

**Site of the Rise and three neighbouring properties, Stanford Hill, Lymington**

**New Forest District Council**

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

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**Opening Submissions of the Council**

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**Introduction**

1. This appeal proposal is for the demolition of 4 houses on the Appeal Site and the erection of 44 sheltered apartments and associated development.
2. The main issues were identified following a case management conference as follows:
  - (1) The effect of the proposed development on the character and appearance of the area;
  - (2) The effect of the proposed development on the significance of designated heritage assets; and
  - (3) The overall planning balance.

**(1) Character and appearance**

3. The Council relies on the evidence of Mr Lever. These opening submissions do not rehearse his evidence which will be the subject of formal evidence.
4. National policy is clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that

good design is a key aspect of sustainable development<sup>1</sup>. Planning decisions should ensure that developments function well and add to the overall quality of the area; should be visually attractive; be sympathetic to local character and history including the built environment; and optimise the potential of the site to accommodate an appropriate amount and mix of development<sup>2</sup>. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area<sup>3</sup>.

5. The Appeal Site adjoins the Lymington Conservation Area to its north. It sits at the edge of the South Lymington Character Area in the detailed Lymington Local Distinctiveness SPD, and the existing properties on the site are consistent with that character being domestic scale detached properties in large plots set behind landscaping. Although close to the town centre the site does not have its characteristics but is suburban, and in keeping with the South Lymington area that continues down Stanford Hill. This domestic scale, green, suburban character is analysed and described in the SPD<sup>4</sup>. The views up Stanford Hill towards the town centre are identified as important views<sup>5</sup>. The topography also plays an important role – Stanford Hill rising towards the town centre which sits at the top. This relatively green, loose, suburban character contrasts with the more regimented character of the town centre. As one climbs Stanford Hill that is marked by the houses along Highfield and Bucklers Court. There is an appreciable gateway or entrance to the town centre beyond the Appeal Site. Looking the other way the more dispersed form of Stanford Hill (on both sides of the road) and beyond provides a greener outlook as one leaves the town centre. The more spacious grain and green character of Stanford Hill also helps distinguish the settlements of Lymington and Pennington.
  
6. Put simply, the appeal proposals are not sympathetic to and do not respect the character of the area. One large T-shaped building is proposed with a long frontage along Stanford Hill. The design has been conceived to try to reduce the mass of the single building through different frontage styles and articulation but these do not prevent the

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<sup>1</sup> NPPF 124

<sup>2</sup> NPPF 127

<sup>3</sup> NPPF 130

<sup>4</sup> CD4.4 pp91-99

<sup>5</sup> p99.

building appearing dominant. Inevitably there are no gaps between the different design elements and there is no plot sub-division. The bulk may be more appropriate in the town centre, but not on the Appeal Site. The height and scale of the building is entirely uncharacteristic of the suburban character of the site and the South Lymington character area. The scale of the building appears to echo Bucklers Court and continue such scale and massing down the hill. The elevational design proposals do little to disguise the true scale of this single building. They do, however, present what Mr Lever considers to be a discordant and contrived appearance (explained in detail in Mr Lever's proof of evidence<sup>6</sup>).

7. Mr Lever analyses the proposals by reference to its layout, form, scale, appearance, landscape, materials and detailing. Each of these must be considered and then brought together to reach a conclusion as to the overall effects of the proposals. That overall effect is, Mr Lever concludes, harmful, overbearing and out of context with the site and the surrounding area. The design is inappropriate for its townscape context. It fails to meet the requirements of the NPPF for good design and does not take the opportunities available for improving the character and quality of the area.

## **(2) Heritage Considerations**

8. There are designated assets (and non-designated heritage assets<sup>7</sup>) which will be affected by these proposals, namely the Lymington Conservation Area and the listed buildings along Highfield<sup>8</sup>. These buildings all have significance individually and as part of a group. In each case the list entry identifies that "nos 1 to 6 form an important group at the top of the hill and at this entrance into Lymington". These listed buildings are within the Conservation Area. The Appeal site adjoins the Conservation Area (which ends on the eastern side of Stanford Hill at the boundary between the Appeal Site and Bucklers Court). The Appeal Site is within the setting of the listed buildings and the CA.

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<sup>6</sup> Section 4.2.4, 4.2.7

<sup>7</sup> 7-8 Highfield

<sup>8</sup> The list entries are at App. 1 to Mr Lever's evidence and the particular assets are: Nos 1 and 2 (Hill House), Nos 3 and 4 (Down House), Nos 5 and 6 (Highfield Ridge)

9. National policy is clear that great weight – or to use the language of the courts – considerable important and weight – must be given to the conservation of the asset. Any harm to the significance of a designated heritage asset requires clear and convincing justification. Where development leads to less than substantial harm to the significance of a designated heritage asset this harm must be weighed against the public benefits of the proposal<sup>9</sup>.
10. Mr Lever has considered the composition of the significance of the CA and the other heritage assets affected. The setting contributes to the character of the Conservation Area and the significance of the listed buildings by providing a contrast, and assisting in identifying the gateway to the Conservation Area. The topography and character of Stanford Hill adds to the prominence of Highfield. Travelling the other way, the relatively dispersed and green character of Stanford Hill (on both sides) offers a reminder of the purpose of the siting of Highfield from the town over the less developed land below. Whilst of no heritage interest itself, Bucklers Court is consistent with the distinction between the town centre Conservation Area and the land beyond. Its original design intent was to round off the town centre and provide a more enclosed entrance to the town<sup>10</sup>. The suburban character of Stanford Hill as it descends also contrast with the relative high status of the Highfield heritage assets. This distinction also reflects the historical development of the town and its hinterland, and the differing patterns of development.
11. The appeal proposals will harm the significance of both the CA and the listed buildings principally due to its scale, bulk and layout. The uncharacteristic massing of the building in the setting of these assets undermines the contrast between the Conservation Area and its surrounds. The properties on Highfield and Bucklers Court mark the edge of the CA with larger buildings and a more enclosed character. The appeal proposals effectively continue this beyond the town centre/CA with a long frontage building enclosing the street, with no interruption. Again, it is the totality of the effect that must be considered. For example, whilst a proposal may respect a building line set by existing detached buildings 1-2 storey houses in large plots, building along that line a continuous, large, 3 storey, deep plan, block of flats will have a significant effect.

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<sup>9</sup> See paras 193-196 NPPF

<sup>10</sup> WL App. 4

12. Overall Mr Lever considers there is a mid-level impact on the significance of the affected heritage assets within the category of less than substantial harm in the NPPF.

### **(3) Planning Balance**

13. The starting point for any planning balance is section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires a determination in accordance with the development plan unless material considerations indicate otherwise.

14. Mr Gilfillan identifies the relevant development plan policies and those which, on the Council's case, are breached (STR1 and ENV3 of the 2020 Local Plan) and DM1 of the 2014 Sites and Development Management Policies 2014). These policies are up-to-date and consistent with the relevant chapters of the NPPF. Mr Gilfillan identifies that the proposals comply with the spatial and housing policies of the development plan (although providing no affordable housing on viability grounds). In effect the lack of compliance with the plan relates to issues 1 and 2 above.

15. One material consideration of particular weight is the NPPF. The Council has acknowledged that it cannot demonstrate a 5 year supply of housing land supply. This means (subject to footnote 6) that the 'tilted balance' within paragraph 11(d)(ii) applies. Footnote 6 disengages the tilted balance in relation to the impact on designated heritage assets. The proper approach is:

- (a) Assess the proposals against the development plan as a whole;
- (b) In the event of a departure from the development plan, consider first the balance required under NPPF 196. If this balance does not lie in favour of the grant of permission, then the tilted balance does not apply; otherwise;
- (c) Consider whether the harm arising from the development (in terms of both substance and policy harm) significantly and demonstrably outweighs the benefits of the development.

16. The harm that the Council relies upon is that arising under issues 1 and 2. It is satisfied that all other reasons for refusal can be addressed through conditions and planning obligations.

17. The benefits have been assessed by Mr Gilfillan in his proof of evidence. The question of the need for the housing proposed by the development will be addressed in the round-table session.
18. The principal benefits relied upon are the contribution of 44 units to the housing supply and the provision of housing for older persons. It is accepted that there is a general housing need (reflected in the inability to demonstrate a five year supply) and a significant need for older persons housing<sup>11</sup>. Clearly, there is an overlap between these issues in the case of a proposal for market sheltered accommodation without the provision of care and no affordable housing provision.
19. The context for the contribution to housing, and more specifically sheltered housing, is that the Council has a recently adopted Local Plan which contains a clear strategy for the future deliver of housing in a sustainable way in the district. The delivery trajectory for the allocated sites assumed by the Local Plan Inspector appears optimistic given progress on the ground and it is for that reason that the Council accepts it cannot demonstrate a 5 year supply. However, the housing strategy remains in place and the allocated sites will come forward. A revised trajectory will be produced this summer. Most of the strategic site allocations are in the planning application process<sup>12</sup>. Through this plan-led approach there will be a significant boost to the supply of housing in the district, and there is an identified and adopted strategy in place to make up the shortfall. This was considered by the local plan inspector – the strategy remains in place and will deliver the required housing. It is a matter of timing. This is not an inquiry into the Council’s housing land supply position. It was not identified as a main issue at the case management hearing (and the Appellant did not indicate it should be), and the Appellant indicated in its evidence that it was not intending to call a housing land supply witness<sup>13</sup>. The Council does not present detailed evidence on this issue. Of course, in these circumstances the delivery of housing on a windfall site in a settlement is beneficial, as is providing for an identified need for housing for older people – and Mr Gilfillan gives

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<sup>11</sup> SoCG at 5.5

<sup>12</sup> See JG App. 4 at 4.11

<sup>13</sup> Proof of evidence of Mr Cox at 7.10

the housing delivery moderate weight, increased to reflect that the particular provision is for sheltered housing, being market apartments with no care provided<sup>14</sup>.

20. The Appellant's evidence identifies that the district presently has a greater than average supply of leasehold retirement housing<sup>15</sup>, and indeed that is the largest category of provision<sup>16</sup>. The recently adopted Local Plan is clear that the priority need is for extra care and more specialised and intensive support needs<sup>17</sup>. The PPG suggests that the plan process is the appropriate means of considering the need for housing for older persons<sup>18</sup>. The Local Plan evidence base considered specifically the need for older persons housing and recognised a limited need for market sheltered accommodation<sup>19</sup>. The majority of the claimed benefits in reality fall under the umbrella of and are facets of the provision of market, sheltered housing.
21. There are other benefits, although they are more limited in importance. There will be a contribution to the local economy through construction and occupation of the flats, and the sustainability of the location is agreed. There would be a biodiversity net gain.
22. Reverting to the approach addressed in paragraph 15 above, it is the Council's position that:
- (a) The development does not accord with the development plan read as a whole and so there is a statutory presumption that it should be refused<sup>20</sup>;
  - (b) The public benefits of the scheme do not justify the less than substantial harm to each designated heritage asset as required by NPPF 196<sup>21</sup>;
  - (c) It follows that the tilted balance is not engaged. However, in conducting such an exercise the additional harm to the character and appearance of the area would also have to be taken into account.

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<sup>14</sup> Proof 6.17 and 6.24

<sup>15</sup> Report para 7.22

<sup>16</sup> Report Table 12 on p39.

<sup>17</sup> CD4.3 para 6.25.

<sup>18</sup> See e.g. 63-006

<sup>19</sup> CD4.8, fig 4.8

<sup>20</sup> JG proof 7.45

<sup>21</sup> JG proof 6.64

23. For these reasons the Council will in due course respectfully request that planning permission be refused.

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**GUY WILLIAMS**

**11<sup>th</sup> May 2021**