benefits provided by well-designed, general needs housing. In this respect, I note the undisputed evidence from Aston University [CD 10.3.9 and ID16] that was cited in Mr Spencer's proof [10.3.2]²⁶. This shows that GP visits for individuals in care communities fell by 46% in comparison with people over 85 who lived in their own home and that the average time in hospital fell from 8-14 days to 1-2 days.
85. During the course of the Inquiry, the Council highlighted the fact that there is no evidence to suggest what proportion of residents would require enhanced support over and above the minimum requirement of 2.5 hours per week and that the scheme would only benefit those who had the means to pay. In response to a question I asked, it became clear that all future occupants would be means-tested to ensure their financial assets were sufficient to meet the long-term costs of residency.
86. However, the available evidence suggests that existing extra care provision in the plan area is skewed towards 'affordable' extra care with only 50 units currently attributable to the private care sector [CD 2.2]²⁷. The Council's own Market Position Statement²⁸ highlights the fact that it knows little about self-funders in its area despite being acknowledged as a significant part of the wider 'care market'. It notes that it purchases just under a quarter of the care home beds in the local area which, it suggests, indicates that around 75% are occupied by a combination of self-funders and people placed by other Council's or NHS bodies.
87. Moreover, homeowners comprising over 66% of older households in the Council area will not be eligible for either existing or future 'affordable' extra care developments [CD 2.2]²⁹. It follows that a significant uplift in provision is needed to ensure equitable access to improved health outcomes for all individuals irrespective of their financial status. The bottom line is that there is a unmet need of 515 units that is rising and that this scheme would improve the wellbeing and health outcomes of a significant proportion of the local population who would not qualify for 'affordable' extra care.
88. As far as the extent to which enhanced levels of extra care would be delivered by the scheme, I note the Oxford Brookes study³⁰ that indicates that the average level of care provided in extra care schemes as being around 12 hours

²⁴ Paragraph 117

²⁵ Appendix 2 – Building for a Healthy Life

²⁶ Paragraph 4.62

²⁷ Table T18

²⁸ Market Position Statement – Adult Social Care Services for Adults 2018/19 – 2020/21, extracts in CD 2.2

²⁹ Table T2

³⁰ Bolton, J. (2016) Predicting and managing demand in social care. A discussion paper.

per week [ID17]. Whilst this evidence is anecdotal and taken out of context, it nevertheless seems reasonable to assume that individual needs will increase over time and that the ongoing support offered by the scheme will significantly extend the scope for independent living beyond that which would occur in general needs housing. Given the above, I give this public benefit substantial weight.

89. The parties agree that the proposal would be in a sustainable location but differ on the degree of weight to be attributed. The appellant maintains that this carries significant weight because of the emphasis the PPG places on the location of housing for older people [CD 10.3.2]³¹. I accept that there would be high levels of accessibility to local amenities and level walking routes along the river. Bus services are also closely situated on the Lower Bristol Road and Pines Way that would facilitate longer journeys by alternative transport modes. Whilst it is an inherent characteristic of the site, the fact remains that there is extremely limited scope for high density development of this type in such close proximity to the city centre. The ease with which future occupants would be able to access local services and recreational activities would directly contribute to their wellbeing. Consequently, I give this public benefit substantial weight.
90. The economic benefits of the scheme outlined in the Economic Impact Assessment were not challenged by the Council [CD 1.2.13]. In terms of the construction phase, it has been estimated that the scheme would generate about £54.3 million in wages and about a £62.4 million contribution to Gross Domestic Product (GDP) as well as the recruitment of new entrant trainees into the construction workforce. As this would be temporary in nature, I give this moderate weight.
91. Turning to the operation phase, a total of around 234 jobs would be created that would generate wages of about £6.1 million per annum and about a £10.9 million per annum contribution to GDP [CD 1.2.13]³². These jobs would be associated with the mixed-use development of the site with around 155 jobs being attributed to the office space, around 20 to the nursery and about 59 to the care offer. A number of indirect and induced benefits are also highlighted in the report which suggests that a further 49 jobs would be created by the scheme³³.
92. Whilst the estimated occupancy level of the office floorspace may be more uncertain in a post-pandemic world, these nevertheless amount to substantial economic benefits. The Council also accepts that there would be a net increase in jobs in comparison to the previous use of the site [CD 10.4.2]³⁴. Bearing in mind the significant weight that paragraph 81 of the Framework places on the need to support economic growth and productivity and the undisputed evidence that is before me, I give this public benefit substantial weight.
93. The parties agree that substantial weight should be given to the regeneration of the appeal site which is currently an under-utilised, 'brownfield' site. This is consistent with paragraphs 120(c) and 120(d) of the Framework which places substantial weight on the use of 'brownfield' land within settlements and which also requires decision-makers to promote and support the development of

³¹ Paragraph 4.63

³² Section 4.1

³³ Section 4.2

³⁴ Paragraph 7.27

under-utilised land and buildings. I consequently give this public benefit substantial weight.

94. The Council has suggested that Historic England guidance on tall buildings [CD 6.7] applies in this instance and that alternative designs or schemes might be more sustainable because they would be able to deliver the same public benefits alongside a positive improvement to the local environment. In this respect it suggests that the removal of the top two storeys would only result in the loss of 46 units and that there is no evidence to suggest that this would make the scheme unviable. However, this cuts both ways and there is no evidence to suggest that the scheme would remain viable if a further reduction in overall capacity were to occur.
95. In cross-examination, Mr Serginson noted that the service charges would need to go up but was unable to say whether the economic benefits of the scheme would remain the same. More importantly, Mr Nielson's cross-examination established that the preservation of views of the green bowl and thus the significance of the WHS would only be possible if all buildings were two-storeys. The Council therefore conceded that four stories would still lead to occluded views. Consequently, even if the scheme remained viable with the removal of the top two floors, this would not lead to a positive improvement because the harm to the WHS would remain. In the absence of any other alternative scheme, I find the Council's position without merit on this particular point.
96. Drawing all this together and having established the public benefits, I find that substantial weight should be given to the harm to the significance of the WHS on account of the views of the green hillsides that would be occluded but that this would be outweighed by the substantial, cumulative weight of the identified public benefits which are supported by the Framework and which includes a positive enhancement to the setting of the BCA. This is an important material consideration in the determination of this appeal.

Living Conditions

97. The private view from a window is not of itself regarded as a planning matter and there is no 'right to a view'. However, some proposals can change a view to such an extent that the residential amenities enjoyed by existing occupants would be significantly eroded. In this respect, significant concerns have been raised in relation to the effect of the proposal on the occupants of existing dwellings immediately to the north of the site along The Mews, Albert Crescent and Western Terrace. The Council's case, as summarised in the second reason for refusal, is that there would be a loss of privacy. Local residents have highlighted additional concerns relating to a potential loss of daylight and sunlight as well as disturbance from the operation of air extraction equipment.
98. Technical evidence has been submitted by the appellant in relation to these last two areas and I have no such evidence to the contrary or any reason to believe that the methodologies that have been applied to the daylight and sunlight assessment [CD 1.12.5], noise assessment [CD 1.12.9] or the ventilation and extraction statement [CD 1.3.43] are flawed. In response to a question I put to Mrs Payne during the round table discussion, it became apparent that the significant material harm alleged in relation to both these factors was a matter of opinion that was not based on the conclusions of the technical assessments I have before me.

99. In relation to daylight and sunlight, the potential loss of daylight was evaluated through well-established tests associated with Vertical Sky Component (VSC) and Daylight Distribution (DD) whilst the potential loss of sunlight was measured through Annual Probable Sunlight Hours (APSH). It demonstrated that 20 of the 24 properties that were analysed would meet the VSC threshold for every window. Of the four properties that did not meet the threshold (1-3 Western Terrace and 4, 5, and 6 The Mews) only seven windows out of a total of 27 would be affected with an exceedance range of between 1-7%. In terms of DD, 23 out of 24 properties showed no change. Of the one property that would be affected (Palladian), only two rooms out of 137 would be affected with an exceedance of 9% and 34%. Whilst high, these were considered to be non-habitable rooms from the narrow design of the windows. Since I have no evidence to suggest otherwise, I find the extent of this impact to be limited. Turning to APSH, all of the windows analysed would meet the requirement for sunlight and the sunlight threshold for outdoor areas would also be met in all instances.
100. Whilst there would be a marginal exceedance of the daylight threshold in the habitable rooms of some properties, the overall nature of this impact would be minor. Paragraph 125(c) of the Framework advises that decision makers need to take a flexible approach to guidance relating to daylight and sunlight where the efficient use of development sites would be compromised. Moreover, the associated guidelines also stress the need for flexibility in high density, urban environments. Given the above, I find that the limited loss of daylight that is likely to result to be within acceptable tolerances at this location and that a significant adverse effect on living conditions would not result with respect to a loss of daylight or sunlight.
101. Turning to noise, the Noise Policy Statement for England introduces the concept of observable effects which are applied by the World Health Organisation. The PPG adopts the same framework and advises that noise impacts should be assessed as being above or below the 'significant observed adverse effect level' and the 'lowest observed adverse effect level' for a given situation³⁵. It goes on to advise that at the lowest level, when noise is not perceived to be present, there is no effect. As the noise exposure increases, it will cross this 'no observed effect level'. However, noise only has no adverse effect so long as the exposure does not cause any change in behaviour, attitude or other physiological responses. It is important to bear in mind that noise can affect the acoustic character of an area but not to the extent there is a change in quality of life³⁶. In this respect it is important to measure the ambient noise environment to determine whether there would be a material change at key locations where impacts are likely to occur.
102. The noise assessment report [CD 1.3.33] highlights the fact that current Government advice to Local Planning Authorities makes reference to British Standard 4142:2014 (BS 4142) as being the appropriate guidance for assessing commercial operations and fixed building services plant noise³⁷. It goes on to highlight that this standard provides an objective method for rating the significance of impact from industrial and commercial operations and describes a means of determining sound levels from fixed plant installations

³⁵ Paragraph: 003 Reference ID: 30-003-20190722

³⁶ Paragraph: 005 Reference ID: 30-005-20190722

³⁷ Paragraph 2.3

and for determining the background sound levels that prevail on a site. I find this approach to be robust and have no evidence before me to suggest that its application is flawed in this instance.

103. Mrs Payne, in her oral submission to the Inquiry, suggests that the 65 decibels (dB) highlighted in the noise assessment 'would be present and disruptive'. In this respect I note Figure 5 and Table 9 of the assessment which shows the location and maximum sound power level (L_w) that was used for the predictive modelling of potential noise impacts that range between 65-67 dB. However, noise generated at source is not the same as the noise experienced at nearby receptors which was predicted as being no greater than 30 dB $L_{Ar,15min}$, which would be an acceptable night-time noise effect. Given that Table 3 of the assessment shows the ambient sound level at monitoring Position 5 as being 44 dB $L_{Aeq,8h}$, the impact would be at the 'no observable effect level' because it would not exceed the ambient background and would consequently not be perceptible. Bearing this in mind, as well as the fact that a suitably worded condition could ensure compliance with this prediction, I am satisfied that there would be no material impact on living conditions with respect to noise.
104. Turning to the loss of privacy, it is clear from my site visit that the outlook from the existing properties would change significantly. Views of an open car park and the wider landscape would be curtailed and a significant number of windows, many of which would be full height and single aspect, would face the existing properties. This would not only affect habitable rooms but also outdoor areas that are above ground floor level. Separation distances would vary with the closest property and therefore the greatest impact being experienced by No. 8 Albert Crescent. I also note the proximity of Nos. 7 and 6 Albert Crescent in this respect as well as the first floor living areas of The Mews that would have direct views of the garden and northernmost elevation of building A/B. I also note the proximity of Nos. 2 and 3 Western Terrace.
105. The extent of overlooking from the nearest windows at the first-floor level of the proposed scheme has been summarised in Figure 58 of Mr Dean's proof [CD 10.3.19]. In response to one of my questions, the appellant also provided a summary of all the nearby, north-facing windows which indicates that a total of 71 habitable room windows associated with 21 units would face the existing properties on the nearest elevation of the proposed scheme [ID7]. I also note that there would be more distant views from other north-facing elements of the scheme, as indicated in an associated plan that was submitted [ID8].
106. Given the above, I have little doubt that the sense of being overlooked as well as the levels of privacy would change but the key question is whether significant harm would be caused to residential amenity or would the resulting grain of development and associated levels of privacy be appropriate and reasonable to expect at this location bearing in mind the appeal site allocation and its city centre location.
107. As with the design, the context for this high-density scheme is the BWR development which generally has a greater scale and massing. Figure 57 of Mr Dean's proof shows the comparative separation distances between the two developments [CD 10.3.19]. I confirmed during the course of the Inquiry that these measurements were not disputed by the Council. In terms of the separation distances to the nearest properties these range from between

13.4 m to 18.5 m which the case officer's report found to be broadly consistent with an informal 18 m 'rule of thumb' [ID4]³⁸.

108. I note from this diagram and my own observations, that the rectilinear, parallel arrangement of the BWR development has led to a comparable development intensity with extensive overlooking between properties as would be expected in any dense-grained, urban environment. Consequently, I find the general level of intervisibility would be appropriate at this location and suitably moderated by the two-storey massing of the nearest elements and offset angle of the higher four storey elements, most notably at the north-eastern corner of building A/B.
109. Significant harm to the living conditions of the nearest properties would be mitigated through screening that would be planted along the northern boundary of the appeal site that would be secured, in perpetuity, as part of the planning obligation. Moreover, the nearest first floor windows to the gable end of No. 8 Albert Crescent would have fixed external louvres [ID3] that would reduce the extent of overlooking and help to maintain the privacy of this dwelling. This could be secured through a suitable condition, as would be the case for screens to prevent overlooking from a roof terrace, as discussed at the Inquiry.
110. Drawing matters together, I find that significant harm would not be caused to the living conditions of nearby residents with respect to privacy, sunlight, daylight or noise and that the proposal would therefore be consistent with policy D6 of the DSP that seeks, among other things, to ensure that development achieves appropriate levels of privacy, outlook and natural light to existing occupiers as well as avoiding significant harm to the amenities of such individuals in terms of loss of light, increased noise and overlooking.

Planning Obligation

111. A completed planning obligation has been agreed by the main parties that would ensure the delivery of the following:
- Financial contribution of £26,348 for targeted recruitment
 - Training package to secure a range of training opportunities
 - Financial contribution of £41,486.12 for off-site replacement trees
 - Financial contribution of £4,500 for additional fire hydrant provision
 - Undertaking to connect to the district heating network when available
 - Financial contribution of £286,143 for open and green space provision
 - Restricted occupancy criteria and care definition for the care units
 - Landscape management plan to ensure screening is maintained
 - A transport service to manage the car use of future occupants
112. I find the training and recruitment clauses necessary in order to secure local opportunities for employment and training on the development site, either in construction or as part of the end-use. The assumed cost has been

³⁸ Paragraph 94

- benchmarked against similar scale developments in the district and I am satisfied that it is proportionate as well as being explicitly supported by national and local policy, as set out in the Council's compliance statement [ID29].
113. I find the tree planting contribution necessary to make the scheme acceptable in planning terms because it would involve the removal of 48 established trees in the existing car park. Whilst a significant number of replacements would be on site, there remains a requirement to make a contribution towards the provision of 19 off-site replacement trees. I find the cost of planting trees in areas of hardstanding to be proportionate and supported by local policy.
114. I find the fire hydrant contribution to be necessary because building regulations require major new development to be within 100m of a fire hydrant and because central Government does not provide any funding to the Avon Fire & Rescue Service for the capital cost of growth-related infrastructure. Avon Fire and Rescue Service have calculated the cost of installation and five years maintenance of the fire hydrants. I have no reason to doubt that the cost is not proportionate to keeping future occupants safe and I am satisfied that this has local and national policy support.
115. Although the District Heat Network is not ready to receive a connection from the appeal scheme, I note that the Council is actively seeking to expand the network in this area and will eventually be able to provide a connection. I find this necessary because the scheme falls within an identified District Heating Priority Area and connection is supported by local policy.
116. I find the open space contribution necessary because a green space strategy identifies the locality as having a deficit supply of parks and recreation space (-3.18 ha) and amenity green space (-0.68 ha). As the scheme would generate a demand for these amenities and place an additional pressure on the existing provision, I find this clause necessary. The local Parks Department has calculated the overall capital cost of providing the relevant off-site green space typologies and I have no reason to doubt this cost. It is anticipated that the funding will directly contribute to local provision through the Waterspace River Park and River Line projects and I am satisfied that it is supported by local policy.
117. I find the restricted occupancy of the care units essential to ensure the continued C2 use of the building even though the spouses or partners of qualifying persons would continue to live in the units after the qualifying person may have moved on to a more specialised care facility or has passed. There was some discussion of potential occupancy by dependants during the Inquiry, but I am satisfied that this would be adequately controlled by only permitting continued occupancy by spouses or partners.
118. There was also some discussion about whether the obligations should be binding on freehold and leasehold owners and occupiers. Whilst I accept that it would be the intention of the appellant to enforce the relevant terms of the obligation, a different operator may not have the same intent. Consequently, I find that clause 7.9.3 would be necessary in planning terms to ensure strict compliance with the necessary restrictions so that the building can meet the ongoing extra-care needs of the local population and not morph into a C3 residence over time.

119. I find the landscaping management plan necessary in order to secure effective screening in perpetuity along the northern boundary of the appeal site where it is adjacent to existing properties along Albert Crescent, The Mews and Western Terrace, as already discussed.
120. I find transport service provision is necessary in order to reduce car use and to promote the wellbeing of future occupants. In relation to the latter, it would promote greater social integration through organised day trips and support the day-to-day activities of less able occupants. I am satisfied that this is supported in policy terms.
121. Overall, I find that all of the provisions of the agreement are necessary in order to make the development acceptable, taking into account the terms of the compliance statement that the Council has provided and the roundtable discussion at the end of the inquiry. I conclude that the statutory tests in paragraph 57 of the Framework are met and that the provisions of the planning agreement are material considerations in this appeal.

Other Matters

122. The site is situated in close proximity to the River Avon which provides supporting habitat for the Bath and Bradford on Avon Bats Special Area of Conservation (SAC) and could be subject to lighting impacts arising from the proposed scheme. Relevant case law³⁹ states that if a plan or project, either alone or in combination with other plans or projects, is likely to have a significant effect on an SAC then an Appropriate Assessment must be undertaken by the Competent Authority to determine if an adverse effect on integrity would occur.
123. It was established at the Inquiry that the Council failed to identify a likely significant effect and screened out any potential, unmitigated impacts. However, I do not share this view given the proximity of the proposal to the river and the presence of a clear impact pathway, namely light spillage affecting the commuting and foraging behaviour of horseshoe bats. In the absence of mitigation, I have no evidence before me to suggest, beyond reasonable scientific doubt, that an adverse impact would not result. I consequently find that the scheme could have a potential adverse effect on the integrity of the SAC.
124. The appellant has submitted evidence concerning proposed lighting design measures [CD 10.5.15] and has agreed to a condition to mitigate the potential adverse effect on the SAC. I have consulted Natural England (NE) on this matter as well as on the wording of the suggested condition. NE has indicated that the light spill resulting from the proposals would remain within acceptable thresholds and that the exclusion of all up-lighting will help to ensure the continued use of the river corridor by light-sensitive, horseshoe bats. It concludes that the scheme will not have an adverse impact on the Bath and Bradford on Avon Bats SAC and that the condition will secure suitable mitigation [ID27].
125. Given the above and in the absence of any evidence to the contrary, I am satisfied that the mitigation measures would reduce the adverse effects of the

³⁹ European Court of Justice ruling (Case C323/17 – People Over Wind and Sweetman 2018) relating to the application of the Habitats Directive.

proposal to a *de minimis* level and that the integrity of the SAC would thus be preserved.

126. I accepted a late representation on behalf of Norfolk Crescent Green Residents Association concerning plans associated with the Bath River Line Project [ID21] as they were unable to join the virtual event due to technical difficulties. It highlights the fact that the project includes proposals to punctuate the tree canopy and vegetation along the river bank adjacent to Norfolk Crescent green in order to improve visual connection between the green and the nearby river [ID22]. However, this is a consultative document that has not been adopted and does not form part of the development plan. As such, whatever proposals may or may not come to fruition is uncertain and it can only be afforded negligible weight as a result.
127. Additional concerns raised by local people to the proposed development, with regard to parking, odour, overdevelopment, tree loss and alternative uses of the site are acknowledged. Many of these matters were considered in the case officer's report and I support the view that the concerns do not warrant the refusal of the scheme. Furthermore, additional tree planting would be secured through the planning obligation. Consequently, these matters were not determinative in my decision-making.

Planning Balance

128. Planning law⁴⁰ requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
129. It is clear that the proposal would conflict policies HE1 and B4 of the DSP and policy CP6 of the CS as a result of the harm that would be caused to the WHS. Although I found no conflict with policy D6 of the DSP, there would nevertheless be a reduction in daylight to a limited number of dwellings which weighs against the proposal. It is also clear that the proposal would be inconsistent with the design code set out in the BWRSPD on account of the proposed use of buff brick and metal cladding.
130. However, substantial material considerations weigh in its favour in relation to housing land supply delivery, the regeneration and reuse of previously developed land, the enhancement of the BCA setting, improved provision of extra care accommodation, improved health outcomes and NHS savings, long-term economic benefits and the delivery of development in a sustainable location. These would not only clearly and substantially outweigh the harm to the significance of the WHS but also the other harms that I have identified.
131. I therefore conclude that when assessed against the Framework and development plan as a whole, I find the benefits of the scheme would demonstrably outweigh the harms. The sum of this balance amounts to a material consideration of sufficient weight to clearly justify a determination other than in accordance with the development plan.

⁴⁰ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 (as amended)

Conditions

132. I have considered both the wording and grounds for the conditions suggested by the Council in accordance with the tests set out in paragraph 56 of the Framework. In addition to the standard time limit condition [1], a condition requiring the development to be carried out in accordance with the plans is necessary to ensure that it is implemented as approved [2].
133. I have withdrawn permitted development rights in order to ensure that the intended uses are maintained and potentially more harmful alternatives controlled [3]. A detailed scheme of archaeological investigation and preservation is necessary because the site lies within an area of major archaeological interest [4]. I have specified finished floor levels and adherence with flood resilience measures because of the location of the site in the river floodplain and the resultant need to mitigate potential impacts from flooding [5-6].
134. A range of measures are necessary in order to manage pollution risks to surface waters and groundwaters due to the proximity of the scheme to the River Avon [7-10]. Given the post-industrial nature of the site, a range of investigative and remediation measures are necessary in the interests of public health [11-14]. Measures to protect trees, ensure biodiversity net gain and manage gulls are also necessary in the interests of nature conservation [15, 21-22 and 33]. A related condition is also necessary to ensure there would be no adverse effect on the integrity of the SAC [23].
135. Turning to living conditions, a number of conditions are necessary to avoid disturbance and control odour during the construction and operation phases of the development [17, 18 and 16]. Further conditions are also necessary to reduce the loss of privacy to nearby residents [36 and 37]. Bearing in mind the sensitive nature of the location, a range of conditions are necessary in the interests of character and appearance [19, 20, 24-25 and 32].
136. A number of conditions are also necessary to encourage a sustainable form of development and to help mitigate the effects of climate change [27-31 and 34]. A condition for a management plan to regulate access to the publicly facing elements of the scheme is necessary to ensure accessible provision of services to the local community [35]. A final condition securing the necessary parking provision is necessary in the interests of highway safety [26].
137. I have not imposed a suggested condition that attempted to achieve a water efficiency of 110 litres per person per day as the amount of water used in private residences would vary according to need and imposing a limit would not only be unenforceable but also contrary to public health and wellbeing.
138. All pre-commencement conditions have been accepted by the appellant in writing and are consequently compliant with the necessary legislation⁴¹.

Conclusion

139. For the above reasons and having regard to all other matters raised I conclude that, subject to the attached schedule of conditions and the obligations in the planning agreement, this appeal should be allowed.

⁴¹ The Town and Country Planning (Pre-commencement Conditions) Regulations 2018

R. Catchpole

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - A-10_001 Rev P01: DEMOLITION PLAN
 - A-10_300 Rev P01: DEMOLITION - ELEVATION - NORTH AND SOUTH
 - A-10_301 Rev P01: DEMOLITION - ELEVATION - EAST
 - A-10_302 Rev P01: DEMOLITION - ELEVATION - WEST
 - A-01_002 Rev P03: PROPOSED SITE LOCATION PLAN
 - A-20_001 Rev P03: ROOF LEVEL MASTERPLAN / SITE PLAN
 - A-20_002 Rev P03: LEVEL 00 MASTERPLAN
 - A-20_003 Rev P03: LEVEL 01 MASTERPLAN
 - A-20_004 Rev P03: LEVEL 02 MASTERPLAN
 - A-20_005 Rev P03: LEVEL 03 MASTERPLAN
 - A-20_006 Rev P03: LEVEL 04 MASTERPLAN
 - A-20_007 Rev P03: LEVEL 05 MASTERPLAN
 - A-20_100 Rev P03: BUILDING A & B - LEVEL 00
 - A-20_101 Rev P03: BUILDING A & B - LEVEL 01
 - A-20_102 Rev P03: BUILDING A & B - LEVEL 02
 - A-20_103 Rev P03: BUILDING A & B - LEVEL 03
 - A-20_104 Rev P03: BUILDING A & B - LEVEL ROOF
 - A-20_107 Rev P03: BUILDING C & D - LEVEL 00
 - A-20_108 Rev P03: BUILDING C & D - LEVEL 01
 - A-20_109 Rev P03: BUILDING C & D - LEVEL 02
 - A-20_110 Rev P03: BUILDING C & D - LEVEL 03
 - A-20_111 Rev P03: BUILDING C & D - LEVEL 04
 - A-20_112 Rev P03: BUILDING C & D - LEVEL 05
 - A-20_113 Rev P03: BUILDING C & D - LEVEL ROOF
 - A-20_300 Rev P03: BUILDINGS A-B - NORTH ELEVATION & COURTYARD SECTION
 - A-20_301 Rev P03: BUILDINGS A-B - SOUTH ELEVATION & COURTYARD SECTION
 - A-20_302 Rev P03: BUILDING C - NORTH & SOUTH ELEVATIONS
 - A-20_303 Rev P03: BUILDING D - NORTH & SOUTH ELEVATIONS
 - A-20_304 Rev P03: SITE - EAST ELEVATIONS
 - A-20_305 Rev P03: SITE - WEST ELEVATIONS
 - A-20_306 Rev P03: SITE SECTIONAL ELEVATION E-E

A-20_307 Rev P03: SITE SECTIONAL ELEVATION F-F
A-20_308 Rev P03: SITE SECTIONAL ELEVATION H-H & I-I
A-20_310 Rev P03: CONTEXTUAL ELEVATIONS
A-21_300 Rev P03: TYPICAL BAY STUDY - SHEET 01
A-21_301 Rev P03: TYPICAL BAY STUDY - SHEET 02
A-21_302 Rev P03: TYPICAL BAY STUDY - SHEET 03
A-21_303 Rev P03: TYPICAL BAY STUDY - SHEET 04
A-21_304 Rev P03: TYPICAL BAY STUDY - SHEET 05
A-30_100 Rev P02: TYPICAL UNIT LAYOUTS - 1 BED M4(2) & M4(3)
A-30_101 Rev P02: TYPICAL UNIT LAYOUTS - 2 BED M4(2) & M4(3)
A-30_102 Rev P02: TYPICAL UNIT LAYOUTS - 3 BED M4(2) & M4(3)
A-30_103 Rev P02: TYPICAL UNIT LAYOUTS - AGED CARE SUITES
LTS 101(08) 101 Rev D: LANDSCAPE GENERAL ARRANGEMENT PLAN
A-20_115 Rev P01: BUILDING A & B - BASEMENT LEVEL
A-20_008 Rev P01: LEVEL B1 MASTERPLAN
A-21_305 Rev P01 WINDOW OVERLOOKING STUDY

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the ground floor commercial units hereby approved shall be used only for purposes defined as Use Class E(g)(i) and (ii) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 4) Prior to the commencement of development, a programme of archaeological work is to be implemented in accordance with the submitted written scheme of investigation that has been submitted to and approved by the Local Planning Authority (Bristol & Bath Heritage Consultancy Ltd, January 2020, Report 18010 Rev C) as amended by the WSI Addendum (Bristol & Bath Heritage Consultancy Ltd, 7 October 2020, Report 18010 Addendum, Rev A).

The programme of archaeological work shall provide a controlled excavation of all significant deposits and features that are to be disturbed by the proposed development and shall include any building techniques and measures necessary to mitigate the loss or destruction of any further archaeological remains. The archaeological works shall be carried out by a competent person(s) and completed in accordance with the written scheme of investigation.
- 5) The development hereby permitted shall be constructed with finished floor levels set at a minimum 20.360 m above ordnance datum (AOD) as per drawings A-20_300 Rev P03: Buildings A-B – North Elevation & Courtyard Section, and A-20-301 Rev P03: Buildings A-B – South Elevation & Courtyard Section. The proposed Finished Floor Levels for

Buildings C and D shall be set at a minimum 20.310 m AOD and 20.250 m AOD respectively as per drawings A-20-302 Rev P03: Building C – North & South Elevations and A-20-303 Rev P03: Building D – North & South Elevations.

- 6) The development hereby permitted shall be constructed with all flood resistance and resilience measures as detailed in page 13 of the Energy and Sustainability Statement, dated 01 July 2020, that was submitted to and approved by the Local Planning Authority. The measures shall be fully implemented prior to first occupation and thereafter retained and maintained for the lifetime of the development.
- 7) No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority which shall be obtained prior to the installation of any drainage works. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.
- 8) Piling using penetrative methods shall not be carried out other than with the prior written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 9) During the demolition and construction of the development hereby permitted, there shall be no storage of spoil, construction or demolition materials within 8 m of the southern bank of the River Avon or within areas of the site designated as Flood Zone 3 by the Environment Agency Flood Map for Planning.
- 10) No development approved by this planning permission shall commence until such time as a scheme for the prevention of pollution during construction has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include details of the following: site security; fuel oil storage, bunding, delivery and use; spillage procedures; containment of silt/soil contaminated run-off; disposal of contaminated drainage, including water pumped from excavations; and a site induction package for the workforce highlighting pollution prevention and awareness.

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

- 11) No development shall commence until an investigation and risk assessment of the nature and extent of contamination on site has been carried out and its findings have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person and shall assess any contamination on the site, whether or not it originates on the site. The assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall include:
 - a) A survey of the extent, scale and nature of contamination;
 - b) An assessment of the potential risks to human health, property (existing or proposed) including buildings, pets, trees and service lines and pipes, adjoining land, groundwaters and

surface waters, ecological systems and archaeological sites and ancient monuments; and

- c) An appraisal of remedial options, and proposal of the preferred option(s).
- 12) No development shall commence until a detailed remediation scheme, which has been prepared by a competent person, to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required. The scheme shall include:
- a) all works to be undertaken;
 - b) proposed remediation objectives and remediation criteria;
 - c) timetable of works and site management procedures; and
 - d) where required, a monitoring and maintenance scheme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.

The remediation scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The approved remediation scheme shall be carried out prior to the commencement of development, other than that required to carry out remediation, or in accordance with the approved timetable of works.

- 13) No part of the development hereby approved shall be occupied until a verification report, which is to be carried out by a competent person (that demonstrates the effectiveness of the remediation carried out) has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required.
- 14) In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. Thereafter an investigation and risk assessment shall be undertaken, and where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report (that demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development.
- 15) No development shall commence until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012, prepared by a competent person, has been submitted to and approved in writing by the Local Planning Authority. The arboricultural method statement shall incorporate a provisional programme of works; supervision and monitoring details by

an Arboricultural Consultant and provision of site visit records and compliance statement. All works shall be carried out as agreed.

- 16) Prior to installation of mechanical plant equipment, the details of the mechanical plant equipment (excluding that serving individual residential apartments) including details of external flues and plant shall be submitted to and approved in writing by the Local Planning Authority. Noise levels associated with mechanical plant shall not exceed the predicted levels set out in a report to the Local Planning Authority (Acoustics Noise Assessment Report, Revision 11, 2 October 2020, Hoare Lea). All mechanical plant (excluding that serving individual residential apartments) shall be installed and maintained for the lifetime of the development in accordance with the approved details.
- 17) There shall be no works on the site related to demolition or construction, or any deliveries to or dispatches from the site undertaken outside of the hours of 08:00 and 18:00 (Monday to Friday) and 08:00 and 13:00 (Saturdays). There shall be no work and the site shall be closed on Sundays and all public and bank holidays.
- 18) Notwithstanding the submitted documentation, a site-specific Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development (including demolition). The CEMP must demonstrate the adoption and use of best practice to reduce the effects of noise, vibration, dust and site lighting. The plan shall include the following:
 - a) Procedures for maintaining good public relations including complaint management, public consultation and liaison;
 - b) Arrangements for liaison with the Local Planning Authority's Environmental Protection Team;
 - c) Mitigation measures as defined in BS 5528: Part 1 and 2 shall be used to minimise noise disturbance from construction works;
 - d) Control measures for dust and other air-borne pollutants. This must also take into account the need to protect any local resident who may have a particular susceptibility to any air-borne pollutants;
 - e) Measures for controlling the use of site lighting whether for safe working or for security purposes;
 - f) Details of deliveries (including storage arrangements and timings);
 - g) Contractor parking;
 - h) Traffic management;
 - i) Wheel wash facilities;
 - j) Site compound arrangements; and
 - k) Site opening times.

All demolition and construction shall proceed in accordance with the details so approved.

- 19) Notwithstanding the submitted documentation, no occupation of the development hereby permitted shall occur until a hard and soft landscape

scheme has been submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained, finished ground levels, a planting specification to include numbers, density, size, species and positions of all new trees and shrubs, details of existing and proposed walls, fences, other boundary treatment and surface treatment of the open parts of the site, and a programme of implementation. This shall not include the area subject to the Landscape Management Plan specified in Schedule 2, Clause 4 of the planning obligation.

- 20) All hard and/or soft landscape works shall be carried out in accordance with the approved hard and soft landscape scheme. The works shall be carried out in accordance with a programme (phasing) which is to be submitted and approved in writing by the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be retained in accordance with the approved details for the lifetime of the development.
- 21) No development (including demolition and site clearance works) shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the Local Planning Authority. The details shall include:
- a) Method statement for enabling works, demolition and construction phases to provide full details of all protection and mitigation measures, including, where applicable, proposed pre-commencement checks and updated surveys, for the avoidance of harm to bats, reptiles, nesting birds and other protected wildlife, and proposed reporting of findings in writing to the Local Planning Authority prior to commencement of works;
 - b) Detailed proposals for the implementation of the wildlife mitigation measures and recommendations of the approved ecological report (Ecological Appraisal - Including Building/Tree Inspection and Bat Survey results, January 2020, Nicholas Pearson Associates) and ecological addendum (Ecological Addendum - Revised proposal submission – October 2020, Nicholas Pearson Associates), including wildlife-friendly planting and landscape details; additional and strengthened Green Infrastructure; provision of bat and bird boxes, with proposed specifications and proposed numbers and positions to be shown on plans as applicable; specifications for fencing to include provision of gaps in boundary fences to allow continued movement of wildlife;
 - c) A timetable for the implementation of the wildlife mitigation measures; and
 - d) Demonstration of measurable biodiversity net gain.

All works within the Wildlife Protection and Enhancement Scheme shall be carried out in accordance with the approved details and completed in accordance with specified timescales.

- 22) The development hereby approved shall not be occupied until a report produced by a suitably experienced ecologist confirming and demonstrating, using photographs, completion and implementation of the Wildlife Protection and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.
- 23) No new external or internal lighting shall be installed without full details of proposed lighting design, which shall be fully in accordance with the principles and predicted light spill levels of the approved illumination impact study (Illumination Impact Update Lighting Design & Apartment Design Addendum, Hoare Lea, October 2020), being first submitted to and approved in writing by the Local Planning Authority.

The submitted details shall include: proposed lamp models and manufacturer's specifications, proposed lamp positions, numbers and heights with details also to be shown on a plan; predicted lux levels and light spill onto sensitive features including the River Avon and bankside habitats; all measures to limit use of lights when not required and to prevent upward light spill and light spill onto trees, boundary vegetation and adjacent land; and the proposed compliance checks and operational monitoring and reporting. The lighting shall be installed, maintained and operated thereafter in accordance with the approved details.

- 24) No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 25) No construction of the external walls of the development shall commence until a sample panel of the proposed brickwork to be used has been erected on site, approved in writing by the Local Planning Authority and kept on site for reference until the development is completed. The development shall be undertaken in accordance with the approved details.
- 26) The areas allocated for parking and turning, as indicated on the submitted plans, shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
- 27) The development hereby approved shall not be occupied until details of Electric Vehicle Charging Points (EVCP) have been submitted and approved in writing by the Local Planning Authority. Details shall include:
- a) The total number of car parking spaces to be provided with EVCPs;
 - b) The number/type/location/means of operation; and
 - c) A programme for the installation and maintenance of EVCPs and points of passive provision for the integration of future charging points.

The Electric Vehicle Charging Points as approved shall be installed prior to occupation of that part of the scheme and retained in that form thereafter for the lifetime of the development.

- 28) The development hereby approved shall not be occupied until bicycle storage for at least 86 bicycles (43 stands) has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained for the lifetime of the development.
- 29) A travel plan welcome pack shall be submitted to and approved in writing by the Local Planning Authority. The approved pack shall be issued to all owners and occupiers prior to first occupation. It shall include information on bus and train timetables, examples of different fares and ticket options, key cycle and walking routes and details of any car share or car clubs to encourage alternative means of transport.
- 30) No occupation of the development shall commence until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan.
- 31) No occupation of the development shall commence until a Service Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Service Management Plan.
- 32) No decals shall be affixed to the windows of the ground floor commercial units hereby approved unless first approved in writing by the local planning authority.
- 33) A Gull Management Strategy shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development hereby approved. The strategy shall be implemented in accordance with the details so approved.
- 34) Prior to first occupation of any part of the development hereby approved the following tables (as set out in the Local Planning Authority's Sustainable Construction Supplementary Planning Document, Adopted November 2018) shall be completed by competent persons, in respect of the completed development, submitted and approved in writing by to the Local Planning Authority together with the further documentation listed below:
 - Table 2.1 Energy Strategy (including detail of renewables);
 - Table 2.2 Proposals with more than one building type (if relevant);
 - Table 2.3 (Calculations);
 - Building Regulations Part L post-completion documents for renewables;
 - Building Regulations Part L post-completion documents for energy efficiency; and
 - Microgeneration Certification Scheme (MCS) Certificate/s (if renewables have been used).
- 35) Prior to first occupation of the development, a Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall regulate public access to the communal parts of the development which are open to the public, namely: the wellness suite (including gym and swimming pool, changing and shower facilities),

multi-use space and café/restaurant all of which are located at the ground floor level of the development. The Management Plan shall include details of:

- a) The parts of the development which will be available to both the public and residents of the scheme;
- b) Opening hours of these facilities for the public and residents of the scheme;
- c) The details of the membership scheme for the wellness suite;
- d) The details of the booking system in order to access the multi-use space and restaurant/café; and
- e) The membership scheme for the wellness suite shall be maintained for the lifetime of the development.

The Management Plan as approved shall be implemented prior to the first occupation of the development and thereafter maintained for its designated purpose for the lifetime of the development.

The Management Plan shall be subject to review following 5 years from first occupation of the development. On review of the Management Plan the developer shall submit to the Local Planning Authority details of the public use of the facilities and any proposed amendments to the Management Plan for the Local Planning Authority's approval. Any amendments to the Management Plan shall only be implemented following a written approval by the Local Planning Authority.

- 36) No development above the ground level shall take place until the details of the directional louvres to be installed to the windows of unit A2-109 (shown on drawing A-20_101 Rev P03: Building A & B – Level 01) and illustrated in drawing A-21_305 Rev P01: Window Overlooking Study, are submitted and approved in writing by the Local Planning Authority. The directional louvres shall be implemented prior to the first occupation of the unit and permanently maintained in strict accordance with the approved details.
- 37) No development above the ground level shall take place until the details of a privacy screen along the north and east facing boundaries of the roof terrace on building A/B (shown on A-20_103 Rev P03: Building A & B - Level 03) have been submitted to and approved in writing by the Local Planning Authority. The privacy screen or equivalent measures shall be implemented prior to the first occupation of the development and permanently maintained in strict accordance with the approved details.

APPEARANCES

For the Appellant

Mr Rupert Warren QC Instructed by CMS
He called Mr Matthew Serginson, Guild Living
 Mr Tim Spencer B-TECH TRP MRTPI, Nexus Planning
 Dr Chris Miele, BA (hons) MA PhD MRTPI, Montagu
 Evans
 Mr Stewart Dean BA (hons), Marchese Partners
 Mr David Harvey, Nicolas Pearson Associates

For the Council

Mr Jonathan Darby Instructed by Bath and North East Somerset Council
He called Mr Steve George BA (hons) DipUD MA MRTPI, Bath and
 North East Somerset Council
 Mr Adrian Neilson BA (hons) MA MSc IHBC, Bath and
 North East Somerset Council
 Mr Neil Williamson BA (hons) MA FLI PPLI FCMI, Bath
 and North East Somerset Council
 Mr Christopher Griggs-Trevarthen BSc MSc MRTPI, Bath
 and North East Somerset Council

Interested Parties

Cllr Sue Craig, Kingsmead Ward
Ms Joanna Robinson BA (hons) MA Dip Arch Con, Bath Preservation Trust
Mrs Payne, Local Resident
Mr Payne, Local Resident
Mr Robert Wee, Local Resident
Mr Keith Russell, Local Resident

ANNEX A - DOCUMENTS SUBMITTED

- ID1 – Revision D – Landscape General Arrangement Plan
- ID2 – Revision P3 – Building A & B – Level 01 Plan
- ID3 – Revision 01 - Window Overlooking Study Plan
- ID4 – Paginated Planning Committee Report
- ID5 – Landscape Impact Comparison Table
- ID6 – Updated List of Drawings for Conditions
- ID7 – Analysis of North Facing Windows
- ID8 – North Facing Elevation Windows (Highlighted)
- ID9 – Computed Generated Graphic Animations (x3)
- ID10 – ICOMOS Guidance on Heritage Impact Assessment
- ID11 – Errata to Dr Miele’s Proof
- ID12 – Public Benefits Comparison Table
- ID13 – Appeal Decision (3263347), Walton-on-Thames
- ID14 – Heritage Impacts Comparison Table
- ID15 – SoS Appeal Decision (3226914), Brentford
- ID16 – Aston University Research Report 2015
- ID17 – Caterwood Care Provision Summary
- ID18 – Clarification Note on NHS Savings Calculations
- ID19 – Confirmation of C&D Building Heights
- ID20 – Acceptance of Pre-Commencement Conditions
- ID21 – Bath River Line Project
- ID22 – Late Representation, Norfolk Green Residents Association
- ID23 – Council’s Closing Submission
- ID24 – Appellant’s Closing Submission
- ID25 – Completed s106 Planning Obligation
- ID26 – Draft City Centre Character Appraisal, Bath Conservation Area 2015
- ID27 – Natural England Planning Inspectorate Consultation Response
- ID28 – Historic England Letter to Inquiry, 10 June 2021
- ID29 - S106/CIL Compliance Statement, BaNES Council

Appendix K

Appeal Decision: Ref R0660/W/20/3249224. 51-53 Handforth Road, Wilmslow, Cheshire SK9 2LX (June 2020)



Appeal Decision

Site visit made on 24 June 2020

by **R Morgan MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 August 2020

Appeal Ref: APP/R0660/W/20/3249224

51-53 Handforth Road, Wilmslow, Cheshire SK9 2LX

- 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 New Care Projects LLP against the decision of Cheshire East Council.
 - The application Ref 19/3831M, dated 30 July 2019, was refused by notice dated 21 January 2020.
 - The development proposed is demolition of existing 2 detached properties and erection of 60-bedroom care home with associated landscaping, car park and access.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing 2 detached properties and erection of 60-bedroom care home with associated landscaping, car park and access at 51-53 Handforth Road, Wilmslow, Cheshire SK9 2LX in accordance with the terms of the application, Ref 19/3831M, dated 30 July 2019, and subject to the attached schedule of conditions.

Procedural Matter

2. The address on the application form is given as 51 Handforth Road, however the site also encompasses the neighbouring property, No 53. I have therefore taken the address to be 51-53 Handforth Road, which reflects the Council's decision notice and the appeal form.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site is located on Handforth Road, which is a busy residential through road which slopes downhill as it passes over the A34 and towards the centre of Handforth. The stretch of road along which the appeal site is located is characterised by large, detached properties which vary in style and design but share a building line which is significantly set back, and slightly elevated, from the road. The properties occupy much of the width of their plots, so the houses appear quite closely spaced. Despite this, the large front gardens have mature planting and extensive vegetation on the opposite side of the road give the area a green and spacious feel.

5. The two properties which make up the appeal site form the end of the row of houses, beyond which the street changes in character and the buildings front onto side roads rather than Handforth Road. A public footpath runs along the northern boundary of the site, which leads to a public park which borders on to the rear of the site.
6. An earlier application for a slightly larger care home on the same site was dismissed on appeal in October 2019¹. The previous Inspector was concerned about the visual impact of the proposal when viewed from Handforth Road, and found that the height and width of the proposed building, in combination with the less pronounced articulation of the facades, would cause harm to the character and appearance of the area.
7. The current appeal proposal also involves a single, large building which would have a wider frontage than the nearby houses, however significant changes have been made to the Handforth Road elevation following the earlier dismissal. The current scheme has been designed to appear from Handforth Road as two distinct detached dwellings. A lightweight glazed link would connect the two elements and would form the main entrance to the care home. This represents a significant difference between the two schemes.
8. The existing properties along this section of the Handforth Road have stepped ridge heights, reflecting the slope of the road. I note the Council's comments that the building would take advantage of the changes in level, rather than following the slope. However, the eaves and ridge heights of the proposed development would be stepped across the frontage, so that the building would appear to continue the rhythm of the street. The ridge heights on the main elevation have been reduced since the previous appeal, and although the overall building heights would be slightly greater than the nearby houses, owing to the topography this would not be obvious when viewed from the street.
9. The existing properties along the street vary in style and design. In order to reflect this variation, the two elements of the building frontage would have different materials, one part having part white render and a grey roof and the other being entirely brick with a red tile roof. Differing fenestration, with bay windows on one side, would further contribute to the impression of two separate houses, as would the use of hipped roofs, which would also help to reduce the bulk and mass of the building when viewed from Handforth Road.
10. I note the Council's comments that No 53 Handforth Road, which would be replaced by the proposed development, is more moderate than many of its neighbours and is unobtrusive in the street scene. Whilst that may be the case, the area surrounding the appeal site is characterised by large dwellings and a sensitively designed building of a different style and design would not necessarily appear out of place on the site.
11. The front elevation would be set slightly further back from the street than the neighbouring properties, but given the distance from the road and the location of the site at the end of the row of houses, this minor deviation in the building line would not be particularly obvious or unattractive.

¹ Appeal ref APP/R0660/W/19/3230381

12. The glazed link would be two stories high, but the upper floor would be a narrow feature, providing only a corridor. Although there would be partial brickwork on the rear elevation, the link would be of a lightweight appearance. Whilst I accept that such a feature is not found elsewhere along the street, its considerable set back from the road and the front building line would mean that it would not be a prominent or unappealing feature when viewed from Handforth Road.
13. The existing front gardens of the houses on the site have mature planting and thick, high hedges. The proposed parking area to the front of the care home would result in a greater proportion of hardstanding and a reduction in soft landscaping at the front of the site. However, the landscaping proposals submitted with the scheme show the retention of existing boundary hedges and a large tree on the front boundary, which has significant amenity value. This would be supplemented by additional hedge and tree planting along the front and side boundaries, which would help provide screening and ensure that the scheme retained, and contributed positively towards, the existing green and verdant character of the area.
14. The main part of the building, which would rise to three storeys in height, would be located to the rear of this frontage. I note comments made by interested parties that three storey buildings are not a common feature in the area, which was a point also addressed by the previous Inspector. However, the elements of the building fronting onto Handforth Road, which the Inspector was particularly concerned about, would be two storeys in height, and the three storey element to the side and rear would not be readily visible from Handforth Road.
15. Given its height and length, the building would be more visible from the side footpath than the existing house. However, the part of the building which would be closest to the footpath would be the lower, front section. The higher side elevation would be set at an angle to the path, increasing in distance from it towards the rear of the site. Furthermore, the retention of mature trees at the sides and rear of the site, supplemented with additional planting, would provide effective screening of the building, which would help to reduce the visual impact from the public footpath, the park and from Tarporley Walk.
16. The building would be significantly larger than the nearby houses, but Nos 51 and 53 both have very substantial gardens and the submitted plans show that the building could be comfortably accommodated without the site becoming overdeveloped. Good sized landscaped areas would be retained at the rear and side of the building, which would provide screening and softening of the development, with ample amenity space for residents.
17. The sensitive design of the buildings together with significant landscaping would ensure that the proposed development would be able to successfully assimilate into the area. I conclude that the proposal would not cause harm to the character and appearance of the area, and would comply with the requirements of Policies SD2 and SE1 of the Cheshire East Local Plan Strategy 2017 (CELPS) in relation to character, local distinctiveness and sense of place.

Other Matters

18. A significant number of objections to the scheme have been made by local residents and other interested parties. A number of parties have questioned

the need for the development, given the number of existing care homes in the locality, some of which are reported to have vacancies. To address this point, which was also a matter of concern for the planning committee, the appellants have commissioned a needs assessment which has been submitted as part of the appeal proposals.

19. The proposed development would provide general residential care, nursing care and dementia care. The needs assessment indicates that there is a need within a 3 and 5 mile catchment for additional elderly care beds for those with high level care needs, at a level which significantly exceeds the 60 beds currently proposed. I note resident's comments that the needs assessment is not robust and that there is already an oversupply of care facilities in the local area. However, the needs assessment has been reviewed in detail by the Council's Adult Social Care Contract and Commissioning team, who have concluded that the content and data contained in the report is an accurate reflection of the current position in the identified catchment area; is fair and appropriate and has demonstrated examples of working collaboratively with the local authority and Local Clinical Commissioning Groups. I have no reason to disagree with the findings of the needs assessment, or the Council's conclusion that a need has been demonstrated for a proposal of this nature within this area.
20. I note comments by local residents that there are two redundant care home buildings nearby, but there may be a variety of reasons why these facilities are no longer operational. Furthermore, the appellant has demonstrated that there is a need for additional facilities of this nature in this area and there is nothing that necessitates any consideration of alternative sites.
21. The potential financial costs of the proposed facilities for future residents, compared with other care homes, is not a planning matter and therefore has not formed part of my consideration of this appeal.
22. The impact of the current Covid-19 pandemic on the need for the proposed care home has been raised by a number of parties. The effects of the pandemic on the care sector are likely to be wide ranging and complex, and it will take time for the impacts to be fully understood. However, the need to provide high quality facilities to care for the ageing population will remain, and there is nothing to suggest that the need for the proposal would be in any way diminished as a result of the pandemic.
23. The NHS Eastern Cheshire Clinical Commissioning Group (CCG) have raised concerns about the additional pressures which would result from the proposal on local primary care facilities, in particular Handforth Health Centre, which would be the only GP practice which could be allocated to the proposed care home. The CCG and other GP practices in the Primary Care Network share the view that provision within the locality is sufficient and that any additional facility would create unnecessary pressure from out of area patients.
24. However, CELPS Policy IN2 states that development contributions will be sought to help facilitate the infrastructure needed to support development. In order to provide support for Handforth Health Centre, the appellant has provided a signed Unilateral Undertaking (UU) setting out details of a financial contribution.
25. The level of contribution has been calculated using a standard method applied by the NHS for nursing and residential homes. The contribution is necessary to

help offset the effects of the development, is directly related to it, and is fairly related in scale and kind. The UU would meet the requirements of CELPS Policy IN2; section 106 of the Town and Country Planning Act, Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, and Paragraph 56 of the Framework.

26. A care home is not an uncommon use in a residential area. The Council and the previous Inspector accepted that the site is in a reasonably sustainable location, with access to bus and rail services and is fairly close to the town centre. However, I note concerns raised by other parties about the adequacy of public transport options for staff and visitors, and the difficulties for cycling and walking caused by the distance to local facilities and the terrain. The site is situated on a hill, which I agree could make walking and cycling more difficult for some, however provision for cyclists does exist around the appeal site. The site is in reasonable walking distance of local shops, services and Handforth railway station, and pavements exist along the western side of Handforth Road, on which the appeal site is located. Even if not suitable for all, walking and cycling would be options which would be available for staff and visitors coming from within the local area.
27. Buses running between Handforth and Macclesfield pass close to the site, but I note comments made by local residents that, as of January 2020, the bus service has changed operator and with services no longer operating at weekends and evenings. Although reduced, the service would still provide an option for visitors and for staff during weekdays, depending on shift patterns. In addition, the appellant has confirmed that a minibus could be provided to pick up and drop off staff within a reasonable radius, which would give an alternative to the private car and public transport. A Travel Plan would be a useful mechanism to promote and implement such alternatives to car travel, and can be secured through a condition.
28. The proposed development would provide 25 car parking spaces to the front of the building. I note concerns raised by of local residents that this would be inadequate, leading to parking on local roads with associated disturbance to residents and risks to highway safety. The level of parking proposed would be lower than the Council's maximum parking standard, however the previous Inspector found that the appellant's calculation of parking demand, based on parking surveys at three other care homes within the borough, was appropriate, and that the level of parking proposed would be sufficient. I have no reason to disagree with these findings, and note that compared with the previous appeal proposal, the current scheme would have a slight increase in parking provision, from 0.37 spaces per bedroom to 0.42, so would also be acceptable.
29. Based on their parking assessment, the appellant has calculated that at least five parking spaces would be available at even the busiest times of the week, which would provide additional capacity and allow for visitors for whom car travel would be the only realistic option.
30. Like the previous appeal proposal, eight of the parking spaces in the current scheme would be in a tandem arrangement. However as the car park would be for the sole use of the care home, there would be scope for staff to manage parking arrangements according to their working patterns, so that use of the 4 'blocked in' spaces would not cause problems. Furthermore, I note that no

concerns regarding this arrangement were raised by the previous Inspector or by the Council.

31. Concerns have also been expressed about traffic generation from the scheme and the impact on the local highway network, with a number of local residents noting that the transport statement is out of date and that it does not reflect the recently constructed mini roundabout. However, the transport statement was updated to support the current proposal, and the Council's highways officer has made no objection to the scheme, and has raised no concerns relating to any changes in the local road network. For these reasons I consider that the traffic generation would not lead to an overcapacity of the local highway network.
32. Local residents have commented that traffic generated from the scheme would impact on the safety of other road users, in particular pedestrians with children, given the lack of pavement on the other side of Handforth Road. However the proposal would not generate significant levels of traffic, and although it would be necessary to take care when crossing the access road, it would not cause an unacceptable risk to pedestrians.
33. The previous Inspector concluded that the scheme would not cause harm to the living conditions of neighbouring properties with regard to outlook. However local residents, including the occupiers of the adjacent property, 49 Handforth Road (No 49), have raised concerns that the scheme would cause harm to their living conditions as a result of loss of privacy, disturbance from vehicle movements during the day and night, light, pollution and noise and smells from extractor fans. I address these below.
34. The occupiers of No 49 have noted that the planting on the northern boundary of the site, adjacent to their property, is deciduous, so there would be a loss of privacy, particularly in winter. However, the submitted landscaping scheme shows additional planting along the shared boundary to reinforce the boundary screening, with evergreen planting along the section of shared boundary closest to the house. This boundary screening would help to reduce any loss of privacy.
35. In terms of potential light disturbance from windows, the largest of the windows facing the rear garden of No 49 would be located on the section of the building which would overlooking the proposed courtyard, a reasonable distance from the common boundary. Existing trees and additional planting along the boundary would help to provide screening. The appellant has confirmed that any external lighting would be minimal and low level.
36. In relation to potential disturbance from vehicles entering and leaving the site, the appellant has confirmed that there will be minimal movements during the night, with no staff changeovers at that time. Food delivery would generally be three times a week at pre-arranged times, and waste collection once a week. GP visits would normally be twice a week, although in future may take place on a virtual basis. The submitted drawings show a row of 9 car parking spaces in front of the shared boundary with No 49, but comings and goings from these spaces are likely to be limited, as staff cars are unlikely to be moved during shifts and visiting limited to specific times. Overall, levels of vehicle movements associated with the care home would be fairly low, and although there would be some impact on the neighbouring property, the effect on living conditions would not be unacceptable.

37. Turning to concerns raised over potential noise and odours from the kitchen and other external fans, the kitchen would be located on the footpath side of the building, away from No 49. The appellant has confirmed that a kitchen extraction system would be used which ensured that noise and odours would not be emitted to the outside area, and that any air conditioning units would use noise attenuation and would be placed in appropriate locations to avoid disturbance to residents of the care home and neighbouring properties. These matters can be controlled through appropriate conditions.
38. Whilst there would inevitably be some disturbance during the construction period, this would be temporary in nature and measures could be put in place through a construction management plan to limit noise, dust and disturbance, and control the hours of work during this time. Measures to limit noise and disturbance from piling and foundation works could also be imposed through a suitable condition.
39. I note concerns raised in relation to drainage and flooding, but no objections have been raised in this regard by the Council's Flood Risk Management team subject to conditions requiring the submission and implementation of a detailed drainage strategy.

Conditions

40. The Council has provided a list of suggested conditions which I have assessed in light of the advice in the Planning Practice Guidance². I have combined some of the conditions to make them more concise and have made minor wording changes in places to improve clarity and enforceability.
41. In addition to the standard condition setting out the timescale for implementation, a condition specifying plans is required in the interests of certainty. In order to safeguard the character and appearance of the area, a condition requiring details of hard and soft landscaping works is necessary, together with an implementation plan for these works. For similar reasons, the submission and approval of samples of the external materials to be used on the building is required.
42. In order to protect the living conditions of future residents and neighbouring occupiers, a condition requiring details of equipment to control fumes and emissions is necessary, and a further condition is necessary to control noise levels associated with external vents and fans. A condition requiring a sound insulation scheme is also required to ensure that internal noise levels are acceptable, to protect the living conditions of future residents.
43. The Council has suggested a condition requiring measures to protect breeding birds during the nesting season, and I agree that this is reasonable and necessary. A condition requiring that development is carried out in accordance with the recommendations of the submitted Ecological Impact Assessment is also necessary in the interests of protecting biodiversity.
44. In the interests of promoting sustainable transport, a condition requiring the development and implementation of a Travel Plan is necessary. A condition requiring provision of at least one charging point for electric vehicles is also necessary in the interests of promoting low emission vehicles, and a drainage strategy required to safeguard against flooding.

² Paragraph: 003 Reference ID: 21a-003-20190723

45. The Council has suggested a condition requiring a Phase 1 Preliminary Risk Assessment to identify any potential contamination. Although this is unlikely given the previous residential use of the site, I agree that this condition is reasonable given the sensitivity of the proposed use and the more intensive use of the site.
46. The Council has also suggested a condition requiring the submission of a detailed Arboricultural Method Statement. In part, this information has already been provided by the appellant, together with details of tree protection measures, and I note that the Council's forestry officer has commented that the development should be carried out in accordance with these documents. However, to ensure that the tree works are properly carried out, details of the implementation and supervision of these works is also necessary and I have imposed an appropriate condition, which is needed in the interests of safeguarding the character and appearance of the area.

Conclusion

47. For the reasons given, I conclude that the appeal be allowed subject to the attached conditions.

R Morgan

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 7172-P3-001B – ground floor plan and main elevation to Handforth Rd
 - 7172-P3-001B – showing detail of main elevation only
 - 7172-P3-01C – site plan and location plan
 - 7172-P3-02D - elevations
 - 7172-P3-003D – contextual elevations
 - 7172-P3-04 E – floor plans
 - 7172-P3-05 B – site sections
 - TRI-2161-01 – existing site layout
 - DEP Landscape Strategy Document rev G dated 13.11.19
 - DEP 3762 04 rev M - landscape proposals
 - DEP 3762 03 rev F – tree works and tree protection
 - DEP Arboricultural Survey and AIA - updated 13 November 2019
- 3) Prior to the construction of the care home samples of the materials to be used in the construction of the external surfaces of the building hereby permitted shall be submitted to and approved in writing by the local

planning authority. Development shall be carried out in accordance with the approved samples.

- 4) Prior to the construction of the care home, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) earthworks showing existing and proposed finished levels or contours;
 - ii) external lighting;
 - iii) an implementation programme,

The landscaping works shall be carried out in accordance with the details required in this condition and the Landscape Strategy Document (rev G dated 13.11.19), and in accordance with the agreed implementation programme.

- 5) Prior to the care home becoming operational, at least one electric vehicle charging point shall be provided within the designated parking area. The charging point shall be independently wired to a 30A spur to enable minimum 7kW charging or the best available given the electrical infrastructure. The infrastructure shall be maintained in an operational condition thereafter.
- 6) Prior to the commencement of development, a detailed drainage strategy shall be submitted to and approved in writing by the local planning authority. The strategy shall take account of calculations of the effects of a 1 in 100 year rainfall event plus 40% allowance for climate change. As part of the strategy, a detailed service and foul and surface water layout shall be provided which provides for the long term retention of the trees.

The drainage strategy shall be implemented in accordance with the approved details before completion of the development, and thereafter shall be retained and maintained in accordance with the approved details.

- 7) Prior to the removal of any vegetation or the demolition of buildings between 1 March and 31 August in any year, a detailed survey shall be carried out to check for nesting birds. Where nests are found in any building to be demolished or tree or hedgerow to be removed, a 4m exclusion zone shall be left around the nest during construction work until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone taking place.
- 8) The development hereby approved shall be carried out in accordance with the recommendations contained in sections G.2.2.2.1 and H.1.2 186 of the Ecological Impact Assessment (Access Ecology, July 2018 rev A) unless varied by a European Protected Species licence subsequently issued by Natural England. Provision for roosting bats shall be installed in accordance with the approved details, to a timetable agreed in writing with the Local Planning Authority, and retained thereafter.
- 9) Before the care home becomes operational, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of

the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.

- 10) Prior to the erection of the care home a scheme of sound insulation shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of the building including windows, openings and ventilation. The approved details shall be implemented in full before the building is first occupied and shall be retained at all times thereafter.
- 11) The location and details (including sound power levels and their noise impacts at sensitive receptors) of any external air vents, air conditioning units or fans shall be submitted to and agreed with the Local Planning Authority. The rating level from all fixed plant and machinery associated with the proposed development (when operating simultaneously), shall not exceed the existing background sound level at any time when measured at the boundary of the nearest noise sensitive premises.
- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) details of the method, timing and duration of any pile driving operations;
 - ix) details of any floor floating works to be carried out as part of the construction of the building;
 - x) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 13) Prior to the care home becoming operational, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall provide for the promotion of alternative/low carbon transport options for staff, such as car sharing, promotion of a car club, provision of a minibus, provision of secure on-site cycle storage, and provision of public transport information. The Travel Plan shall include suitable and measurable targets which aim to reduce transport related emissions and a programme for implementation. The travel plan shall be adhered to at all times during the operation of the development.

- 14) No development (other than demolition and site clearance works) shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.
- 15) No works or development shall take place until a scheme of implementation, supervision and monitoring for the approved tree works and tree protection measures have been submitted to and approved in writing by the local planning authority. This scheme shall be appropriate to the scale and duration of the works and shall include details of:
- i) induction of staff in awareness of arboricultural matters;
 - ii) identification of individuals and their responsibilities;
 - iii) statement of delegated powers;
 - iv) timing and methods of site visiting and record keeping, including updates;
 - v) procedures for dealing with variations and incidents;
 - vi) the scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved in writing by the local planning authority.

The scheme of supervision shall be implemented as approved.

Appendix L

Less COVID-19 (2020). University of Leeds, Niche Leeds and the National Care Forum.



UNIVERSITY OF LEEDS



Nurturing Innovation in Care Home Excellence in Leeds



LESS COVID-19

Learning by
Experience and
Supporting the Care Home
Sector during the COVID-19 pandemic:
Key lessons learnt, so far, by frontline
care home and NHS staff

A report supported by



Remarkable
research for
healthy ageing
THE DUNHILL MEDICAL TRUST

SUMMARY

The COVID-19 pandemic is having a significant impact on the social care sector, in particular, people living and working in care homes for older people. The spread and outbreak of the virus in care homes has varied greatly across the sector, sometimes with devastating impact. The full picture of incidence and death rate from COVID-19 in UK care homes is not known, as the situation is still evolving. However, until effective vaccines for the virus are available, older care home residents will remain vulnerable and at greater risk of poorer outcomes if they contract COVID-19. Capturing lessons learnt about the symptoms, progression, and management of this viral infection in the older population (aged over 65 years) in England and sharing these lessons learnt with care homes that have not yet experienced an outbreak of the virus is crucial. This is the focus for our work with care homes in England.

This research was driven by the reflective and responsible leadership within the care sector. The National Care Forum (NCF) were very keen to learn as quickly as possible from the early days of the pandemic and to share this learning to support the sector. The work presented in this report therefore represents an important partnership between researchers at the University of Leeds and the National Care Forum (NCF), working with care home colleagues, to generate findings with practical relevance. We have conducted two phases of work (June to September 2020):

1. Interviews with frontline care home and NHS staff in June and July (n=35) to gather in-depth understanding of:

- the clinical presentation and illness trajectory of COVID-19 in older people (to date);
- what worked well, or what more was needed, for care and treatment; and
- lessons learnt for supporting infected older people to recover or die well.

2. Consultation with senior operational and quality managers in care homes in September (n=11) to establish:

- the resonance and relevance of Phase 1 findings; and
- strategies for managing COVID-19 at an organisational level within the home for the mutual benefit of residents, relatives and staff.

The findings are presented under the following themes:

1. Clinical presentation: COVID-19 does not always present as a cough and fever in older people
2. Unpredictable illness trajectory
3. Managing symptoms and providing supportive care: No 'magic bullet'
4. Recovery and rehabilitation: Promoting physical, cognitive and emotional well-being post-virus
5. End of life care: Being prepared and supported
6. Infection prevention and control: ensuring relevance, preventing complacency and promoting confidence among care home staff and residents
7. Promoting partnership through cross sector working and support

We have summarised the main lessons learnt by staff who participated in the study, followed by suggested strategies for care home managers and staff based on the experiences and reflections of study participants and, importantly, taking into consideration the care home context, acknowledging the needs (often complex) of people living, and also working, in care homes. We have presented the lessons learnt and strategies in boxes after each theme to provide accessible summaries for our care home colleagues. It is important to highlight that the findings are located within a particular time frame and context. It is recognised (and acknowledged) that over time understanding and knowledge about the presentation, trajectory, treatment and support of older people with COVID-19 is developing, alongside evidence and guidance. However, this practical knowledge collected during the first wave has real value for the care home sector, as we move into a second wave.

The willingness of colleagues to share their time while under considerable pressure of the first wave demonstrates strong and responsible leadership in the sector. Importantly, by learning and sharing the sector demonstrated a commitment to move from 'surviving' the first wave to finding ways to better manage (or 'thrive') in subsequent waves. These findings, however, also highlight systemic issues associated with underfunding, limited integration across health and social care and a lack of wider recognition and value of the contribution of the care home sector and (importantly) its staff. This crisis should prompt government and society to address these long-standing issues.

The report concludes with a call to action. Many of these actions can be grasped by the sector; however, there are levers and actions needed that are beyond the control of the sector and need support and action from government. Finally, a call for researchers and funders to work in partnership with the sector to ensure research fully addresses the priorities of residents, their relatives, staff, and care provider organisations. The COVID-19 pandemic has highlighted the need for research with and for the care home sector.

Our intention is for the report to remain an 'active' document with opportunities to continue learning lessons and sharing strategies for the benefit of those living and working in care homes. We will disseminate this report (version 1; 7 October 2020) widely and invite care providers to comment on resonance, relevance, and any gaps via an online survey (<https://leeds.onlinesurveys.ac.uk/less-covid-report-feedback>). The University of Leeds will lead on updating the report (by January 2021). Finally, we plan to co-create resources from this work that are useful for the sector. This will be led by NCF, working with the University of Leeds and care providers.

Infection prevention and control: ensuring relevance, preventing complacency and promoting confidence among care home staff and residents

Participants (from both care homes and the NHS) described the importance of infection prevention and control (IPC) in care homes during the pandemic. This included strategies for minimising person-to-person contacts and cross infection, as well as effective use of personal protective equipment (PPE) and infection control policies. Phase 2 participants emphasised the impact of staff shortages and the challenges this presented fulfilling extended IPC measures and practices.

Minimising cross infection

Participants described 'cohorting' and 'zoning' approaches - many referring to the Bushproof method (Fewster, 2020) - to manage residents with suspected or confirmed COVID-19 in separate parts of the care home from those without the virus. It is important to point out that care home staff reported doing this in advance of any Government guidance and demonstrates their leadership, creativity and innovation at this difficult time. However, approaches for zoning residents dependent on their COVID status were only considered possible if the physical environment (care home layout and space) facilitated it and the staff resource was sufficient: some care home managers stated this was not possible in their environment or because of staff shortages. NHS participants highlighted solutions used in the NHS which may be applicable for the care home environment, for example Derby doors, inflatable doors to segregate areas.⁵

One example of how a 'COVID-19 zone' was created is presented. Residents who tested positive with the virus were moved into a lounge area, set up as a communal ward area. The lounge was large enough to place resident beds and manual handling equipment (e.g. hoist) while still maintaining distance between residents. Benefits were recognised through this communal set up: residents were not isolated in a single room and so were able to see other residents and staff; care workers were able to provide timely and efficient care for residents; and access to an outdoor space from the lounge area meant residents (and staff) had the freedom to walk outside with no risk to residents in the care home without the virus. It was acknowledged that this temporary move created confusion for some residents but the benefits for the majority were considered to outweigh this and staff supported residents during the process and their stay in an unfamiliar environment. It is not known how this may be perceived by relatives.

The cohorting of staff (where staff numbers permitted and regardless of the physical environment) was also important to minimise cross infection: staff exclusively cared for either COVID positive or negative residents, or where zoning was not possible care workers were isolated to specific floors/communities in the care home. This is now recognized in Government policy (Public Health England, 2020). Care home managers shared their experiences of isolating both care and cleaning staff to specific communities of residents to minimise cross infection. Care staff only mixed with staff in their cohorted area: they did not mix with staff in other parts of the care home. Other staff (e.g. catering or laundry) did not enter care environments nor come into contact with care staff: food and laundry were placed outside the entrance to the care community for collection by care staff. In addition, staff working in different cohorts were not permitted to share lunch times or breaks. Phase 2 participants emphasised that minimising cross community working was only possible with enough staff numbers and difficult (or impossible) when care homes were operating with significant staff shortages. The Adult Social Care Infection Control Fund (Department of Health and Social Care, 2020c) was introduced in May 2020 for this purpose: ***"to support adult social care providers, including those with whom the local authority does not have a contract, to reduce the rate of COVID-19 transmission in and between care homes and support wider workforce resilience"***.

5. <https://fabnhsstuff.net/fab-stuff/the-derby-door>

Appendix M

Summary of existing and planned provision of care homes for the elderly

T1 Existing supply (market catchment)						
Care category	No of homes	Total reg. beds	Total en-suite	Total wetroom beds	% en-suite beds	% wetroom beds
Total market provision						
Overall	10	645	517	277	80	43
Specialist dementia provision						
Dedicated dementia homes	0	0	0	0	-	-
Dedicated dementia units	6	124	89	39	72	31
Overall	6	124	89	39	72	31

T2 Existing supply (SCDC local authority catchment)						
Care category	No of homes	Total reg. beds	Total en-suite	Total wetroom beds	% en-suite beds	% wetroom beds
Total market provision						
Overall	18	968	816	550	84	57
Specialist dementia provision						
Dedicated dementia homes	0	0	0	0	-	-
Dedicated dementia units	9	202	158	147	78	73
Overall	9	202	158	147	78	73

Details of planned provision – Elderly care homes								
No.	Catchment	Site address and applicant	Scheme (with planning ref/date granted)	Net elderly beds	Dementia beds	Construction commenced/ estimated earliest year of delivery	Distance from subject site (miles)	Notes
Granted								
1	Market and local authority	2 Station Road, Great Shelford, Cambridgeshire, CB22 5LR Porthaven Properties Limited No.3	<u>S/3809/19/FL - 04/09/2020</u> Demolition of existing buildings and structures and the construction of a 63-bed care home (use class C2).	63	21	No 2024	0.7	Due to the site's previous use as a fuel depot, there is a condition to complete remediation works to the site prior to construction commencing. Non-material amendment currently pending to split development into an enabling phase and separate construction phase.
2	Market and local authority	Land at Fulbourn Social Club, Cambridge Road, Cambridge, CB21 5BQ Henderson UK Property PAIF	<u>S/3418/17/FL - 28/11/2018</u> Demolition of the existing Fulbourn social club and construction of a new 72-bedroom care home (Use Class C2) with associated car and cycle parking, landscaping and access from The Drive, Fulbourn.	72	31	No 2024	2.8	Construction traffic management condition discharged on 20 September 2021. Application on behalf of care home developer Hamberley Development
3	Local authority only	Huntingdon Road Development, Huntingdon Road, Cambridge, CB3 0LG University of Cambridge	<u>11/1114/OUT - 13/08/2012</u> Proposed development comprising up to 3,000 dwellings; up to 2,000 student bedspaces; 100,000 sq.m. employment floorspace, of which: up to 40,000 sq.m. commercial floorspace (Class B1(b) and sui generis research uses) and at least 60,000 sq.m. academic floorspace (Class D1); up to 5,300 sq.m. gross retail floorspace (Use Classes A1 to A5) (of which the supermarket is 2,000 sq.m. net floorspace); Senior Living, up to 6,500sq.m. (Class C2); Community Centre; Indoor Sports Provision; Police; Primary Health Care; Primary School; Nurseries (Class D1); Hotel (130 rooms); Energy Centre.	75	25	No 2025	5.9	The development website suggests this will be a care home as opposed to extra care. Development of the wider scheme is underway however there is no evidence to suggest construction has begun on the care home and not detailed application to date.
4	Local authority only	73 High Street, Meldreth, Royston, SG8 6LB Samved Holdings Limited	<u>S/0912/13/FL – 26/07/2013</u> Two storey bedroom extension with new dayrooms, kitchen, access, and landscaping associated works following demolition.	21	21	Yes 2022	7.3	We understand that the home is now intended to be 46 beds rather than the 48 stated by the application. The 25-bed building to the rear of the existing property is now open with the remaining 21-beds due to begin imminently.

Details of planned provision – Elderly care homes								
No.	Catchment	Site address and applicant	Scheme (with planning ref/date granted)	Net elderly beds	Dementia beds	Construction commenced/ estimated earliest year of delivery	Distance from subject site (miles)	Notes
5	Local authority only	Waterbeach - Barracks and Airfield Site, Waterbeach, Cambridge, CB25 9QZ Defence Infrastructure Organisation	<u>S/0559/17/OL – 27/09/2019</u> Construction of up to 6,500 new homes, including up to 600 care home units. Works will also include 3 primary school, sports and fitness centres, shops, offices, industrial units, community centres and places of worship, medical centre's, a lake side hotel and supporting infrastructure.	60	20	No 2025	9.3	This application includes plans for up to 600 C2 use residential units that will be "a care home or similar". We have assumed a 60-bed care home/80-units of extra care for the purpose of our analysis. This application forms part of a major development which includes application S/2075/18/OL. Construction has commenced on residential element but not the care element.
Pending								
6	Local authority only	Former Hotel Felix, Whitehouse Lane, Cambridge, Cambridgeshire, CB3 0LX Cassel Hotels (Cambridge) Ltd	<u>21/00953/FUL</u> Demolition of existing buildings and erection of a care home (Use Class C2) with external amenity space, access, parking, landscaping and other associated works.	80	40	No (pending application) 2024	5.9	-
7	Local authority only	Land Adjacent to Waterbeach Barracks and Airfield Site, Waterbeach, Cambridge, Cambridgeshire, CB25 9LY RLW Estates Ltd	<u>S/2075/18/OL</u> Outline planning permission (with all matters reserved) for development of up to 4,500 residential units, business, retail, community, leisure and sports uses, new primary and secondary schools and sixth form centre, public open spaces including parks and ecological areas, points of access, associated drainage and other infrastructure, groundworks, landscaping, and highways works.	60	20	No (pending application) 2025	9.0	This scheme will include 'up to 450 units within use Class C2'. Given the outline nature of this application and the very large scale of the C2 element, we have assumed a 60-bed care home/80-units of extra care for the purpose of our analysis. This application forms part of a major development which includes application S/0559/17/OL.

Sources: subscribed data sources and relevant planning departments, Carterwood. Research completed 4 October 2021.

Appendix N

Cambridgeshire and Peterborough Market Position Statement 2018/2019

Cambridgeshire and Peterborough Adult Social Care

Market Position Statement

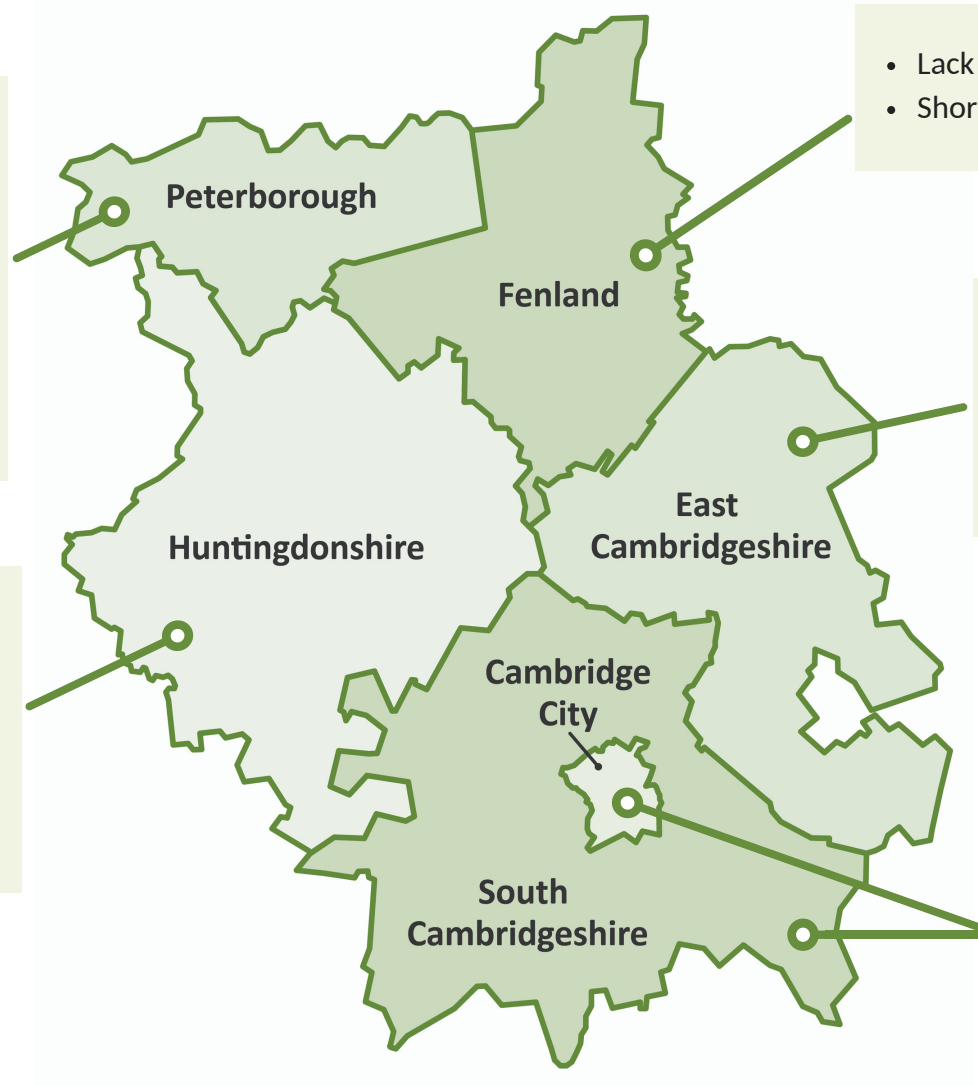
2018/19

System Pressures

Map of Cambridgeshire and Peterborough showing key pressures for each district:

- Lack of homecare provision in rural areas
- Lack of appropriate care facilities for younger adults with complex care needs
- Difficulty recruiting good quality nursing staff
- Shortage of Personal Assistants

- Homecare capacity
- Nursing and Nursing Dementia placements.
- Current and future supply of extra care accommodation
- Shortage of Personal Assistants



- Lack of home care provision in rural areas
- Shortage of Personal Assistants

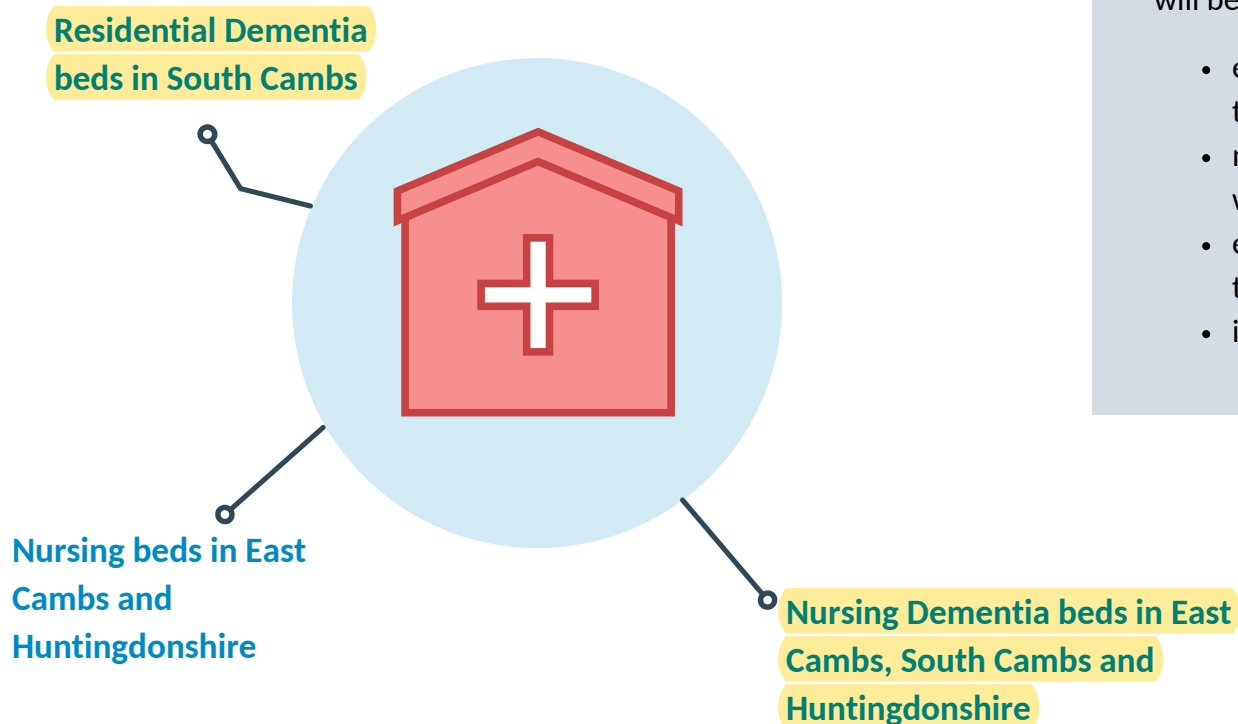
- Significant shortage of Nursing and Nursing Dementia placements.
- Homecare capacity
- Shortage of Personal Assistants

- Homecare capacity
- Shortage of Residential Dementia, Nursing and Nursing Dementia provision.
- Care workforce recruitment - high cost of living
- Shortage of Personal Assistants

Residential Care for Older People

In Cambridgeshire the cost of living as well as the high cost of land means there are currently a comparably low number of care homes able to manage the residential, nursing and dementia needs of service users in Cambridgeshire. This is impacting on the level of choice available to individuals and the financial cost of placements to the Council. This is not currently a pressure in Peterborough.

At present, across Cambridgeshire, we have some specific areas where there is a significant gap in provision:



What does this mean to you?

- Cambridgeshire County Council is undertaking a competitive dialogue process to secure a strategic partner to build and run a number of care homes on council owned land. This process will be completed by March 2020 and will seek to address key areas of shortfall.
- In 2018/19 we are reviewing all contracted care home provision to ensure we can meet demand. In 2019/20 we will be expecting providers to;
 - explore flexible utilisation of both short and long term bed provision
 - move towards 7 days admissions to care homes, with a focus on discharge from hospital
 - engage in the use of TEC where this will support the outcomes of residents
 - increase links with local communities

Appendix O

Older People’s Accommodation with Care – Planning for future demand (June 2021)

Older People's Accommodation with Care – Planning for future demand

June 2021

The considerable growth forecast amongst the older population over the next 15-20 years is likely to require significant growth and development of specialist accommodation with care for older people.

In winter 2020, Cambridgeshire County Council (CCC) and Peterborough City Council (PCC) began a programme of work to ensure both local authorities (LAs) develop sufficient, quality and affordable care to meet future demand.

Initial demand forecasts for each LA were created based upon complex modelling of population growth and existing service provision and subsequently adjusted following publication of the latest market analysis by Laing-Buisson. The forecasts provided initial estimates for residential and nursing care homes and housing with care up to 2036.

In March 2021, CCC and PCC hosted a market engagement event to discuss the development of future accommodation-based care for older people. Attended by 35 organisations representing a range of care home operators, registered social landlords, architects and domiciliary care providers from around the UK, the event enabled both LAs to share and seek views on future trends, innovations and opportunities. The initial demand forecasts were shared with the market to 'test and refine' and were well received as being 'forward thinking'. Innovation ideas around tenancy based models of care, enhanced care in Extracare and embedding nursing care into housing with care were discussed, as were potential market opportunities for blending care types and care operators around a setting to offer a 'home for life'. There was support for the Council's early thoughts on market shaping and intervention.

Feedback from the market reinforced the importance of collaboration with District Councils and Health in developing future provision and further dialogue with the market to develop new models. Providers requested more detailed demand forecasts focusing on specific areas and further information on tender opportunities once they became available.

Currently, CCC are engaging with District Council and Health colleagues to produce district level demand profiles to inform health and LA commissioning strategies and support District Councils in developing Local Plans and planning decisions. In PCC, collaboration with internal planning departments will produce a locality demand profile for Peterborough.

Planning for initial engagement with service users is also underway to ensure the needs, wishes and preferences of local older people shape future developments. To support or take part in this engagement activity please contact alison.bourne@cambridgeshire.gov.uk

A further round of market engagement is anticipated to share the detailed demand forecasts (once complete) and begin detailed discussions around new models and commissioning strategy. Organisations and individuals wishing to participate in forthcoming market engagement events can register their interest via [Cambridgeshire County Council & Peterborough City Council Development of Accommodation with Care for... \(due-north.com\)](http://Cambridgeshire County Council & Peterborough City Council Development of Accommodation with Care for... (due-north.com)) or contact jane.heath@cambridgeshire.gov.uk

Appendix P

Holland, C et al. *Integrated homes, care and support: Measurable outcomes for healthy ageing* (2019). Aston University and Lancaster University.

INTEGRATED HOMES, CARE AND SUPPORT

Measurable Outcomes
for Healthy Ageing

The ExtraCare Charitable Trust
Research Report

March 2019

Authors: Prof. C. Holland¹, I. Garner²,
J. O'Donnell² & Dr H. Gwyther¹



It's not all about age!

What is The ExtraCare Charitable Trust?

ExtraCare is a registered charity established in 1988 and based in Coventry. Our vision is better lives for older people and our mission is creating sustainable communities that provide homes older people want, lifestyles they can enjoy and care if it's needed. To deliver our vision and mission we essentially do three things:

- **We develop new villages**
- **We operate villages and schemes**
- **We support our villages, schemes and our 'extra-care' model through fundraising, advocacy and research**

Each village or scheme has 5 to 18 social, health and leisure facilities that are accessible to our residents, volunteers and local people representing all age groups living in surrounding communities. Our Charity Shops help fund care and well-being services for older people living at our each of our locations.

What does this research tell us about ExtraCare residents during the past five years? Here are the key findings:

Personal Health

- Significant improvements in the level of exercise done by residents (75% increase)
- Improvements in residents' perceived health, which is a good indicator of their actual health status
- No change (either improvement or deterioration) in residents' level of independence or functional limitations over the 5 year period
- Increase in walking speed, where slow walking speed is an indicator of falls risk
- A reduction in risk of falls over the first 2 years of living in ExtraCare and no changes in the risk of falls over a 5 year period
- The increase of frailty is delayed by up to 3 years in residents

Psychological Well-being

- Low levels of depression and depressive symptoms in residents
- 23% decrease in anxiety symptoms
- Improvements in memory and cognitive skills: 24% increase in autobiographical memory and 17% increase in memory recall tests
- No decline in measures of executive function over the range of the study
- Improvements in physical fitness measured using walking speed have benefited residents in terms of psychological Well-being and reduced depressive symptoms. Analysis of relationships shows that if walking speed had stayed the same, depression would have increased

Social Well-being

- 86.5% of residents were 'never or hardly ever' lonely
- Levels of loneliness are lower for residents in ExtraCare than the national averages

Healthcare Costs

- Residents are making more effective use of healthcare resources, reducing visits to GPs but increasing visits to Practice Nurses
- Residents average 3 days less per year in hospital than previously
- There are no expected increases in NHS costs over time as people age
- Living in ExtraCare saves the NHS around £1,994 per person, on average, over 5 years

1. Introduction

This report provides an overview of the research findings from the collaborative research project between Aston Research Centre for Healthy Ageing (ARCHA) and the ExtraCare Charitable Trust, collated by Professor Carol Holland, Centre for Ageing Research (C4AR), Lancaster University. This report extends the findings of the 2015 report, covering the period from 2012 to 2018. Throughout the report, the focus is on the benefits to residents generated through ExtraCare villages and schemes, including sustained improvements in markers of health and well-being for residents and subsequent cost implications for the NHS.

1.1 Contributions to this Report

This report began with contributions from both Jennifer O'Donnell, the Knowledge Transfer Partnership (KTP) associate¹ in September 2017, and Ian Garner, the PhD student in April 2018. ExtraCare have made a small further grant to enable the original Principal Investigator (PI) on the collaborative project, Professor Carol Holland and a Research Fellow, Dr. Holly Gwyther, to spend some time updating and furthering the report.

As always, the emphasis of the report is on key learning points: what are the implications of the findings and what could be further developed? These questions are also informed by a wealth of background knowledge from the published scientific and social science literature, which the specialist authors of this report are well placed to provide.

1.2 Original Objectives

The original objective of the study, reported in 2015 was to evaluate whether the ExtraCare approach gave positive outcomes for healthy ageing which resulted in measurable health and social care cost savings. In that longitudinal study, measures of health, well-being, cognitive ability and mobility in 162 new residents across thirteen ExtraCare villages and schemes, were compared with measures from 39 control participants at 3, 12 and 18 months. Qualitative data were gathered using focus groups, interviews and case studies. People were also invited to keep a diary to record activities. The report noted significant continuous improvements in depression, perceived health, memory and autobiographical memory in residents compared with control participants. The report also described significant social care and NHS cost savings.

¹ The Knowledge Transfer Partnership is a joint initiative between ExtraCare Charitable Trust and Aston University whereby Jennifer O'Donnell is engaged in a research project for two years to develop an evidence-based tool (app) to assist with frailty screening and intervention planning during well-being assessments.

Appendix Q

**Appeal decision: APP/H2265/W/18/3202040. Land to the rear of 237-259
London Road, West Malling, Kent ME19 5AD (December 2018)**



Appeal Decision

Inquiry Held on 4-7 December 2018

Site visit made on 7 December 2018

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2018

Appeal Ref: APP/H2265/W/18/3202040

Land to the rear of 237-259 London Road, West Malling, Kent ME19 5AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Retirement Villages West Malling Ltd against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/17/00506/OA, dated 23 February 2017, was refused by notice dated 13 November 2017.
 - The proposal is an outline application for an extra care development of 79 units (comprising of apartments and cottages) all within Use Class C2; associated communal facilities; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures.
-

DECISION

1. The appeal is allowed and planning permission is granted for an extra care development of 79 units (comprising of apartments and cottages) all within Use Class C2; associated communal facilities; provision of vehicular and cycle parking together with all necessary internal roads and footpaths; provision of open space and associated landscape works; and ancillary works and structures on land to the rear of 237-259 London Road, West Malling, Kent ME19 5AD in accordance with the terms of the application, Ref TM/17/00506/OA, dated 23 February 2017, subject to the conditions set out on the attached schedule.

POLICY CONTEXT

2. I am required by statute to determine the appeal in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan currently includes the Tonbridge and Malling Borough Core Strategy (2007) (the CS), and the Tonbridge and Malling Managing Development and the Environment Development Plan Document (2010)(the DPD).
3. It is a material consideration that the Council is preparing a new Local Plan which will replace the existing development plan and which has recently been the subject of a Regulation 19 public consultation prior to its submission to the Secretary of State for Examination. However only limited weight may be accorded to that emerging plan as there have been relevant objections to the draft plan and the policies may change before the Plan is adopted as part of the development plan.

4. The National Planning Policy Framework (2018) (the Framework) is another important material consideration.

MAIN ISSUE

5. Since the planning application was determined there have been further negotiations between the Appellant and the Council. As a result the Council now advises that Reasons for Refusal 2 and 3 have been overcome. In accordance with the use as defined in the completed Section 106 legal agreement the Council now accepts that this would be a Use Class C2 development (Residential Institution) and not a Use Class C3 development (Dwellings). A recalculated open space financial contribution has been agreed in the Section 106 agreement. Notwithstanding CS Policy CP17, the Council also now accepts that it is unnecessary to provide the affordable housing required by the development plan. Whether or not that is a correct interpretation of CS Policy CP17, the more up-to-date Framework at paragraph 64 is a material consideration and also seeks to preclude such specialist housing for the elderly from a requirement to provide affordable housing.
6. Reason 4 related to the effect of the development on the ecology of the site and bio-diversity. A revised indicative layout was submitted after the application was determined. It shows how some of the buildings could be relocated to reduce the impact on wildlife habitat. The Council now considers that this objection has also been overcome subject to the application of suitable planning conditions setting out clear parameters.
7. I agree with the Council's conclusions on the above agreed matters. Apart from the access the site is in the Green Belt. The parties also agree that the development would be inappropriate in the Green Belt as defined by national policy to which Policy CP3 here defers. At the Inquiry the parties' witnesses also agreed that there would be harm to the openness which is an essential characteristic of Green Belts as well as encroachment into the countryside. However the extent of that harm is disputed.
8. The main outstanding issue is thus whether the harm to the Green Belt by reason of inappropriateness and any other harm, including harm to openness and encroachment into the countryside, would be clearly outweighed by any other considerations.

THE SITE

9. The appeal site is an approximately level area of land that was last used for agriculture. It stands to the rear of a row of detached houses in deep plots that front London Road (A20). The appeal site is open and undeveloped except for a track which provides access to a backland dwelling at 237 London Road. To the east is low density residential development on rising land between the site and Town Hill. That residential area lies within the defined settlement boundary for West Malling, which line also here defines the Green Belt boundary. The southern half of the site is largely covered with self-seeded trees and shrubs. It adjoins a low railway embankment. Beyond the railway is mainly open land including allotments and a sports field. To the south west is other open land of rural character forming part of the extensive curtilages of dwellings at Brickfields and beyond which are open fields in agricultural or similar uses.

REASONS

Green Belt

10. CS Policy CP3 is the most relevant development plan policy and it provides that national Green Belt policy will be applied here. That national policy is currently expressed in the Framework which was revised as recently as July 2018.
11. It is not disputed that the development would be inappropriate in the Green Belt as defined by the Framework (and hence also the development plan) in that it does not qualify as any of the listed exceptions that define what development is not inappropriate. National policy requires that substantial weight be accorded to the harm of inappropriate development to the Green Belt and that very special circumstances would be needed to clearly outweigh that and any other harm including the harm to openness and of encroachment on the countryside.
12. As a substantial built development on undeveloped land the proposal would inevitably reduce the openness which national policy describes as an essential characteristic of the Green Belt. However the extent of that harm is disputed. The Appellant acknowledges that there is spatial harm but there is disagreement as to whether that is compounded by perceived visual harm to openness and, if so, the extent of that harm. In particular, the Appellant relies on the site's visual containment in views from public places.
13. It is likely that the development would be little visible from London Road or Town Hill and that the setback from the railway and partial screening by retained or reinforced planting would mitigate other visual impacts in public views. Nevertheless, the several substantial 2-3 storey apartment blocks indicated in the submitted proposals would be seen from the adjoining residential areas to the north and east and from more distant buildings on Town Hill such as Malling House. They are also likely to be partially visible in public views both from the railway and from the public footpath that passes close to the site's western boundary. The scale of the built development and associated parking areas and the associated reduction in openness would also be very apparent to the many residents, staff and visitors at the development itself. That visual and spatial harm to openness would therefore constitute significant additional harm to the Green Belt.
14. That the built development would be on undeveloped land, formerly in agricultural use, outside the defined settlement, and adjoining other open land to the south west and beyond the railway also means that the development would result in encroachment into the countryside contrary to one of the Framework's 5 defined purposes of the Green Belt.
15. Harm to openness and encroachment into the countryside must nevertheless be distinguished from other landscape and visual effects to which the Council does not here object. Based on the indicative layout and scale of buildings I agree with the parties that the site's relative containment and the opportunities for retained and improved landscaping mean that there need be no significant harm to landscape character. In relation to visual effects, whilst there would be some adverse impacts on the currently open and undeveloped views as seen from adjoining residential areas, the railway and the public footpath, I do not consider that these would be significantly or unacceptably harmful.

16. Neither, subject to appropriate conditions and the final design, need there be significant harm to bio-diversity or associated policy conflict.

Other Considerations

17. National policy provides that the identified harm to the Green Belt may be weighed with any other material considerations in order to determine if there are very special circumstances which may justify inappropriate development. A number of matters have been cited by the Appellant and the main considerations are examined below.

Housing Supply

18. At the Inquiry it was not disputed that the residential units to be provided as part of the proposed C2 residential institution would still count as housing provision for the purposes of housing land supply calculations.
19. The Council acknowledges that it cannot identify the minimum 5 year supply of housing land against objectively assessed housing needs that is required by Section 5 of the Framework. The most recent figure of 4.7 years supply was assessed in October 2017 but was based on figures as at March 2017. That data is now 20 months old and the current supply position may be different. Nevertheless there is no evidence to demonstrate that the housing supply position has improved since then, and it may have worsened. In these circumstances it is material that Paragraph 11 and Footnote 7 of the Framework provide amongst other things that where a 5 year supply of housing land cannot be demonstrated then the most important development plan policies for determining the application should be considered out of date and planning permission for the proposal should be granted. However different considerations apply in some circumstances.
20. CS Policy CP14 defines the settlement boundary for West Malling. It seeks to protect the countryside outside that boundary from unsuitable development. The appeal proposal does not qualify as an exception under that policy. However that boundary was defined in the context of a different and now outdated assessment of housing needs derived from the withdrawn South East Regional Strategy and its evidence base. For that reason, whereas the proposed development is in conflict with Policy CP14, the Council accepts that, because of the shortfall against the 5 year supply, that conflict would not be a reason to refuse planning permission and it did not do so in this case.
21. The Appellant has suggested that the Green Belt boundary was also defined in relation to housing land needs and should similarly be discounted as out of date. However one of the essential characteristics of Green Belts is their permanence. Whilst national policy does permit the alteration of their boundaries in exceptional circumstances it also seeks that they should otherwise be set to endure beyond the plan period.
22. There is no evidence before me that the current Green Belt boundaries were directly related to local housing needs. Moreover before considering changes to the Green Belt there would have been the opportunity in Tonbridge and Malling to direct necessary development to those parts of the Borough to the east of West Malling that are beyond the Green Belt. But in any case I am aware that the former Regional Strategy did not seek to exactly match housing needs and supply within each local planning authority. Rather it sought the redistribution of

housing supply from constrained areas, including the Green Belt, to less constrained parts of the region.

23. The Framework goes on to provide at Paragraph 11(d) (i) and Footnote 6 that specified Framework policies to protect areas and assets of particular importance, including the Green Belt, can still provide a clear reason for refusing the development proposal if the Framework policies would be breached. Notwithstanding the housing land supply shortfall it would thus remain necessary to establish that very special circumstances existed in order for inappropriate development in the Green Belt to proceed.
24. The parties have drawn attention to Written Ministerial Statements of 1 July 2013 and 17 December 2015 which provide in summary that an unmet demand for housing: *'is unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.'* However that wording would not preclude that an unmet demand for housing may still be weighed against the harm to the Green Belt, whether on its own or in combination with other factors.
25. I conclude that the overall shortfall in housing supply is one significant factor to be weighed in the balance but is unlikely on its own to clearly outweigh the harm to the Green Belt.

Housing Needs of Older People

26. Paragraph 60 of the Framework provides that local planning authorities should prepare a local housing need assessment. Paragraph 61 provides that, amongst other things, the amount and tenure of housing needed for different groups should be assessed and reflected in planning policies including housing for older people and people with disabilities. The latter provision is relevant insofar as Extra Care housing seeks to address the needs of older people who are in need of care due to a reduced ability to perform some tasks.
27. The Council produced a Strategic Housing Market Assessment (SHMA) in 2014 as part of the evidence base for the emerging Local Plan. Amongst other things it seeks to estimate the need for specialist housing for older persons both now and in the period leading up to the year 2030. At Table 59 it identified a total need in 2014 for 193 affordable extra care units, rising by 177 units to create a total identified need for 370 units by 2030. By contrast, and relying on the on-line tool provided by the Housing Learning and Improvement Network, it estimates the current need for extra care market housing (such as the appeal scheme) as 0 in 2014 and 0 by 2030. Nevertheless paragraph 9.28 explains that the tenure split between market and affordable extra care housing should be treated as only indicative in that it is influenced by the area's current tenure of specialist housing for older persons. This implies that there had been an absence of extra care market housing in the Borough in 2014 when the SHMA was prepared. The paragraph goes on to recognise that a demand for market extra care housing is nevertheless to be expected in Tonbridge and Malling *'particularly given the level of savings and equity of many older households'*. However, unhelpfully, this is not quantified in the SHMA estimates.
28. The Council has not sought to define a different tenure split or to otherwise quantify the estimated need for extra care market housing. Instead, for the purposes of the Inquiry, its non-expert witness based his assessment on the overall need identified in the SHMA for 370 extra care dwellings. He has identified that 184 units had already been provided since 2014, leaving an

identified need for 186 units of all tenures by 2030. That may well underestimate the overall need and demand for extra care accommodation because an increased provision of open market units for sale may attract current home-owners to move to extra care accommodation. But that would not necessarily result in a reduced demand from non-home-owners for units to rent, whether affordable or otherwise.

29. The Planning Statement submitted in support of the application included a revised estimate of the need for extra care housing in the Borough, again based on an on-line tool (as recommended in national Planning Practice Guidance) but with the application of a reasonably justified split of 35% rented units to 65% leased units for purchase (such as the appeal scheme). That resulted in a modestly increased estimated overall future need for 420 units by 2030 of which 273 would be the estimated need for leased units.
30. For the Inquiry the Appellant's expert witness submitted further evidence suggesting a significantly greater need to provide an additional 590 extra care units in the Borough between 2018 and 2035 of which 499 would be for sale (on lease). Whilst acknowledging the witness's experience in this field, I accord limited weight to these precise figures. The chosen period extends well beyond the period for the emerging Local Plan. Also the Council did not present an expert witness of its own to test the underlying assumptions. Nevertheless the Appellant's expert evidence provides additional support for the contention that the SHMA figures seriously underestimate the future need in the Borough for extra care housing and especially the likely demand for units for sale. In particular this is agreed to be an affluent area with significant numbers of home-owning older people for whom their current homes are likely to become increasingly unsuited to their needs.
31. Whilst the Appellant's estimates of need exceed those of the Council, their expert witness still only expects 4.5% of people in relevant age groups to be accommodated in extra care schemes, divided between 3% in leased units for sale and 1.5% in rented units. These are lower percentages than occur in other countries such as the United States and Australia and may reflect the fact that this is a relatively novel and high cost concept with relatively luxurious units, and that significant annual service charges and lease assignment fees have to be paid to the operator. The great majority of older people are thus likely to remain within their own homes although some will move to sheltered housing schemes or to residential care homes. That there are already some other types and tenures of specialist housing for the elderly in West Malling does not negate the need in the Borough for this type of extra care market housing or render West Malling an unsuitable location.
32. Whereas the SHMA estimated a zero need for extra care market units (albeit with qualifications) that was based on the previous lack of provision. The sector is expanding nationally and the latest evidence shows an active demand for such development in the Borough. In addition to the 24 shared ownership (affordable) extra care units for sale at Rosewell House in Tonbridge, 27 of the extra care units permitted at The Orpines, Wateringbury are to be made available for outright leasehold sale. That would however make only a small contribution to the overall level of need identified in the Planning Statement, let alone that in the evidence of the Appellant's expert witness. Neither is there any specific provision for either extra care housing or other specialist housing for older people in the emerging Local Plan.

33. That the Council has previously accepted that there is an unmet need for extra care housing in the Borough is demonstrated by its grant of planning permission in 2016 for that development at The Orpines, Wateringbury (Council Ref TM./16/00920/FL). That development is similarly to be located in the Green Belt. As in the present case, that was judged to be inappropriate development in the Green Belt; it being disproportionately larger than the care home which it replaced and also harmful to openness.
34. The Officer Report for that development misinterpreted the conclusions of the SHMA by wrongly citing the identified need for 410 care home bedspaces as part of the justification for the development. In fact there would have been the direct loss of such bedspaces arising from the demolition of a care home, albeit offset by the development of 51 extra care units. Nevertheless that identified shortage of 410 care home bedspaces can itself contribute to the need for alternative provision for those in need of care which may include extra care developments.
35. The Wateringbury report did conclude that there is a clear need for accommodation for the growing older population and that this is not only quantitative but also qualitative. The report acknowledges that: '*... a general recognition exists that there is also a shortage of high quality and purpose-built facilities which meet the evolving needs of older people in the UK.*' In that case the development was judged to meet part of such needs and that was the main contribution to the report's conclusions that the harm to the Green Belt was clearly outweighed by that need such that very special circumstances existed to permit the development.
36. Notwithstanding its approach to the Wateringbury scheme and that acknowledgement of a shortage of such accommodation in the UK, at the Inquiry the Council has suggested that there is now not a local need for extra care developments. This was on the basis that the relative numbers of people in older age groups or who own their own properties in those age groups are not markedly different in Tonbridge and Malling from the national averages in England. However there is widespread evidence of a general under-provision of housing of all types across England of which the rapidly worsening affordability ratio is clear evidence and is especially marked in Tonbridge and Malling.
37. That there are national shortages both of general housing and also of high quality purpose-built accommodation to meet the needs of older people does not diminish the identified need for local provision but rather confirms it. Moreover, housing needs assessments must necessarily allow for cross border movements and in this case, whilst there is evidence that a significant proportion of prospective purchasers will either already live locally or will have family or friends that do, the location of the appeal scheme close to the Borough boundary would be likely to attract some residents from other authority areas.
38. The Council suggested at the Inquiry that what it identified as a more modest need for extra care housing of unspecific tenure could be addressed either by development on sites to be allocated for general housing in the emerging Local Plan or as windfall development at the rate of 20 or so a year. However, because extra care developments need to be of a sufficient size to support the shared facilities they are unlikely to come forward on small sites or at that rate. The Appellant has submitted a sequential site assessment to support their view that there are no sequentially preferable sites available to come forward in the short term. This evidence has not been challenged by the Council.

39. The Appellant also claims that for viability reasons it rarely succeeds in obtaining suitable larger sites when in competition with general housing developers and normally instead seeks out sites which are less attractive to such developers because of some policy or other constraint. These claims were not substantiated by examples or by any financial information. It is nevertheless clear that the retirement village concept requires a minimum number of units and site area in order to support the viable provision of shared on-site facilities for residents. That of itself would limit the choice of suitable sites, particularly in a Borough with extensive areas of Green Belt. Neither is there any evidence before me of the successful development of retirement villages as the result of development plan allocations.
40. I conclude that there is a local need for residential accommodation of this type and tenure for which the current and emerging development plan does not make adequate provision and that the development would make a significant contribution towards meeting such needs.

Freeing up General Housing

41. One consequence of the national and local housing shortages and of the associated past rise in property values, including in Tonbridge and Malling, are that those older people who purchased their existing homes many years ago are likely to hold substantial equity as the result of rising property values and because they may have paid off their mortgages. Some of those homes are likely to have been purchased originally to accommodate families and may be poorly suited to the present needs of their occupiers due to their size, internal layout, large gardens, or a location remote from necessary services and facilities. However their occupiers are likely to be cautious about moving to a rented property if it means relinquishing the security of their home ownership and the wealth stored in it. On the other hand, and as the SHMA recognises, in an affluent area they may have the equity and savings which provide the means to purchase specialist property such as extra care housing which is more suited to their needs and which can continue to be a source of security and equity.
42. As the Government has recognised in paragraphs 4.42 to 4.44 of the White Paper '*Fixing our broken housing market*', helping older people to move at the right time and in the right way can help their quality of life as well as freeing up more homes for other buyers. Under-occupied homes could then be released onto the market where they would be particularly attractive to those in younger age groups in need of larger houses to raise families. The provision of specialist housing more suited to the needs of older persons is likely to encourage them to move and would make a valuable contribution to overall housing needs which should be weighed in the balance.

Health and Well-Being Benefits

43. I acknowledge the Appellant's evidence, which the Council does not dispute, that the development would be likely to provide health and well-being benefits including: the care package; monitoring of the residents' well-being; facilities to encourage activity and mobility; and reduced isolation. The on-site support would be likely to reduce the need for residents to make use of primary health care services or social services as well as relieving pressure on hospital bed-spaces. Whilst local residents report current pressures on GP services in West Malling, the Appellant's evidence suggests that such pressures are to be

addressed as part of new provision of services at Kings Hill, whether or not the appeal proposal goes ahead.

44. I conclude that there are likely to be overall benefits to health and well-being to be weighed in the balance.

The Emerging Local Plan

45. A very relevant consideration is that the emerging Local Plan includes a proposal to remove the appeal site from the Green Belt and to allocate it for the development of an estimated 110 dwellings.
46. That proposal has the support of the Council's officers and members. However it is likely to have been the subject of representations in the recent consultation including objections from the Parish Council and others. The content and nature of those representations has yet to be processed by the Council and is not before me. The Local Plan has yet to be submitted for examination and it may be modified prior to its adoption as part of the development plan. Therefore only limited weight can be accorded to these draft changes to the Green Belt or the draft allocation. Nevertheless it is relevant to consider the evidence base which contributed to the decision to include those changes and the extent to which the appeal proposal would accord with the Council's objectives or otherwise.
47. The Council's Green Belt Study in 2016 reviewed the existing Green Belt and tested it against the criteria set out in the then Framework which have generally been carried forward in the current version. This included a strategic assessment of the Green Belt in the vicinity of West Malling, albeit without the scoring of individual parcels of land against criteria that was a feature of the Rushcliffe study referred to by the parties.
48. The Stage Two Report of August 2018 considered whether exceptional circumstances justified changes to the Green Belt boundary. One important consideration was whether Green Belt sites should be released to increase the supply of housing as a means of addressing the worsening affordability ratio in the Borough, as well as making additional provision for affordable housing, whilst also promoting a sustainable pattern of development. The study concluded that exceptional circumstances would justify the removal of the appeal site and another smaller site at West Malling from the Green Belt: *'to ensure that a degree of development comes forward in order to promote local growth and make a reasonable contribution to the economic well-being of [West Malling] ... and ... provide for sustainable locations for living'*.
49. The Study also proposes that additional land to the east of West Malling be added to the Green Belt to protect the setting and special character of the historic town and to prevent towns merging, functions which the appeal site does not perform.
50. The draft housing allocation policy does not specify the form that housing should take on the appeal site. The Council does not dispute that extra care housing would qualify in terms of providing units of housing to contribute to the Borough's housing supply.
51. The appeal scheme would provide 79 units. The emerging Local Plan's higher estimate of site capacity is 110 dwellings and is based on a standard application of a density of 30 dwellings per hectare to this and other sites in the emerging Plan. That does not appear to take account of the on-site constraints and especially the wildlife habitat. If that habitat were to be protected in the manner

indicated in the appeal scheme then it is likely that a general housing development would need to have a similar layout with apartments predominating but reduced communal facilities. Even so the estimated capacity of 110 units appears ambitious and may be unachievable, not least because of the greater requirements for on-site parking and amenity space. General housing would also be likely to generate significantly more vehicle movements, especially at peak hours. That would have implications for the operation of the junction with the A20 and would be likely to require a wider access road within the site.

52. Were the site to be developed instead with the typical 2-3 storey houses with gardens that some neighbouring residents say they would prefer then its likely capacity in terms of dwelling numbers would be much reduced if a similar area of the site were to be set aside to protect wildlife and the landscape.
53. At the Inquiry the Council's witness suggested that the development would not accord with the emerging Local Plan because it would not include affordable housing. The parish council would also prefer that if the site is developed it should include low cost housing for young people and families. However the draft Local Plan allocation does not specify what form housing on this site should take and does not specifically require that it is to be developed for affordable or family housing.
54. Whereas CS Policy CP17 generally seeks the provision of affordable housing and paragraph 6.3.25 would include retirement housing in those requirements, the Council has agreed that Use Class C2 should here be exempt from a requirement for affordable housing. In any case the more up-to-date Framework at Paragraph 64 now seeks to exempt specialist housing for the elderly from such requirements. In the same way, whilst draft Local Plan Policy LP39 would specifically seek that extra care housing should include affordable housing provision that Plan has yet to be examined and may similarly prove to be inconsistent with the Framework in that regard.
55. The Framework would allow for the first time that affordable housing may come forward on unallocated sites in the Green Belt to address local needs. Thus the development of this site need not be the only means of providing affordable housing in the parish. The proposed release of the site from the Green Belt is itself partly with the object to improve overall housing supply to address affordability concerns more widely.
56. The Council did not refuse planning permission on the grounds of prematurity to the Local Plan and I do not consider that the circumstances set out in paragraph 49 of the Framework exist here to justify dismissal for that reason.
57. My attention has been drawn to the Secretary of State's decision at Tewkesbury to permit a large housing development in the Green Belt on a site which had been included in the Local Plan previously submitted for examination but which was subject to objections and before the examination of that Local Plan had been concluded (ref APP/G1630/V/14/2229497). That case differs in that the Tonbridge and Malling Local Plan has yet to be submitted for examination and is at an earlier stage. Nevertheless it is an example of a case where the need for the development on a site which the local planning authority proposed for release from the Green Belt was considered by the Secretary of State to qualify as very special circumstances that clearly outweighed the harm to the Green Belt.

58. It is not disputed that the site is in a sustainable location adjacent to the built up area of West Malling which is defined as a rural service centre. The attractive high street and its many facilities would be within walking distance for more mobile residents. There are public transport services and the S106 agreement includes provision for a mini-bus service for residents. There is evidence that many primary residents would be in their 80s when they purchase their units and that, whilst some may bring cars when they move in, their use and ownership of cars is likely to be modest. The maximum ownership and use of cars is likely to occur when the development is first fully occupied and to decline with time as the average age range of the occupiers is extended.
59. I conclude that the development would accord with the objectives of the Green Belt Study to promote local growth in West Malling, contribute to its economic well-being and provide a sustainable location for living. It would also accord with the site's draft allocation for residential development in the emerging Local Plan. Site constraints indicate that the higher estimated dwelling capacity for the site estimated in the emerging plan is unlikely to be realised. Whilst the development would not include affordable housing, and would therefore not accord with draft policy LP39 in the emerging Local Plan, that consideration is outweighed by the apparent inconsistency of Policy LP39 with the Framework in that regard.

CONDITIONS AND PLANNING OBLIGATIONS

60. The submitted S106 Legal Agreement includes a suitable definition of the proposed development as Use Class C2 and an appropriate financial contribution to off-site provision of open space as well as other relevant provisions. The S106 Unilateral Undertaking includes a justified and appropriate contribution to the library services needed to serve the future residents and appropriate financial provision for monitoring the Travel Plan. Both documents satisfy the legal tests for S106 planning obligations.
61. Draft planning conditions were submitted by the Appellant and the Council and were the subject of discussion at the Inquiry where some changes were agreed to add necessary provisions or to remove unnecessary conditions. I have made further minor changes to the wording and the order of the conditions. The reasons for each condition are included on the attached schedule. Having regard to what I saw on site including the existing background noise from London Road, the set back of the London Road dwellings from the access track and the existing fencing there, I do not now consider that it is necessary to require the provision of the acoustic fencing that was discussed at the Inquiry.

CONCLUSIONS

62. For the above reasons I conclude that the development would be in conflict with CS Policy CP14 in respect of development in the countryside outside the settlement boundary for West Malling. However that conflict is outweighed by the failure of the Council to demonstrate that it has at least a 5 year supply of housing land. The lack of affordable housing provision, if it does conflict with CS Policy CP17, is outweighed by the provision in the more up-to-date Framework at paragraph 64 that specialist housing for the elderly should not be subject to such requirements.
63. For the purposes of CS Policy CP3 and the national policy to which it defers, the development would be inappropriate in the Green Belt, harmful to its openness and would cause encroachment onto the countryside, contrary to a main purpose

of the Green Belt. **Substantial weight** is accorded to the overall harm to the Green Belt albeit that the harm to openness and encroachment is mitigated by the site's visual containment and limited public visibility. Nevertheless there are a number of other considerations to weigh against that harm.

64. I accord **significant weight** to the contribution that the development would make to general housing supply given the lack of a 5 year housing supply in the Borough, including through the likely consequential release on to the market of family housing as older residents move to the proposed development.
65. I accord **substantial weight** to the contribution that the development would make towards the need for specialist extra care housing for sale to older people which was not accurately estimated in the SHMA and for which the current and emerging development plan does not make adequate provision.
66. I accord **significant weight** to the health and well-being benefits for the future occupiers of the development.
67. I accord **limited weight** to the emerging local plan and to its evidence base whereby the Council has concluded that exceptional circumstances justify the proposed release of the appeal site from the Green Belt for residential development in order to promote local growth in West Malling in a sustainable location and to improve overall housing supply and affordability.
68. My overall conclusion is that these other considerations cumulatively clearly outweigh the harm to the Green Belt and as such qualify as very special circumstances. As the demonstration of very special circumstances accords with national policy the proposed development does accord with CS Policy CP3 and the other identified conflicts with the development plan are outweighed by other material considerations. The appeal should therefore be allowed.

Robert Mellor

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Asitha Ranatunga	of Counsel, instructed by Mr A Stansfield, Director of Central Services, Tonbridge & Malling BC
He called Mr M Fewster BA(SocSci)GDipRUP	Principal Planning Officer Tonbridge & Malling BC

FOR THE APPELLANT:

Mr Christopher Young	of Queen's Counsel, instructed by Mr Iain Warner
He called Mr James Donagh BA(Hons) MCD MIED Mr N Appleton	Director at Barton Wilmore – Consultant on housing for older people Executive Chairman of Contact Consulting (Oxford) Ltd – Housing needs expert
Mr Guy Flintoft BA(Hons) DipTP DipUD MRTPI	Planning Director- Retirement Villages West Malling Ltd
Mr Paul Whatley	Landscape Architect & Associate Director of Lloyd Bore Ltd
Mr Iain Warner BSc(Hons) DipTP MRTPI	Director at Tetlow King Planning

INTERESTED PERSONS:

Mr Arnold	Local Resident
Mr Peter Cosier	Local Resident

INTERESTED PARTY:

Mr Richard Byatt	Chairman of the Planning Committee of West Malling Parish Council
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DOCUMENTS

- 1 Suffolk Coastal v Hopkins Homes judgement 10 May 2017
- 2 Land at Perrybrook to the North of Brockworth decision
APP/G1630/V/14/2229497
- 3 Land north of Asher Lane, Ruddington Appeal decision
APP/P3040/W/17/3185493
- 4 Opening Statement of Mr C Young QC on behalf of the Appellant
- 5 Opening Statement of Mr A Ranatunga on behalf of the Local
Planning Authority
- 6 List of corrections of errors in Mr Fewster's proof of evidence
- 7 Final S106 Planning Agreement between Appellant and Tonbridge
and Malling BC- executed and dated copy
- 8 Final S106 unilateral undertaking to Kent County Council -
executed and dated copy.
- 9 Tonbridge and Malling BC draft conditions
- 10 Appellant's draft conditions

- 11 Letter from Housing Learning and Improving Network (LIN) to Iain Warner of Tetlow King dated 30 November 2018
- 12 Housing LIN and EAC Consultation Paper — Shop@ Analysis Tool Review July 2016
- 13 Planning Application form, Abbeyfield extra care at Wateringbury, ref 16/00920/FUL
- 14 Tables updating current and pipeline supply of Extra Care housing in TMBC
- 15 Update to Appleton need report tables 15 and 16 based on changes in Document 14
- 16 As per Document 15 plus committed extra care site at Wateringbury
- 17 Copy of letter from Tetlow King to Housing LIN dated 22 November 2018
- 18 Letter dated 27 November 2017 to TMBC from applicants re Wateringbury scheme setting out revised tenure split
- 19 Tables comparing Tonbridge and Mailing to England on indices relating to indicators of care
- 20 Table showing programme for bringing forward the appeal development
- 21 Closing submissions for Council
- 22 Closing submissions for Appellant

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 3) The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 4) The development hereby permitted shall be carried out within the site defined by the red line on the Site Local Plan Ref RETI150716 SLP-02 Revision C.

Reason: In the interests of certainty as to the extent of the site.

Access

- 5) The development shall not be occupied until measures for the modification of the existing access at the A20 London Road have been implemented as set out on the Proposed Highway Arrangement Drawing Ref PL01 Revision A.

Reason: In the interests of highway safety.

- 6) The development shall not be occupied until traffic islands have been constructed within the A20 London Road in general accordance with the recommendations of the Stage 1 Safety Audit November 2006 (Alpha Consultants) in order to facilitate safe vehicle turning movements and safe pedestrian crossing movements adjacent to the site access.

Reason: In the interests of highway safety.

- 7) At or before the time of the first submission of Reserved Matters pursuant to Condition 1, details relating to the following shall be submitted for approval in writing by the Local Planning Authority:

- a) Provision of a section of passing bay of a width of 5.5m to allow for any incidences when an entering and exiting service vehicle may concurrently occur over the length of the access road;
- b) Provision of a pedestrian link between the site proper and the A20 London Road;
- c) Internal swept path analyses demonstrating efficient refuse collection, servicing and emergency access;

- d) The location of underground services/service strips suitable for maintenance to avoid disruption to the access; and
- e) Provision of surface water drainage from the access road to avoid discharge onto the A20 London Road.

Reason: In the interests of safety and traffic flow.

Travel Plan

- 8) The development shall not be occupied until a Travel Plan in accordance with the sustainable development aims and objectives of the National Planning Policy Framework, and in general accordance with the 'Framework Travel Plan' document dated February 2017 has been submitted to and approved in writing by the Local Planning Authority

The approved Travel Plan shall be implemented prior to occupation and for each and every subsequent occupation of the development by a new occupier.

Reason: To encourage sustainable travel modes in accordance with local and national policy.

Levels

- 9) No development shall take place until a plan showing the proposed finished floor level of the new buildings and finished ground levels of the site in relation to the existing levels of the site and adjoining land have been submitted for the written approval of the Local Planning Authority. The works shall be carried out in strict accordance with the approved details.

Reason: To ensure that the development does not harm the character of the area or visual amenity of the locality.

Ecology

- 10) At or before the time of the first submission of Reserved Matters pursuant to Condition 1, a revised ecological impact assessment report shall be submitted for the written approval of the Local Planning Authority. The report shall include updated dormice, reptile and badger surveys and a detailed mitigation strategy to safeguard protected species, their habitats and local biodiversity. The development shall be undertaken in strict accordance with the recommendations, mitigation and enhancements features detailed in the approved updated ecological report.

Reason: In the interests of minimising the impacts of the development on the wildlife habitats on the site and to local biodiversity.

- 11) At or before the time of the first submission of Reserved Matters pursuant to Condition 1, a plan that sets out the parameters of the built form of the development to include an ecological buffer in general accordance with drawing 3822-LLB-XX-XX-DR-L-0001-S03/P01 dated 11 June 2018 and the recommendations of the revised ecological impact assessment report shall be submitted for the written approval of the Local Planning Authority. The layout and landscaping details submitted pursuant to condition 1 shall accord with the approved parameter plan.

Reason: To ensure that badgers, dormice and reptiles found on site and their habitat are adequately protected and that there is a landscape buffer at the edge of the built up area.

- 12) No development shall take place until a detailed scheme for the translocation of reptiles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
- a) a methodology for the collection of reptiles and measures to prevent reptiles returning to the site prior to and during the development;
 - b) surveys to confirm that the translocation site is currently not holding a significant population of reptiles;
 - c) details of how the translocation will be enhanced and be in a suitable condition to support the likely number of animals which will be moved, prior to any animals being captured for transportation; and details of the management of the translocation site in perpetuity.

The translocation shall be undertaken in strict accordance with the approved details and the development shall not commence until a verification report has been submitted to and approved in writing by the Local Planning Authority confirming that the reptiles have been removed from the site.

Reason: To ensure that reptiles are protected and are not adversely impacted by the proposed development.

Landscape and Trees

- 13) No development above ground shall take place until there has been submitted for the written approval of the Local Planning Authority a scheme of hard and soft landscaping and boundary treatment. The approved scheme of landscaping shall be in general conformity to the indicative landscape drawing (ref 3822-LLB-XX-XX-DR-L-0001-S03/P01 dated 11 June 2018). The landscaping details shall include an implementation programme for all planting, seeding and turfing. Any trees or shrubs removed, dying, being seriously damaged or diseased within 5 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. The approved hard landscaping works shall be implemented prior to first occupation of those parts of the development to which they relate.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 14) The landscaping details of the reserved matters submission shall include a further arboricultural report to be submitted for the written approval of the Local Planning Authority that:
- a) identifies the trees and shrubs to be retained;
 - b) provides a comprehensive assessment of the impact of the development on the existing trees on the site and on adjoining land; and
 - c) includes measures to protect the retained trees and shrubs during the construction of the development in accordance with BS5837:2012.

The existing trees and shrubs shown to be retained, shall not be lopped, topped, felled, uprooted or wilfully destroyed other than where indicated in the approved arboricultural report, without the prior written consent of the

Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock, adequately staked and tied and shall thereafter be maintained for a period of 5 years.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

Materials

- 15) No development above ground shall commence until details and samples of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the area or the visual amenity of the locality.

Boundary treatment

- 16) The development hereby permitted shall not be occupied until details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority. The boundary treatment shall be implemented in full in accordance with the approved details and in accordance with a programme to be agreed in advance in writing by the local planning authority.

Reason: To protect the character and appearance of the area, to safeguard residential amenity, and to control access to the adjacent railway line in the interests of safety.

Construction Management Plan

- 17) No development hereby permitted shall commence until a Construction Transport Management Plan, to include details of:

- (a) parking for vehicles of site personnel, operatives and visitors
- (b) loading and unloading of plant and materials
- (c) storage of plant and materials
- (d) programme of works (including measures for traffic management)
- (e) measures to prevent the deposit of materials on the highway
- (f) on-site turning for construction vehicles
- (g) measures to ensure protection of protected species and habitats during construction access arrangements

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

Reason: In the interests of parking, highway safety, neighbouring residential amenity and the character of the area.

Foul Drainage

- 18) Foul water shall be disposed of directly to the mains sewer.

Reason: To prevent pollution of groundwater.

Sustainable Drainage

- 19) Development shall not begin until a detailed sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The detailed drainage scheme shall be based on the principles recommended within the FRA Thomasons Ltd (January 2017), and shall demonstrate that the surface water generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100yr storm) can be accommodated and disposed of through infiltration features located within the curtilage of the site.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 20) Development shall not begin until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- a) a timetable for its implementation, and
 - b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to ensure ongoing efficacy of the drainage provisions.

- 21) Where infiltration is to be used to manage the surface water from the development hereby permitted, it will only be allowed within those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters and/or ground stability. The development shall only then be carried out in accordance with the approved details.

Reason: To protect vulnerable groundwater resources.

Lighting

- 22) No development above the ground shall take place until details of a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved lighting scheme.

Reason: To protect the visual amenity and ecology of the rural locality.

Refuse/Waste

- 23) The development shall not be occupied until a scheme for the collection and storage of refuse for the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be provided in accordance with the approval details prior to first occupation of the development.

Reason: To facilitate the collection of refuse and preserve visual amenity.

Noise

- 24) No development above the ground shall take place until a noise report detailing the current noise climate at the site due to the close proximity of the development to both the A20 and railway line and a scheme of noise attenuation measures for the development having regard to the relevant standards outlined in BS8233:2014, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of any part of the development and shall be retained at all times thereafter.

Reason: To protect the amenities of the residential occupiers of the development.

Contamination

- 25) (a) If during development work, significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/ remediation strategy has been agreed with the Local Planning Authority and it shall thereafter be implemented by the developer.
- (b) Any soils and other materials taken for disposal should be in accordance with the requirements of the Waste Management, Duty of Care Regulations. Any soil brought onsite should be clean and a soil chemical analysis shall be provided to verify imported soils are suitable for the proposed end use.
- (c) A closure report shall be submitted by the developer relating to (a) and (b) above and other relevant issues and responses such as any pollution incident during the development.

Reason: In the interests of amenity and public safety.

Security

- 26) No development above the ground shall take place until details of measures to minimise the risk of crime according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority.
- 27) The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason for the condition: In the interest of Security, Crime Prevention and Community Safety.

Archaeology

- 28) No development shall commence until the landowner, or their agents or successors in title, has secured and implemented:
- a) archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved in writing by the Local Planning Authority; and
 - b) further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved in writing by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Appendix R

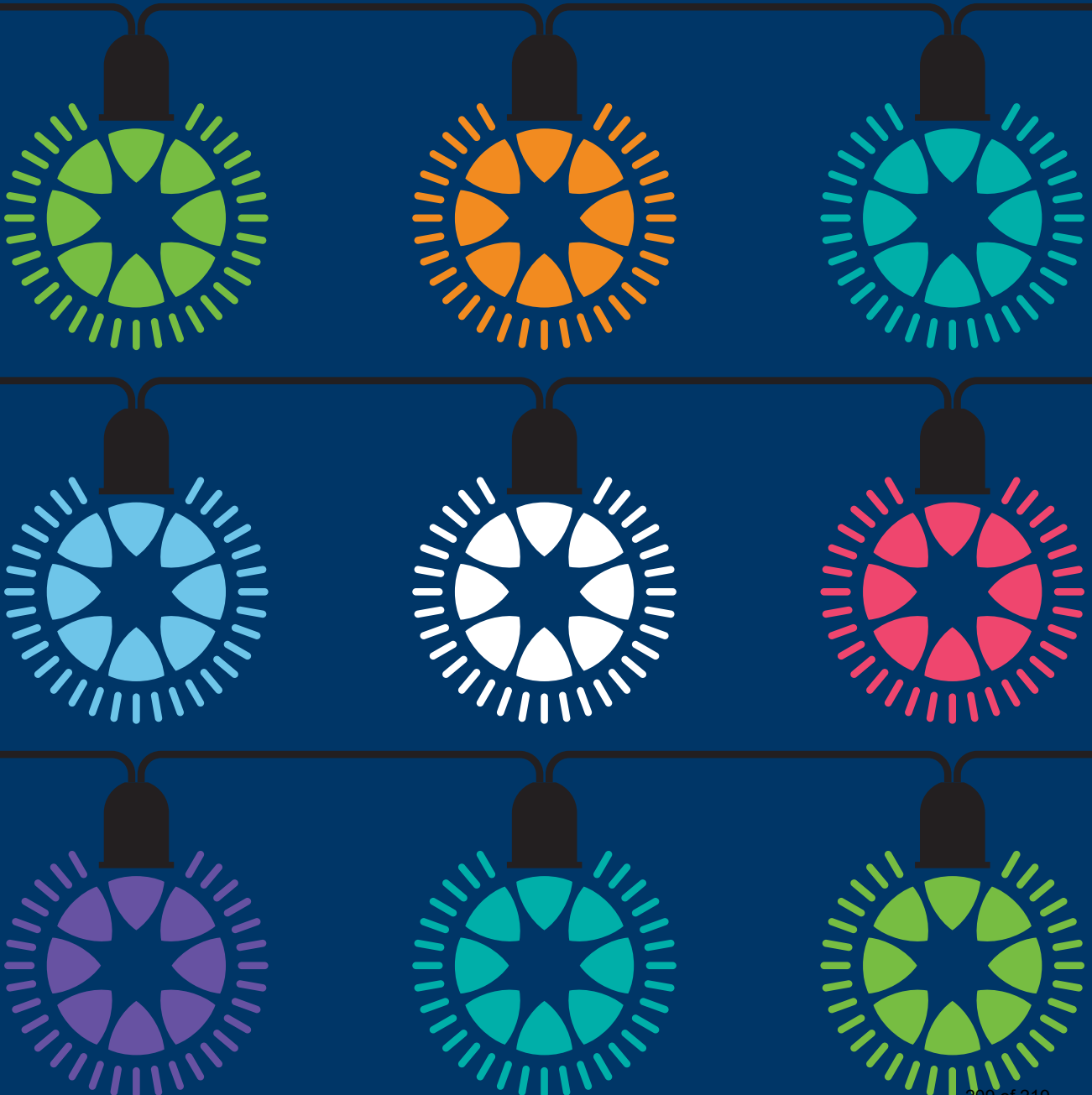
The Housing with Care Grey Paper (2021) Associated Retirement Community Operators



Setting Standards for
Retirement Communities

The Housing with Care Grey Paper

Personal stories and policy ideas on strengthening
housing with care for older people



About ARCO

ARCO (the Associated Retirement Community Operators) is the trade association for operators of housing with care developments for older people. ARCO was founded in 2012 and comprises over 30 private and not-for-profit operators of housing with care, representing approximately 50% of this sector which includes extra care settings and retirement villages. ARCO sets high standards and members must adhere to the externally assessed ARCO Consumer Code. The sector sits between traditional retirement houses (which have less extensive staffing and leisure facilities) and care homes.

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Foreword

The COVID-19 pandemic has illuminated many ways in which we must grow as a society, but right near the top is the urgent need to provide better support for older and more vulnerable people. NHS and social care workers up and down the country have worked exceptionally hard to look after those in their later years. We need to ensure the country we build from the crisis provides them with the strongest possible foundation to do their great work, and allows older people to flourish through active, healthy living.

Throughout the pandemic, housing with care settings (combining independent living with onsite care and support) have demonstrated that they can play a key role in the future of care and support for older people. Whether through the high-quality care they have continued to provide, the sense of safety and security they have offered during an unprecedented time, or the innovative ways they have fostered social connection and reduced loneliness, housing with care has risen to the challenge in an inspiring way.

And that brings us to another key lesson of the pandemic. If we really are to create a society which looks after older people properly, we've got to look at the big picture. At the ways in which housing, health and social care are inextricably linked in giving older people the opportunity to live a good life. Good quality housing with care and support on-hand improves health and wellbeing, reducing the need for older people to see their GP or go to the hospital. The recently published NHS White Paper recognised this, saying housing providers play a key part in keeping people well, and calling for them to be represented on what it calls Integrated Care System Boards.

It is the critical nature of the juncture we find ourselves in, with the worst of the pandemic hopefully behind us and the opportunities for transformation before us, that make the publication of this Housing with Care Grey Paper so timely. It's vital that at this key moment, we hear from voices far and wide as we decide on the best path to take to support older people, and that's why the cross-party and cross-society nature of this report is of such value. We hear from esteemed MPs and Peers from the Conservatives, Labour, Liberal Democrats and Scottish National Party, from experts across academia, investment, local politics and housing, and - crucially - from those working within the housing with care sector itself.

What ties the 14 excellent contributions together is the recognition that housing and care for older people is at once deeply personal and political. Personal, because housing with care affects everyone. It's about our parents and grandparents, and – at some point – about us. It's about creating the options for older people to live happily and safely, in communities that they can call home. Political, because creating this better world for older people requires Government to do its bit.

The ideas and recommendations for government policy in this Grey Paper are therefore hugely welcome. Together, the authors have produced a set of concrete actions that would help transform housing with care, and bring great benefits to hundreds of thousands more older people. From defining housing with care in the planning system to ensuring better financial incentives for older people to rightsize, and from properly honouring care workers to getting social care funding right, the suggestions made in this Grey Paper should be taken seriously.

While each author has chosen a different policy idea to focus on, a conclusion we can draw from all the pieces is that cross-government working will be crucial if we are to make progress. This could be via a new Housing with Care Task Force, as recommended by Lord Foulkes. What's certain is that the Department of Health and Social Care and Ministry of Housing, Communities and Local Government, plus others, have a great opportunity to collaborate and shape our country for the better. It is pivotal we look beyond traditional departmental boundaries.

After the devastating impact COVID-19 has had on older and vulnerable people across the country, after the heroic work done by NHS and social care workers to look after those in need, we have a duty to transform our housing and care provision for older people so that it provides security, dignity, health and flourishing in later life.



We can usher in this brighter dawn if we act now.



Bob Blackman is the Conservative MP for Harrow East, and a member of the Housing, Communities and Local Government Select Committee.



Housing with care promotes independence, health, and social integration – we need proper targets to expand the sector

Bob Blackman MP, Member of the Housing, Communities and Local Government Committee, says the benefits of housing with care are clear, but that we need more consistent terminology and stronger housing targets.

There is growing interest and investment from both the public and private sector in housing schemes for older people that allow independent living to be combined with relatively high levels of care.

One of the difficulties associated with the literature on housing with care for older people is the use of a range of terms to describe and categorise different schemes. A variety of terms such as 'very sheltered housing', 'enhanced sheltered housing', 'supported housing', 'integrated care', 'extra care', 'ExtraCare', 'close care', 'flexi-care', 'assisted living', 'retirement village', 'retirement community' and 'continuing care retirement community' are used to refer to grouped housing schemes for older people.

Over the past 20 years or more housing providers, largely local authority housing departments and housing associations, have been quietly responding to the changing needs of the tenants in their sheltered housing schemes. Only recently have social and health care professionals become more interested in housing with care models, particularly in their potential to reduce the need for residential care and maintain independence, resulting in an increasing number of developments of housing with care that 'conform neither to pure sheltered housing nor pure residential care.'



In the UK there is a clear need to establish a policy that promotes independence, health, social integration, a home for life which would be an alternative to residential care.

Different provider organisations, definitions, models and typologies have placed different emphasis on the housing or care element of their provision, depending on whether they were trying to promote their schemes as alternatives to residential care, or setting out to promote something they felt was conceptually different from what had gone before. It is clear that there are great expectations of housing with care.

Sadly, my parents passed away before they required such housing and care provision, however I regularly assist constituents who contact me to ask about their housing issues. This can be people who want to plan for their future, or those I assist by connecting them with third parties once they have chosen to move, so that they can continue to live independently.

In the future, four key variables must be combined to create an acceptable model of housing and care for older people:

- housing and support-provider relationships
- buildings (scale of development, range of facilities, type of accommodation)
- allocation and eligibility
- tenure

In many ways this model is attractive. It provides one way of imposing a framework, albeit a very broad framework, and some order on a wide range of provision. These four variables highlight key distinctions between previously different models, as each variable will shape a scheme in different ways.

Models combining housing with care are being seen as a way to support older people and reduce the use of institutionalised care across the industrialised world. There are various definitional problems, and very few schemes are exactly alike. But a number of common features emerge, including a focus on a 'homely' rather than institutional environment and services that promote independence and autonomy.

In the UK there is a clear need to establish a policy that promotes independence, health, social integration, a home for life which would be an alternative to residential care. The housing must be cost effective and affordable.

During the 2016 London Mayor campaign, Sadiq Khan pledged to build 80,000 homes in four years – including 40,000 genuinely affordable homes, some of which could be purchased by the older generations. In reality, only 12,546 homes have started being built with unknown completion dates.

In London and the whole of the UK, what is needed is an independent model that will be able to offer and set accurate and realistic housing targets which can be properly funded, and the targets met. This would not solve the problem completely but would make the decisive first step in getting more housing with care settings off the ground.



Recently social and health care professionals have become more interested in housing with care models, particularly in their potential to reduce the need for residential care and maintain independence.



Damian Green is the Conservative MP for Ashford, and Chair of the All-Party Parliamentary Group on Longevity.



We need to turn longer lifespans into longer healthspans – here's how

Damian Green MP, Chair of the All Party Group on Longevity, says targets for older people's housing in local areas and reforms to the planning system are key to boosting healthy ageing.

My interest in the provision of care moved from the purely political to the very personal when my father, in his last few years, required increasing amounts of care because of dementia. His loving wife enabled him to stay in their home for as long as possible, but in the end he needed residential care.

Like millions of other families we saw the stresses and strains of the current system. This has given rise to wider thoughts, not just about care provision but about the wider issue of suitable housing for older people. It goes without saying that such housing should be planned to enable as many people as possible to stay in their own home for as long as possible.

We have a care system on the brink of collapse, but until now we have lacked the political will to save it. The vast majority of people agree that we need to spend more on social care. At the same time they are insistent that they should not themselves pay any extra tax. We need a serious national conversation about this.

Social care, especially for the elderly, is too often opaque to those trying to understand it, with no apparent logic to the conditions which receive free NHS treatment, and those which do not. It is also apparently unfair in not rewarding a lifetime of prudence. Those who have saved feel that their savings will simply disappear, while those who have not saved receive the same level of care.



How to achieve a longer healthspan, as opposed to lifespan, will inform all our work on innovation.

Less well known is the fact that funding social care out of council tax means that local authorities are reluctant to allow too many care homes to be built. An ageing population means that already more than two fifths of council spending goes on social care. This figure will only increase over the years, so councils are fearful that all their other services will be swamped by the rising demands of the social care system.

Five objectives to fix the care crisis

In 2019 I published a paper for the Centre for Policy Studies on "Fixing the Care Crisis" which dealt specifically with the problem of care for older people.

A new system will need to meet five objectives.

- Provide enough money to cope with an increasingly ageing population.
- Be fair across generations, meaning that today's working taxpayers are not asked both to pay for their own care and the care of the generation above them.
- Be fair between individuals, ensuring that no one has to sell their own home to pay for care, and ending the "dementia lottery" where one condition is treated on the NHS and another is not.
- Lead to an increase in the supply of care beds and retirement housing.
- Secure cross-party consensus, with an extensive consultation before the law is changed.

Learning from the pension system

We should look as a model to the pension system. In recent years the basic State Pension has been increased significantly, taking many pensioners out of poverty. At the same time most people save additionally through their working years to provide comfort and security in old age. Auto-enrolment has been a great cross-party success story, encouraging millions more to save towards extra security in old age. The benefits will not come for decades, but they will be huge when they arrive.

Similarly, just as the basic State Pension has been improved in recent years, I believe we should offer a Universal Care Entitlement, offering a better level of care both for homecare and residential care. For those who need residential care this would cover the core residential costs. Needs would be assessed locally but the money would come from central government. This would take away the pressures on local councils.

In addition we need to find an acceptable way to allow those with the capacity to improve their own provision to do so. This would come through a Care Supplement, a new form of insurance designed specifically to fund more extensive care costs in old age.

This is just like the private pension system, which for millions of people tops up their state pension. It would allow people to buy insurance at the level they can afford to provide peace of mind. It would not be compulsory (as pension auto-enrolment is not compulsory), so could not be stigmatised as a Death Tax or Dementia Tax. People could save for it over many years or make a one-off payment (possibly using equity release from a part of their house value) at a suitable time in their lives.

Improving housing for older people

As for the wider housing issue, I support two new measures. These are to require every council to have a target of housing for older people in their local area, with a strategy on how this will be achieved. Also, I would create a new "use class" in the planning system to help meet this target.

I should add finally that these changes are simply part of a wider debate that we need to have about longevity. I am chairing the All-Party Group on Longevity in Parliament, and our first ambition is to change the whole terms of debate on the fact that we have an aging population. That more of us will live longer than previous generations. Conventional wisdom has it that this is a problem. We think it is one of the great opportunities of the 21st century.

The Government has set a goal that by 2035 we should all be able to live five extra healthy, independent years. It's how to achieve that longer healthspan, as opposed to lifespan, that will inform all our work on innovation including AI, and which is the basis for turning this problem into a boon for millions of people, for the economy, and for society. Better housing will play an important role in this vital project.



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Changing the way we age

Each year, just 7000 new retirement homes are built, compared to the 3.1 million potential last time buyers looking to downsize. This is a huge supply and demand imbalance. Over and above this, there is an extraordinary opportunity to deliver a product which can really change the way we age. One built around connectivity and part of the fabric of the local community, enabling residents to maximise their healthy years. Research has shown that age-appropriate housing with care can reduce GP visits by 50% and overall NHS spend by 40%. Appropriate later living housing also has the potential to play a huge role in tackling the UK's loneliness epidemic, which sees around 1.2 million older people suffering.

Retirement villages dedicated to physical, cognitive and social activation are already becoming mainstream options in the US and Australia. These countries see 6% of over 65's living in later living communities, compared with just 0.6% in the UK. Changing this and increasing the provision of age appropriate housing is something which is at the forefront of Legal & General's investment mandate. In the last three years, we have established two businesses, Inspired Villages and Guild Living, dedicated to meeting the needs of our ageing demographic. 1,000 homes have already been delivered.

For the UK's later living sector to make the shift from nascent to mature, however, further large scale, long-term capital investment is needed. The current Government's housing policy does not reflect the nuanced nature of demand which is deterring investment.

The Government's role in increasing provision

The UK remains one of the only countries without a specific land use classification for retirement communities. The Government, therefore, has an important role to play in increasing the provision. A new use-class, recognising the intrinsic link between housing, health and local planning policies, will be paramount to increasing much needed volumes. We also need a national planning framework that incentivises local authorities to allocate more land to building these kinds of schemes.

When it comes to ageing the UK has got it very wrong. Living longer isn't the problem. The problem is that we aren't ageing well and where we live drives material health outcomes. Helpfully, there is already large volumes of capital wanting to invest in the sector. Policy changes, which can help level the playing field against traditional house builders, will make a huge difference to unlocking this and increasing supply – without the need for any government funding.

As we recover from COVID-19 and reassess the societal challenges we face – specifically housing, health and care – we will be judged poorly by future generations if we don't now take the opportunity to act. We know the issues and have the means to address them, but have chosen to do nothing. It is time that the UK catches up with the rest of the world and legislative change is the first big step.



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That is why models of 'housing with care' such as retirement communities are becoming increasingly popular. This mid-way option revolutionises the options available for older people - guaranteeing the opportunity of full independence in later life but with the security of on-site care facilities 'just in case'.

Unfortunately, though, housing policy is only just beginning to catch up with the shift in demand – with England offering just a tenth of this sort of provision compared to countries such as the US, Australia or New Zealand. In Somerset we have already green-lit extra care facilities and plan to commission more. But in two-tier council areas this can be a more bureaucratic process as whilst the county council can develop a county-wide social care strategy, planning decisions are made within smaller district councils.

I am fortunate to have collaborative district council colleagues locally which has enabled our strategy in Somerset. But I also recognise the challenges my counterparts in the districts have when needing to balance the income they might receive from, say, luxury flats, compared to the foregoing of S106 contributions which may be afforded to a retirement community.

This is why the County Councils Network's recent report with ARCO, Planning for Retirement, made recommendations to help ease the development of retirement communities in two-tier areas. These include creating a new 'C2R' planning category to designate retirement communities as separate from either care homes or retirement flats, offering clarity for both providers and planners. The report also called on the Government to ensure district councils are fully compensated for any loss in S106 income they might incur from prioritising housing with care over commercial builds.

It is my hope that by introducing such reforms the housing options available to the next generation retiring will be richer and more fulfilling than my own parents could ever have dreamed of.



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Jeremy Porteus is Founder and Chief Executive of the Housing Learning and Improvement Network



A roadmap to housing for an ageing population

Jeremy Porteus, Chief Executive of the Housing Learning and Improvement Network, sets out five key steps towards good quality housing for older people, and says better advice and information about local options is crucial.

Both my parents are in their 80s and still live at home in their respective properties. Their care needs are currently around failing health rather than social care. Because of this they make use of the local NHS primary and hospital services in the areas where they each live.

My mother has problems with deteriorating health. While she can manage at home without support, she sees her GP frequently, and on occasions is admitted to hospital for treatment.

She lives in a converted first floor, two bed flat, in a typical city suburb. Her flat accommodates her needs at present but there is no lift access and getting up and down stairs is becoming increasingly difficult. She has investigated what retirement communities exist in her neighbourhood. Much of this is for sale and she claims is unaffordable. As a result, she has no desire to move and is content with her immediate community links and friendship circle.



We need lifetime neighbourhoods. This includes rejuvenating high streets by making them age-friendly, creating more accessible public venues, and improving public transport.

My mother is also a carer and the size of her flat enables my brother to stay over from time to time. However, in the past, she has mentioned that she could let out a room or take in a homesharer should she need help or company.

My father is frailer and fractured his shoulder in a recent fall. It will not fully recover. As a result, he also is a frequent NHS user, especially of local outpatient services. He lives in a small rural hamlet and is no longer able to drive. He is dependent on his partner and neighbours for transport, the majority of whom are also of retirement age. It's a naturally occurring retirement community.

My father doesn't yet need personal care and is fortunate that he lives in an area where people look out for each other. There may come a time when he will deteriorate physically and will require home care and/or adaptations so that he can live independently. He has recently replaced his bath with a walk-in shower and is aware of the possibility of further futureproofing their home to accommodate changing needs, as the nearest purpose-built retirement community is over 15 miles away.

In terms of my own requirements, my partner and I have already adapted our home so that it is modern and spacious, but also a 'care ready' environment. Our house meets the needs of my disabled partner and myself and will enable us to either manage our own care, or to access personal care in future. We have also chosen to live in a small town within walking distance of all facilities and public transport. Should we want (or need) to move, we would prefer an affordable (private rented or owned), urban and contemporary apartment, which is adaptable and is still within easy walking distance to local amenities and transport.

Five key steps towards housing for an ageing population

To get to the future of housing for our ageing population we need a roadmap which involves changes to local and national policies on planning, design, care provision, and financial incentives for operators, whether public or commercial.

- **Local planning:** We need lifetime neighbourhoods. This includes rejuvenating high streets by making them age-friendly, creating more accessible public venues, and improving public transport. Intergenerational estates and schemes have benefits for all residents, and should be more widely promoted.
- **National Design Standards:** Government needs to improve guidance on HAPP/Lifetime Homes. Doing so will improve the design quality and standards of all new build homes as well as adapting existing ones.
- **Planning and market shaping:** Government needs to improve local authority planning guidance for our ageing population and promote the wider economic benefit to the housing market.
- **Investment:** Introduction of a range of personal finance options, through housing equity and access to low interest 'help to retire' loans, to meet the cost of moving and whatever we might require financial assistance with to enable us to continue to live independently.
- **Consumer confidence:** Buyers want to know that their apartments and scheme have been designed and operated to a high standard. Government needs to introduce retirement community legislation and legally enforceable standards. A consumer code for retirement housing is also needed.

Impartial and independent advice is crucial

- **Advice and information:** Better informed older consumers will demand improvements in the range of local housing options that can best meet their changing needs and lifestyles. Access to impartial and independent advice and information about our future housing and care choices in later life is therefore crucial.



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