
STATEMENT OF COMMON GROUND

Former Police Station, Southampton Road, Lymington, SO41 9GH

APPEAL REF: *APP/B1740/W/21/3289313*

planning*issues*
TOWN PLANNING AND ARCHITECTURE

TOWN & COUNTRY PLANNING ACT 1990

APPEAL BY CHURCHILL RETIREMENT LIVING LTD AGAINST NEW FOREST DISTRICT COUNCIL'S REFUSAL TO GRANT PLANNING PERMISSION FOR THE DEMOLITION OF EXISTING BUILDING AND REDEVELOPMENT OF THE SITE TO FORM 32 No. RETIREMENT APARTMENTS FOR OLDER PERSONS WITH ASSOCIATED COMMUNAL FACILITIES, CAR PARKING AND LANDSCAPING.

SITE: FORMER POLICE STATION, SOUTHAMPTON ROAD, LYMINGTON, SO41 9GH

LPA REF: 21/10938

PLANNING INSPECTORATE REF: APP/B1740/W/21/3289313

PLANNING INQUIRY DATE: 26th-3rd May 2022

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1.0 INTRODUCTION

The draft Statement of Common Ground has been prepared by the Appellant but will be submitted jointly by the Council and the Appellant in its final version. The purpose of this Statement is to set out as much of the agreed factual information about the proposal as is possible.

2.0 APPEAL PROPOSAL

Appeal Site Description

- 2.1 The site is located within the built up area of the town of Lymington. The site is within 350m of Lymington High Street with its provision of local shops and services, To the south of the site on the A337 is a Waitrose supermarket.
- 2.2 The site is approximately rectangular and of 0.22ha in size. It bounds Southampton Road (A337) on its eastern boundary and Queen Elizabeth Avenue on its northern boundary. To the south of the site is Buckland House a flatted development of three storeys. To the west of the site is the Old Police House which is now a private dwelling of two and half storeys in red brick with access from Queen Elizabeth Avenue. Opposite the site is Farringford Court a flatted development of two to three storeys which is an Extra Care development (C2 use) by McCarthy & Stone built in 2011.
- 2.3 The site subject of this appeal was the former Lymington Police Station whose use ceased in 2017 and is currently vacant. The existing building is an L shaped building in a traditional civic style building in red brick with a mansard roof sat behind a parapet. The building fronts on to Southampton Road and has a parking area in front of the police station and a further area of parking and garages to the rear of the building. Within the road frontages to Southampton Road and Queen Elizabeth Avenue there are a number of semi mature trees and shrubs.
- 2.4 The site abuts the Lymington Conservation Area along its southern boundary with properties on Eastern Road. The immediate area is predominantly residential in character and a mix of apartments and houses.

Proposed Appeal Scheme

- 2.5 The scheme the subject of this appeal is for the demolition of the existing building and redevelopment of the site to form 32no. retirement living apartments for older persons including communal facilities and associated car parking and landscaping.

PLANNING APPLICATION PROCESS

2.6 The application subject of this appeal was submitted to New Forest District Council on 18th June 2021 and was validated from the 15th July 2021. The application submitted was for the demolition of existing buildings and redevelopment of the site to form 32no retirement living apartments for older persons including communal facilities, access, parking and associated landscaping.

2.7 In accordance with the National Planning Policy Framework at paragraphs 39-41 the Appellant held pre-application meetings with the Council in January 2020 and October 2020 prior to the submission of the application in 2021.

2.8 The application was presented to the Council's Planning Committee of the 13th October 2021 with a recommendation for approval subject to the completion of a S106 legal agreement to secure appropriate habitats mitigation contributions, measures to achieve biodiversity net gain, and an appropriate contribution towards the off-site provision of affordable housing.

2.9 The application was resolved by the planning committee to be deferred on the sole grounds *'for an appropriate contribution towards the off-site affordable housing to be agreed between officers and the applicant.'*¹

2.10 The application was returned to the Council's Planning Committee of the 8th December 2021 with a recommendation for approval subject to the completion of a legal agreement following the parties having reached an agreement on the affordable housing contribution.

2.11 Notwithstanding the Council's Planning Committee's previous resolution they resolved this time to refuse the application contrary to planning officer's advice on seven grounds which are set out in the decision notice of the 10th December and are as follows;

(1) The proposed development would not deliver sustainable development and not create a mixed or balanced community and is thereby contrary to local plan policy HOU1 of the Local Plan 2016-2036 Part One: Planning Strategy which seeks to create a mixed and balanced community by providing a mix and choice of homes by type, size, tenure and cost.

(2) The proposed development is of a scale and mass that is considered to be inappropriate and out of keeping with the area resulting in an adverse impact on the character of the surrounding area and the existing character of the adjacent

1.1 _____

¹ New Forest District Council Planning Committee Meeting Minutes of 13th December 2021.

Conservation Area. In these respects the proposal is considered discordant with local plan policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy and saved policy DM1 of the Local Plan Part 2: Sites and Development Management.

(3) The proposed development, by reason of the proximity of the proposed apartments to the maturing protected trees on site, would not allow for these trees to grow into natural size and form. This is likely to result in the future unsympathetic pruning and potential loss of these trees which would be detrimental to the amenity of the area.

(4) The proposal makes insufficient provision for on-site parking to serve the development and inadequate turning on site to enable emergency service vehicles to turn on site and leave in forward gear. The development is likely to lead to additional pressure on on-street parking within the surrounding local area, to the detriment of amenity of the area.

(5) The proposed development has insufficient outdoor amenity space. Such a lack of outdoor amenity space would fail to meet the reasonable amenity needs and may consequently adversely impact the health and wellbeing of future residents, contrary to the provisions of policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy.

(6) To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. The proposal will result in new units of overnight residential accommodation which will potentially have an adverse impact through greater nitrates being discharged into the Solent catchment area thereby having an adverse impact on the integrity of the Solent Special Protection Area (SPA) and Special Areas of Conservation (SAC). A precautionary approach is required to be adopted and in the absence of a completed Section 106 Agreement and adverse impact on the integrity of the SPA and SACs cannot be ruled out. As such, the proposal does not accord with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 in that at present there is inadequate mitigation in place. The proposal is therefore contrary to the provisions of the Conservation of Species and Habitats Regulations 2017, and New Forest Local Plan (2016-2036) Policy ENV1.

(7) In the absence of a completed S106 Agreement to secure an appropriate contribution towards the provision of off-site affordable housing, the proposed

development fails to accord with the provisions of policy HOU2 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside the New Forest National Park

2.12 It acknowledged that several of the reasons for refusal do not specifically refer to policies of the Development Plan. In order to provide certainty regarding the policies on which the reasons for refusal are in conflict with, the following is agreed by the parties:

- RR1 – STR1 & HOU 1 of New Forest Local Plan Part 1: Planning Strategy.
- RR2 – STR1, ENV3 of the New Forest Local Plan Part 1 and DM1 of the New Forest Local Plan Part 2
- RR3 – ENV3 & ENV4 of NFLP Pt1
- RR4 - CCC2 of NFLP Pt1 and Parking Standards SPD
- RR5 – ENV3 of NFLP Pt 1.

2.13 The parties are agreed that the Council has imposed the wrong ‘standard’ reason for refusal at No.6. The issue raised by the reason included on the decision notice, can be dealt with by a condition, as suggested by condition No. 16 of the proposed conditions.

2.14 The issues that should have been covered by that reason for refusal, are the impact of increased recreational activities on sensitive protected habitats in the New Forest and Solent, and monitoring of air quality in the New Forest. The sixth reason for refusal should have read, as follows:

'The recreational and air quality impacts of the proposed development on the New Forest Special Area of Conservation, the New Forest Special Protection Area, the New Forest Ramsar site, the Solent and Southampton Water Special Protection Area, the Solent and Southampton Water Ramsar site, and the Solent Maritime Special Area of Conservation would not be adequately mitigated and the proposed development would therefore be likely to unacceptably increase recreational pressures on these sensitive European nature conservation sites, contrary to Policies ENV1 of the New Forest District Local Plan Part 1: Planning strategy 2020 and DM3 of the New Forest District Local Plan Part 2: Sites and Development Management 2014 and the Mitigation for Recreational Impacts on New Forest European Sites SPD 2021, Air Quality Monitoring and the Bird Aware Solent Strategy.'

2.15 Recognising that likely significant effects would arise from the development, an Appropriate Assessment of the scheme would conclude that adverse impacts on the integrity of the European Sites would occur. Mitigation for such impacts can be identified and should be secured by way of appropriately worded S.106.

2.16 The contributions sought from this scheme in respect of the above reason for refusal are:

- New Forest recreational disturbance Infrastructure: £101,446.00
- New Forest recreational disturbance Non-infrastructure : £15,194.00
- Solent Bird Aware : £14,383.00
- New Forest Air Quality Monitoring: £2,912.00

2.17 Subject to receipt of an appropriately worded S.106 agreement securing provision of this contribution, refusal reason No.6 would be addressed.

2.18 The 7th reason for refusal refers to the failure to make provision for affordable housing. As set out above at 2.10, the parties have agreed a financial contribution was an appropriate mechanism to contribute to off-site affordable housing in this case. A figure of £959,456.00 has been agreed after review of the scheme's viability.

2.19 Subject to receipt of an appropriately worded S.106 agreement securing provision of this contribution, refusal reason No.7 would be addressed.

Relevant Planning History

2.20 A search of the planning register reveals planning permission was granted for the police station in 1951.

2.21 There is no subsequent planning history on the site relevant to the appeal.

3.0 DRAWINGS AND DOCUMENTS

3.1 The application submitted to the Council in June 2021 for 32no Retirement Living apartments included the following plans:

Details	Plan Number	Scale
Site Location Plan	10109LY/PA00	1:1250 @ A3
Site Layout Plan	10109LY /PA01 B	1:200 @ A1
Ground Floor Plan	10109LY /PA02 B	1:100 @ A1
First Floor Plan	10109LY /PA03 B	1:100 @ A1
Second Floor Plan	10109LY /PA04 A	1:100 @ A1
Third Floor Plan	10109LY /PA05 A	1:100 @ A1
Roof Plan	10109LY /PA06 A	1:100 @ A1
Elevation Sheet 1	10109LY /PA07	1:100 @ A1
Elevation Sheet 2	10109LY /PA08	1:100 @ A1
Elevation Sheet 3	10109LY /PA09 A	1:100 @ A1

3.2 The application was also submitted with the following accompanying statements and information;

- Design and Access Statement by Planning Issues Limited;
- Planning Statement by Planning Issues Limited;
- Stakeholder Engagement Statement by Planning Issues Limited;
- Affordable Housing Statement by Planning Issues Limited;
- Topographical Survey by D&H Surveys Limited;
- Archaeology Desk Based Assessment by Ecus Environmental Consultants;
- Flood Risk and Drainage Technical Note by AWP;
- Transport Statement by Paul Basham Associates;
- Desk top Ground Investigation by Crossfield Consulting;
- Heritage Statement by Ecus Environmental Consultants;
- Landscape Strategy Plan by James Blake Associates;
- Preliminary Ecological Assessment by Tetra Tech and
- Arboricultural Method Statement, Tree Protection Plan and Manual for Managing Trees on Development Sites by Barrell Tree Consultancy.

4.0 DEVELOPMENT PLAN POLICY

4.1 It is agreed that the following are relevant policy/guidance considerations in respect of this Appeal.

Development Plan Policy

Local Plan 2016-2036 Part 1: Planning Strategy (July 2020)

Policies:

- ❖ Policy STR1: Achieving sustainable development
- ❖ Policy STR3: The strategy for locating new development
- ❖ Policy STR4: The settlement boundary
- ❖ Policy STR5: Meeting our housing needs
- ❖ Policy STR6: Sustainable economic growth
- ❖ Policy ENV1: Mitigating the impacts of development on International Nature Conservation site
- ❖ Policy ENV3: Design quality and local distinctiveness
- ❖ Policy ENV4: Landscape character and quality
- ❖ Policy HOU1: Housing type, size, tenure and choice
- ❖ Policy HOU2: Affordable housing
- ❖ Policy HOU3: Residential accommodation for older people
- ❖ Policy CCC1: Safe and healthy communities
- ❖ Policy CCC2: Safe and sustainable travel
- ❖ Policy IMPL1: Developer contributions
- ❖ Policy IMPL2: Development standards

Local Plan Part 2: Sites and Development Management Development Plan Document (2014)

Policies:

- ❖ Policy DM1: Heritage and Conservation;
- ❖ Policy DM2: Nature Conservation, biodiversity and geodiversity

Supplementary Planning Documents

- ❖ Mitigation for Recreational Impacts on the New Forest European Sites
- ❖ Lymington Local Distinctiveness
- ❖ Lymington Conservation Area Appraisal
- ❖ Parking Standards SPD

Others

- ❖ Ecology and Biodiversity Net Gain – Interim Advice and Information Note (July 2021)
- ❖ Interim Air Quality Monitoring statement.

National Planning Policy

National Planning Policy Framework

4.2 The following sections of the NPPF are considered to be relevant to this appeal:

- Section 2 - Achieving Sustainable Development
- Section 4 - Decision-making
- Section 5 - Delivering a sufficient supply of homes
- Section 6 - Building a strong, competitive economy
- Section 8 - Promoting healthy and safe communities
- Section 9 - Promoting Sustainable Transport
- Section 11 - Making Effective use of Land
- Section 12 - Achieving well-designed places
- Section 16 - Conserving and Enhancing the Historic Environment

National Planning Practice Guidance (NPPG) 2019

4.3 It is considered that the following sections are relevant to this appeal;

- Appropriate Assessment
- Design (including National Design Guide)
- Effective Use of Land
- Housing for Older and Disabled People
- Planning Obligations
- Viability

5.0 THIRD PARTY REPRESENTATIONS

- 5.1 The Council received 76 local representations including a signed petition during the determination of the planning application with all objecting to the scheme.

6.0 ISSUES TO BE ADDRESSED WITH THE APPEAL

- 6.1 It is considered that the main issues to be addressed for the appeal scheme at this Inquiry would be as follows:-

- (i) Whether the proposed development delivers sustainable development and sustains a mixed and balanced community;
- (ii) Whether the proposed scale and massing is in keeping with the character of the area and does not detrimentally affect the setting of the Lymington Conservation Area;
- (iii) Whether the proposals are acceptable in terms of the impact on protected trees;
- (iv) Whether the proposals make adequate provision for on-site parking to serve the parking needs of the development without compromising the amenity of the area and adequate turning for emergency vehicles;
- (v) Whether the proposals make sufficient outdoor space to meet the reasonable amenity needs of proposed residents;

- 6.2 The Council has given indication that it will not present evidence to defend that part of reason for refusal 1, relating to the failure of the scheme to deliver a mixed and balanced community. It is acknowledged by the Appellant that it will support its case with evidence to demonstrate the scheme meets this policy requirement in order to respond to the objections raised by third parties, including Lymington Town Council and Lymington Society.

7.0 CONDITIONS

- 7.1 Should the Inspector be minded to allow this Appeal it would be appropriate to consider necessary conditions. A list of suggested conditions is attached at Appendix 1. At Appendix 2 will be the Appellant's agreement to the imposition of pre-commencement conditions

8.0 AGREED ISSUES

8.1 The issues set out below are those agreed by the Appellant and Council.

Principle of Development

8.2 There is no objection to the redevelopment of this currently vacant previously developed sustainable brownfield site for residential development.

8.3 There is no objection to the site being redeveloped for a flatted form of accommodation.

8.4 It is agreed that the Council are unable to demonstrate a deliverable 5 year supply of housing land, CD36 sets the Council's most up-to-date position, which is 3.07 years, a shortfall of 809 dwellings.

8.5 It is agreed that the Council achieved 141% in the 2021 Housing Delivery Test.

8.6 It is agreed that the proposed development complies with strategic policies STR3 and STR4 of the Local Plan Part 1.

Specialist Older Persons Accommodation

8.7 National Planning Policy Guidance (June 2019) identifies that the need to provide housing for older people is 'critical', and that 'Plan-making authorities should set out clear policies to address the housing needs of groups with particular needs such as older and disabled people. These policies can set out how the plan-making authority will consider proposals for the different types of housing that these groups are likely to require.

8.8 It is agreed that the Local Plan states that over the plan period up to 2036 there will be a 12,800 person increase in the population aged over 75, and that Paragraph 6.24 of the Local Plan Part One identifies a significant need to provide for new specialist accommodation for older persons.

8.9 It is agreed that the Report for New Forest District Council 'Demographic Projections' JGC Consulting, July 2017, and the NFDC Local Plan Review Topic Paper SD16 Housing Mix (October 2018) shows that over the plan period to 2036 the older population aged 55 and over is expected to increase by 28%, and there is a projected need for specialist housing for older persons in the south of the District of 952 units,

of which 318 match the form of development subject to this appeal and 610 would be C3 use class, with a projected need of 3,146 across the plan area.

8.10 It is agreed that the recent appeal decision relating to the erection of 44 sheltered apartments for the elderly at Stanford Hill, Lymington forms a material consideration in the determination of this appeal.

8.11 It is agreed that the proposed scheme complies with Policy HOU3 of the Local Plan Part 1.

Heritage

8.12 The site is outside, but abuts the north boundary of the Lymington Conservation Area.

8.13 There are listed buildings at 5-57 and 81-83 (odd No's) Southampton Road.

8.14 The existing building is a non-designated Heritage Asset.

8.15 The Conservation Area appraisal identifies non-designated heritage assets at 59-75 and 85-87 (odd No's) Southampton Road.

Affordable Housing

8.16 There is no dispute that the Council have a need for affordable housing provision.

8.17 The parties agree that the seventh reason for refusal would be overcome with the provision of a financial off-site contribution of £959,546.00 towards the provision of affordable housing.

Neighbour Amenity

8.18 It is agreed that subject to suggested condition (7) the proposed development would not give rise to any unacceptable harm to the amenities of existing neighbouring residential properties through consideration of overlooking, overbearing or loss of light or privacy.

Transport and Parking

8.19 It is agreed that the Highway Authority raised no highways objection to the proposed scheme.

8.20 It is agreed that Paragraph 111 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Trees

8.21 The site contains two groups of trees covered by a Group Preservation Order, ref:TPO/0006/15 on the eastern and northern boundaries.

8.22 The categorisation of the trees on the site, as listed by Appendix 2 of the Barrell Tree Consultancy Arboricultural Assessment & Method Statement report, submitted in support of the application is agreed.

8.23 The Council's tree officer accepts that, subject to condition (4), the construction of the building would not harm the protected trees.

New Forest and Solent Habitats

8.24 It is agreed that the sixth reason for refusal cites the wrong habitat conflicts. As presented at 2.13 -2.17 above, the development gives rise to impacts on sensitive protected habitats in both the New Forest and Solent. Such impacts can be mitigated by way of financial contributions through the completion of a S106 legal agreement.

8.25 It is agreed that the scheme is in close proximity to the following protected habitats.

- the New Forest Special Area of Conservation (SAC);
- the New Forest Special Protection Area (SPA)
- the Solent and Isle of Wight Lagoons SAC;
- the Solent Maritime SAC;
- The Solent and Southampton Water SPA and RAMSAR.

8.26 The Council can confirm that it received a letter from Natural England on 16th March 2022, in relation to the requirement that development is nutrient neutral, due to the negative effect additional nutrient loading is having on the above features of nature conservation interest.

8.27 However as indicated by adopted policy ENV3 and condition 16 of the proposed schedule of conditions, in respect of New Forest District Council that letter issued an update to the existing adopted position that harm was occurring, and did not introduce a new matter not previously before the Council.

9.0 SIGNATORIES

Signed..... 

Mr. Matthew Shellum on behalf of Churchill Retirement Living Ltd.

Date.....05/04/22.....

Signed.....JRG.....

Mr. James Gilfillan on behalf of New Forest District Council.

Date...05/04/22.....