

IN THE MATTER OF:

**APPEAL UNDER TOWN AND COUNTRY PLANNING ACT 1990, S.78
AGAINST THE REFUSAL OF PLANNING PERMISSION BY NEW
FOREST DISTRICT COUNCIL ("THE COUNCIL")**

CONCERNING:

**PROPOSED DEMOLITION OF EXISTING BUILDINGS AND ERECTION
OF 44 SHELTERED APARTMENTS WITH ASSOCIATED
DEVELOPMENT**

AT STANFORD HILL, LYMINGTON

**OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT
(RENNAISANCE RETIREMENT LTD)**

1. This appeal concerns the proposed redevelopment of the existing 4 dwellings at the appeal site and their replacement with 44 private (i.e. owner-occupier) sheltered apartments on the edge of Lyminster Town Centre.
2. There is a very considerable need at national and local level for this kind of accommodation. The expert evidence of Mr Appleton on behalf of the Appellant, drawing from applicable guidance and published authorities, is that there is currently an unmet need for 1,806 private retirement housing units in the Council's administrative area. In terms of supply, there are no sites for this (or any other) kind of specialist housing for older people allocated in the Council's Local Plan and Table 1 of Mr Cox's rebuttal demonstrates that the Strategic Allocations are unlikely to provide any. The very substantial existing unmet need will therefore continue to increase as the undersupply continues.
3. The non-expert supposition of Mr Gilfillan on behalf of the Council (in contrast to Mr Appleton not himself an expert on specialist care needs) that there is not a "*significant need*" for this kind of specialist

accommodation, as opposed to other kinds, and that therefore only “*minor weight*” should be attributed to it (proof paras. 6.21 & 6.24) flies in the face of the evidence¹ and is a deeply troubling indication of the Council’s misplaced attitude which if left uncorrected is bound to mean that the shortfall will not only remain but will continue to worsen. Mr Gilfillan’s proof contains several other unwarranted assumptions about the nature of the development, the most important of which are corrected by Mr Appleton and Mr Cox in their rebuttals.

4. The Council’s Local Plan recognises that, when considering residential accommodation for older people, “*ensuring the development is located close to local facilities and services*” is vital (see para. 6.27 of the supporting text to Policy HOU3). It is therefore of great materiality that the appeal scheme’s highly sustainable location offers a range of services and facilities within a range of 170m to 1km walking distance from the site as confirmed at paras. 3.10-3.13 of the Main SOCG. It is the ideal location for such a facility. Were it any more central within Lymington, it would be within the Conservation Area (“CA”) where as far back as 2002 the CA Character Appraisal noted there were “*very few opportunities*” remaining for redevelopment (CD 4.5, para. 2.5); a point evident from the dismissal on appeal in 2018 of a McCarthy and Stone proposal “*in the heart of*” the CA (CD 6.10 para. 6). Were it further out, it would be considerably less accessible to services and facilities, and either in the more sparsely populated South Lymington suburban area (where such a development would be less in keeping) or outside the settlement boundary where the Council ordinarily opposes unallocated development of this nature (see Local Plan Policy STR3).
5. As well as delivering the considerable benefits associated with sheltered accommodation (see Mr Appleton’s evidence and the summary at section

¹ See e.g. Table 14 on p.45 of Mr Appleton’s report.

9 of Mr Cox's proof), the appeal scheme would also help to address the general housing supply shortfall in the Council's area by freeing up currently occupied housing onto the market, as recognised by para. 68-035 of the Planning Practice Guidance. The Council has conceded that it cannot currently demonstrate a 5 year housing land supply ("5YHLS"),² and that this means that the NPPF para. 11 tilted balance is engaged subject to heritage considerations,³ but it does not offer any evidence in support of a specific figure despite the extent of the shortfall being relevant to the weight to be given to this consideration. The evidence of Mr Good on behalf of the Appellant is therefore the only evidence before the inquiry as to the extent of the Council's HLS shortfall. His assessment is that the Council has a 2.5YHLS. In this respect too, the Council has considerably understated the weight that should be given to the benefits of granting permission: the "*moderate weight*" that Mr Gilfillan advocates is completely out of keeping with the consistent string of appeal decisions summarised at Mr Cox's rebuttal which plainly justify giving the scheme's contribution to dealing with the Council's HLS shortfall very significant weight.

6. There are multiple other respects in which Mr Gilfillan on behalf of the Council has downplayed the benefits of the appeal scheme, which will be explored in evidence and cross-examination. Overall, Mr Gilfillan's persistent and blatant downplaying of the benefits has led to him adopting a slanted consideration of the pros and cons of the proposed development.
7. The surviving reasons for refusal related to design, townscape and heritage. The starting point for considering these issues is that the appeal site is itself outside the CA and currently occupied by 4 unremarkable 20th century buildings, the demolition of which is not opposed by the Council,

² Main Statement of Common Ground para 5.3.

³ Gilfillan proof para. 7.48.

and which contain nothing by way of built form that would be held up as a good example or contextual feature that should shape or influence their regeneration. ⁴ The principle of redevelopment is therefore not controversial.

8. In light of that, when considering the acceptability of this particular proposed redevelopment, it is important not to lose sight (as the Council) appears to have done) of NPPF para. 122, which calls for the “*efficient use of land*” having regard to “*the identified need for different types of housing*” and para. 123 which states:

“Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.”

9. Therefore not only is redevelopment of the site uncontroversial ,but doing so in a way that makes the optimal use of it having regard to the shortfall in housing generally and sheltered housing specifically is in keeping with national planning policy, and all the more so bearing in mind the difficulties in meeting those shortfalls either more centrally (in the CA) or further away from the centre (less sustainable, less in keeping, and if outside the settlement boundary contrary to policy).

10. In relation to heritage, the proper conclusion is that there is no harm either to the CA or to the listed buildings at Highfield. As Mr Clemons explains in his proof and rebuttal:

- a. *In relation to the listed buildings:* the former open landscape to the south of Highfield which these buildings once looked out over has been largely eroded by 20th century development and urbanisation of the landscape between Lymington and the former separate settlement of Pennington. The formerly open views to

⁴ Williams proof para. 3.2.9.

the south of these buildings have therefore been fundamentally changed since their construction. The contribution to the listed buildings' significance made by the open undeveloped area to their south is now limited to the relatively small area west of Stamford Hill that forms a 'village green type' feature immediately in front of these buildings. This will not be changed. The limited visual changes of the appeal site from Highfield (which will be limited and glimpsed due to the intervening green landscaping and Stamford Hill) will not affect the contribution the setting makes to the significance of these listed buildings. They will not dominate or distract from views of the listed buildings.

b. *In relation to the CA:* the significance of the CA is derived from the medieval and post-medieval to 19th century core of Lymington for which the CA is characterised. The appeal site comprises 20th century development which makes on contribution to that character. Further, its separated from the historic core with CA by the late 20th century Bucklers Court which is of a very different character to that core. The changes at the appeal site, if permission is granted, will not harm the experience of the CA from within the CA itself or the appreciation of the CA's significance from outside it.

11. The evidence set out by Mr Lever in support of the townscape elements of the Council's case lacks a clear methodology (there appears to be no application of GLVIA3, for example) and, fundamentally, fails to appreciate that the site lies within a short stretch of properties running from Belmore Road to the north of Bucklers Court which acts as transition location between the Town Centre and South Lymington. Instead, Mr Lever looks at the appeal site solely within the context of Area 6 (South Lymington) of the Local Distinctiveness SPD, ignoring the fact that the site is in the area where Areas 1, 6 and 7 meet and without giving proper

consideration to the broader context and influencing factors arising from this. It is a blinkered approach which leads Mr Lever to fail to appreciate how the proposed development will be experienced in the site's wider townscape context. Mr Williams' methodical and comprehensive analysis should be preferred.

12. As Mr Marlow will explain, the design of the appeal scheme has been the product of very considerable consultation, consideration and refinement (including a reduced scheme following an earlier refusal). The key design principles are summarised by Mr Marlow at para. 6.2 of his proof on p.37 – collectively, they represent a careful balance between the characteristics of the two areas either side of the appeal site (the more densely laid out town centre to the north and the less dense residential area to the south of the transition area within which the site lies), and between developing the site efficiently on the one hand and performing an appropriate transition role on the other hand. The front of the building respects the established building line. The front façade is highly articulated and stepped in plan, to respond to the shape of the road. The elevations reference the evolving street scene by breaking down the appearance into smaller component parts, with materials of contrasting tone being used to visually break down the mass of the building. The scale of built form is larger than that currently on site (inevitably so given the nature of this sheltered housing proposal) but it is well assimilated. The plot ratio is around 30% less than the adjacent Bucklers Court. The proposed building would be lower than Bucklers Court and steps down effectively at the southern façade in response to the height of Concord, the adjacent property on the south side. The communal landscape gardens provide an attractive setting for the building, and the landscaping at the front would be a noticeable improvement on existing due to the consistency of high quality treatment proposed.

13. Overall, this is a scheme which not only is much needed but is also

compliant with policy and causes no harm to designated heritage assets. It is in accordance with the development plan and as such it should be – and should have been – approved without delay.

14. If for some reason you disagree and consider that there would be some development plan conflict and/or less than substantial harm to heritage assets, then:
 - a. Applying NPPF para. 196, any less than substantial harm to heritage assets is outweighed by the many and considerable important public benefits of the appeal scheme, summarised at para. 11.14 on p.37 of Mr Cox’s main proof.
 - b. The remaining issues fall to be considered through the prism of the tilted balance under NPPF para. 11(d), and any adverse impacts identified would not significantly and demonstrably outweigh the benefits of granting permission.
15. Accordingly, the Appellant will in due course submit that, whichever way you look at it, the appeal should be allowed.

CHARLES BANNER Q.C.

**Keating Chambers
15 Essex Street
London WC2R 3AA**

11th May 2021