



# The Lymington Society

Don Mackenzie – Chair  
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**Lymington Society's representations to the Public Inquiry on 26 April 2022 relating to an appeal against refusal of application 21/10938 - Demolition of Existing Building and redevelopment of the site to form 32 no. Retirement Apartments including communal facilities, access, car parking and landscaping at the former Police Station, Southampton Road, Lymington - APP/B/1740/W/21/3289313**

Ma'am,

1. My name is Don Mackenzie I am here to present the views of The Lymington Society, of which I am the Chair. The Society is a long-established amenity society in the town whose aims are: -
  - To protect the character of the historic town
  - To ensure new development is in keeping
  - To encourage the maintenance and improvement of civic amenities
  - To provide a forum where residents can express views on such subjects publicly
2. The Society's representation has been prepared with professional help from Planning Consultant Mr. Bob Hull. Mr. Hull has been a Chartered Town Planner for forty years and until 2001 was Area Planning Officer covering this part of the New Forest District. He has since then carried out planning consultancy work across the south of England, concentrated on Hampshire and The New Forest. Mr Hull is sitting with me here today in case any clarifications of our representations are required.
3. The Lymington Society would like to strongly object to this application to demolish this former police station and to build a development of 32 sheltered flats.
4. At this point I should like to refer you to comments made in our statement sent to you on 12th April regarding the consideration of the application at the two committee meetings.
5. Contrary to what has been stated in the Statement of Common Ground at paragraphs 2.8 - 2.11, at the October meeting the committee did not resolve to grant permission solely on the basis that there was to be further consideration of the affordable housing contribution. The Lymington Society sought clarification of this point following the meeting and the response from the LPA's Chief Executive confirms this as follows: -: -

*"I can confirm, following my discussions with the Council's Chief Planning Officer, Claire Upton-Brown and the Executive Head of Governance and Regulation, Grainne O'Rourke, that the planning application will be going back to the Council's Planning Committee and will be dealt with afresh in its entirety. It is not the case that the application will be*

*returning solely to consider the affordable housing contribution. The Committee will be able to debate the application afresh and make its determination accordingly. "*

6. At no point did the committee resolve to grant permission for this development.

I now turn to the reasons for refusal and particularly to Reason for Refusal (1) which to the great concern and dismay of The Lymington Society, the LPA has decided not to offer evidence to this inquiry. You will have already received a statement regarding this reason, but I will summarise the position of The Lymington Society which I believe is shared by Lymington & Pennington Town Council (LPTC).

7. Reason For Refusal (1) relates to its **Policy HOU 1** in respect of providing a mix and choice of homes by tenure, type, size, and cost. The decision of the Planning Committee at its meeting last December was clear and unanimous, and we believe it to be both reasonable and supported in terms of the planning policy context,

8. In seeking to ensure that future developments in the town will contribute to a 'mixed and balanced community', the policy makes reference to 'a mix and choice of homes by type, size, tenure and costs.' **Local Plan Strategic Objective SO5** also makes reference to " ...a range and choice of good quality new homes by type, size, tenure and location." It goes on to refer in particular to "..... homes more affordable for younger households" as well as ".. a wider spectrum of homes and other measures enabling older residents to continue to live well..."

9. In respect of the housing policies of the local plan the appeal proposal is contrary to **Policy STR1 Achieving Sustainable Development: -**

*"All new development will be expected to make a positive social, economic, and environmental contribution to community and business life in the Plan Area by:*

*"Ensuring that the housing needs of local communities are addressed by locating new residential development in sustainable and accessible locations, and ensuring that new development provides a mix of types of home by size, tenure and cost to help to address the full spectrum of local housing needs at all stages of life; "*

We note that this was referred to as Item 1 of 'Main Issues' by you Ma'am in the case conference last month.

10. Clearly, and foremost in the minds of the Planning Committee, this development does not provide any choice in terms of type - specialist retirement homes for the over 65's, size - limited to one- and two-bedroom flats, and tenure - owner occupation. It patently does not comply with **Policy HOU1** in that respect.

11. The site is one which could be developed in a number of different ways which would provide homes which meet the objectives of **SO5** and **HOU1**. There is nothing inherently special about the location, topography or other features of the site which determine that owner occupied retirement homes are the only option.

12. There is a lack of information on additions to the supply of elderly persons accommodation in the southern coastal area since 2016. It is difficult to form a view on what the current shortfall, if any, is for this wider area. Two schemes have been permitted in Lymington: Knights Lodge, North Close (55 bed spaces) and Stanford Hill (73 bed spaces) a total of 128 bed spaces. It is the concern of the Society and that of many of its residents, that Lymington has already contributed a disproportionate amount to any need that may exist, and the appeal development would substantially add to that excess and that this would be materially harmful to the stated local plan objective to secure a mixed and balanced community.
13. This growth in the number of retirement developments is impacting on the objective of the local plan policies to achieve mixed and balanced communities. The opportunities to redevelop land within the town, which is constrained by its coastal location and the boundary of the National Park, is being hampered by the ability of retirement schemes to outbid other forms of housing. We are aware that there was a range of interests when the site was marketed and not just for elderly persons housing. Retirement home developers such as the appellants are able to outbid alternative housing providers because they can build to excessive densities, fail to provide on-site affordable housing because of their business model and high service charges to residents, results in a housing market which is fundamentally skewed and unbalanced. It is for this reason that the application generated such a high degree of public opposition from the Town Council and a petition attracting over 1,000 signatures.
14. Whilst an affordable housing contribution has been offered on the current appeal in lieu of on-site provision this will never address the identified need if every available site is developed out with no on-site provision as is the case with retirement home developments.
15. The sentiments of Lymington residents expressing opposition to more retirement properties is not opposition to housing development per se, rather it is a strongly held view that the town is suffering from an over provision of a single type of housing. Evidence has been submitted by LPTC on the high vacancy levels within the existing retirement housing stock. The community views are quite justified as we believe there to be around 80 currently on the market including the 44 on the Stanford Hill site under construction. I have now read Mr Shellum's 'rebuttal statement' in which he paints a picture of continuing pressing need for accommodation of this sort by reference to government reports, guidance, and nationwide averages. This appeal however is focussed on Lymington a town already well provided with accommodation for over 65's and with more in the pipeline at Stanford Hill. That Inspector may well have thought that the town would benefit from another retirement development of 44 homes, but that conclusion does not mean that another 32 are needed on this site.

I now turn to Reason For Refusal (2)

16. This scheme proposes the demolition of this attractive mid-century building described by the conservation officer as having considerable architectural merit and one which should be considered a non-designated heritage asset. In other words, an attractive building which

deserves to be kept and which would be on a local list of heritage assets if the NFDC had such a list as other areas do.

17. The proposed building put forward by the appellant is wholly unsuitable, unattractive and of unacceptable massing and scale for this site adjacent to the Conservation Area.
18. It represents development of four floors of accommodation in a single monolithic structure institutional in appearance which is entirely out of character with any of the surrounding development and is clearly harmful to the Conservation Area.
19. The Lymington Society commends the detailed criticism and analysis of the scheme by Jonathan Smith on behalf of the LPA. Whilst reference is made in his evidence to the Conservation Area Appraisal, The Lymington Society is of the view that the Lymington Local Distinctiveness SPD 2011 (CD32) is also important. The site is on the edge of 'Area 1 - Town centre' but a telling comment in the document at page 40 suggests that it remained to be seen whether the controversial development on the northeast corner of Southampton Road and Avenue Road (now Farringford Court) would *"succeed in marrying urban intensity with the more suburban rhythms and mass that had for nearly a century provided a contrast between the Southampton Road terraces and their approaches"*. That development has certainly gone a long way to doing so, which The Lymington Society contends will not be the case with the appeal scheme.
20. The sheer scale of the building and its position so close to the Southampton Road and Queen Elizabeth Avenue frontages will have an adverse impact on the setting of the area particularly views into it from a northerly approach.
21. This would be most evident in the view of the north elevation of the building, although by far the worst elevation is the west one viewed along Queen Elizabeth Avenue. This has three storeys of brickwork, and the designer has attempted to alleviate the mass by introducing 'blind' openings above ground level.
22. Any suggestion that the design of the building is informed by or acceptable having regard to the flats immediately to the south is misconceived. That building replaced one of similar scale and the design details reflect the older houses further south in Southampton Road. The same cannot be said of the appeal proposals.
23. It is also completely alien to the ten-year-old retirement flats development opposite the site. This was allowed on appeal (ref: 2079905) and in doing so, the Inspector comments that the buildings would be set back from the road, use of varying materials broke up the mass, and the grain reflected that of the immediate area such that parts of the building resemble individual houses of similar scale to buildings north and east of the site.
24. With regard to the Conservation Area in para. 16, the Inspector commented that *"the proposal would appear as a series of discrete buildings whose shape and form would complement the character and appearance of Southampton Road"*. None of these comments could be attributed to the appeal proposals.

25. The approach which should be taken with this site should be similar. Having regard to the immediate surroundings, proximity to the Conservation Area and scale of the current Police Station building, the design should embrace a lower articulated skyline and a pattern of architectural features - gables, doors and windows which have a domestic street rhythm and not a building with an institutional appearance.
26. It was a great concern to The Lymington Society that for this reason alone, the application was recommended for approval despite the objections raised by the LPA's Senior Design & Conservation Officer.
27. My conclusions therefore are that the proposals are of such a scale that they fail to comply with the relevant local plan policies and supplementary guidance in the Lymington Local Distinctiveness & Housing Design & Density SPD's. The harm to the setting of the Conservation Area is significant.
28. Setting aside the basic consideration of the scale of the building and noting my comments earlier on the 'blind openings,' other elements of detail are poor: -
  - modern non-traditional soldier cases over windows
  - concrete interlocking tiles
  - non-traditional windows with varying confused configurations and set flush with brick facade
  - pseudo-Georgian porticos which have no relevance, even that on the main entrance hidden on the west elevation
29. These elements contribute to the overall poor design of a building to be proposed on a site on the periphery of an historic town centre.
30. Reason For Refusal (3) concerns the trees on the site frontages. As the LPA's evidence shows, these were donated by The Lymington Society over forty years ago and now are an important amenity feature and part of the street scene. Their future growth let alone existence would be threatened by the close proximity of the flats. The outlook from all of the east facing flats so close to the tree canopies would be especially unpleasant for those residents and lead to pressure for significant tree works or felling in the future to give more light to the affected flats.
31. The trees are an important feature in this part of Southampton Road and development should not be permitted which would be likely to lead to their eventual loss or reduce their opportunity to grow to maturity.
32. I now turn to an issue which I can only regard as baffling - the completely minimal parking provision. The Lymington Society finds the LPA's evidence provided by Mr. Chimes a compelling indictment of Churchill's consideration of this issue. I understand that the issue of turning space has been addressed satisfactorily by the amended plans moving the sub-station which were submitted some weeks ago.
33. As to be expected, the appellants rely on evidence and experience of other developments, age structure and car ownership of those developments to justify the provision for this site.

34. However, such a statistical exercise is presented, it does not take into account the particular circumstances of this site viz:
- located on a A-class road adjacent to a light controlled crossroads
  - access from a side road where on-street parking already narrows the road to a single carriageway for some 100 metres
  - the absence of any public car parks close to the site for visitors
35. Whilst therefore the appellants will argue that the plans are based on evidence from other developments very little weight should be given to that, as other sites may be far less constrained than this one.
36. Whilst The Lymington Society considers 12 spaces to be woefully inadequate to serve the residents of 32 flats, in addition there is no provision whatsoever for any disabled spaces of the increased width and depth. Referring to plan 10109LY 'C', if the two end spaces closest to the entrance are made into disabled spaces, then spaces available for residents and visitors are reduced to 10. The disabled spaces cannot be allocated to residents.
37. From figures presented by Mr Chimes, we note that 81% of over 65's in this part of the New Forest have one car or more. Is it reasonable to assume that only one purchaser out of three would want to keep a car? Churchill confirm that spaces are available on a "first come, first served" basis. So, no allocation to residents? I have also reviewed the parking situation at the appellant's North Close development which it appears from advertising material is only 50% occupied. A random check at the Easter weekend showed cars occupying twelve of the twenty spaces, none of which are dedicated to either visitors or as disabled bays. This reinforces the argument that Lymington's car ownership levels justify greater parking space provision for retirement schemes in order that cars are not going to be displaced onto the surrounding highway network which may not have any capacity in any event.
38. Other retirement developments offer greater parking provision with that at Stanford Hill being some 75% spaces to flats, not less than 30% as with the appellant's scheme.
39. Farringford Court has some 50% provision including two disabled bays, and two dedicated visitor spaces.
40. The excessive footprint of the building does not only result in an unacceptable low level of parking but also an unacceptable low level of and inadequate quality of amenity space for residents which is the subject of Reason For Refusal (5).
41. It is reasonable to assume that the combined effect of the trees fronting Southampton Road (shading) and proximity of the main road would lead to few residents wishing to sit out along the narrow eastern strip in front of the building.
42. That leaves two areas - south of the building and a northern strip fronting Queen Elizabeth Avenue. The space to the south is hemmed in between the building and flats to the south, limiting its attractiveness in terms of sunlight. In area it would appear to be about 80 sq. m, which I consider to be inadequate for a building potentially containing 40 plus residents.

43. The strip along the Queen Elizabeth Avenue frontage would be equally unattractive lying on the north side of the building.
44. Although 'overdevelopment' does not feature in the reasons for refusal the amenity space available (and the minimal parking) lead me to conclude that this proposal is indeed just that with the approach the appellants having taken to work out how to get a building with 30+ flats onto the site and see how best to use any resultant space around it. Further evidence of this approach is that the turning space for vehicles in the site was not properly considered when the application was submitted leading to revised plans having been prepared as part of this appeal.
45. Finally, I turn to the matter of a 5-year housing land study and NPPF para. 11(d) - the 'tilted balance', the appellants will argue that this should apply given the agreed position that a 5-year supply is not currently available.
46. The Lymington Society considers that you should not engage para.11(d). In its newly adopted local plan the LPA has allocated sites for some 10,000 houses across the district including several hundred in Lymington. The current five-year supply is artificially low given the slow progress in some of these sites coming forward in the two years since adoption of the plan for a variety of reasons including the Covid-19 pandemic. It is unreasonable and contrary to local plan policy for one community to accommodate more and more sheltered housing development for which there appears to be evidence of limited local demand simply because of a temporary shortfall in five-year housing land supply. According to latest government figures the LPA has achieved a 141% delivery of new homes over the last five years despite recent difficulties with regard to Natural England's embargoes arising from nitrates discharges as just one example.
47. However, if this argument is not accepted, then The Lymington Society's position is that the harm arising from the development, for all the reasons I have set out which are in conflict with the local plan policies, should outweigh the 'tilted balance'.
48. In a Court of Appeal case brought by Gladman Developments Ltd (Gladman v S of S for Housing Communities & LG 2021 EWCA Civ 104) the idea that local plan policies can be disregarded and para. 11(d) takes precedence over everything, was firmly rejected. Sir Keith Lindblom (Senior President) said that the 'tilted balance' and requirements of Section 38(c) of the Act must be performed separately.
49. However, paragraph 11(d)(i) of the NPPF states that the presumption in favour of sustainable development should be engaged unless the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole. Importantly, footnote 7 includes policies relating to the protection of designated heritage assets (DHAs), a significant if not defining factor in this appeal.
50. Given this conflict the presumption in favour of sustainable development does not apply. The position of LTS is that para.11(d)(i) comes into play which provides an exception

*“where policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the developments ...”* including “designated heritage assets” being the setting of the Conservation Area.

51. I conclude therefore by saying that this appeal should be dismissed as it proposes a poorly designed, over large building out of scale for the site. The overall size, position, and impact of the structure would have a substantial effect on the setting of the Conservation Area in this part of Lymington where the site in its current low-density state makes a very positive contribution to its setting and thus its significance. Such an outcome fails to meet the expectations of NPPF paragraphs 199 and 200 which anticipate great weight being given to the conservation of DHAs and their settings.
52. There is wholly inadequate parking and open space for residents, and the scheme presents a threat to established trees on the site. The tilted balance should not be engaged as the proposals will cause significant harm to the Conservation Area.

**Don Mackenzie**

**Chair - The Lymington Society 26.04.2002**