



Appeal Decision

Inquiry Held on 9 to 12 November 2021

Site visits made on 8 and 12 November 2021

by S Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 2 December 2021

Appeal Ref: APP/L2630/W/21/3279754

Land to the rear of Thatchers Needle, Park Road, Diss

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Churchill Retirement Living against South Norfolk District Council.
 - The application Ref 2021/0307 is dated 5 February 2021.
 - The development proposed is redevelopment of the site to form 58 no. retirement apartments and 15 no. retirement cottages including communal facilities, access, car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of the site to form 58 no. retirement apartments and 15 no. retirement cottages including communal facilities, access, car parking and landscaping at land to the rear of Thatchers Needle, Park Road, Diss, in accordance with the terms of the application, Ref 2021/0307, dated 5 February 2021, subject to the conditions in the attached schedule.

Procedural Matters

2. The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission. Whilst the Council did not issue a decision notice, it confirmed in its Statement of Case that it would have refused permission for the proposed development for four putative reasons. These were in relation to: i) overdevelopment of the site and its effects on character and appearance and living conditions; ii) insufficient information in relation to a lack of provision of affordable housing; iii) insufficient information in relation to flood risk and drainage; and iv) lack of open space provision.
3. I received three agreed statements of common ground (SoCG). Two are issue-specific; one in relation to flood risk and drainage matters, and the other to viability. The general SoCG deals with all other matters. Rebuttals on viability matters were submitted prior to the inquiry and I accepted them given that the submissions focused the areas of dispute.
4. The submission of the flood risk and drainage SoCG together with an updated Flood Risk Assessment resulted in such matters being agreed prior to the inquiry, and the third putative reason for refusal being withdrawn by the

Council. Consequently no further evidence was given at the inquiry on this matter.

5. A completed and signed Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted by the appellant on the final day of the inquiry. A statement of compliance with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations) was prepared by the Council. I have had regard to the provisions of the obligations in the consideration of this appeal as set out in my reasoning on the main issues below.
6. With the agreement of the main parties and the aid of an agreed viewpoint plan, I undertook unaccompanied site visits both prior to and following the close of the inquiry.

Main Issues

7. In the light of the putative reasons for refusal and the agreed matters set out in the SoCGs, the main issues are:
 - i) The effects of the proposals on the character and appearance of the site and surrounding area with particular reference to density, massing and layout;
 - ii) The effects of the proposals on the living conditions of future occupiers with particular reference to outlook, overbearing impact and shading;
 - iii) Whether the proposals make adequate provision for affordable housing requirements arising from the development, including viability of the scheme and whether the contributions as required by the Council meet the tests; and
 - iv) Whether the proposals make adequate provision for open space requirements arising from the development, and whether the contributions as required by the Council meet the tests.

Reasons

8. The proposals for retirement apartments and cottages would be supported by communal facilities including a resident's lounge, guest suite and gardens. Whilst there would be no on-site care provision, an on-call lodge manager would have an office within the apartment building, to provide assistance and security for occupants, as well as being responsible for day-to-day maintenance.
9. The appellant's evidence indicates that the dwellings would be sold with a lease containing an age restriction to ensure that only people aged over 60 years and over (and their spouse/partner of at least 55) could live in the development, and a condition is suggested to this effect.
10. Policy DIS 6 of the South Norfolk Local Plan Site Specific Allocations and Policies Document 2015 (SSAPD) allocates the appeal site for retail, leisure and offices. It requires any residential use to be limited to 25% of the site area. The proposed development is for the whole site to be in C3 residential use. Having regard to the previous planning and appeal history of the site it is evident that there have been difficulties in bringing forward the site in accordance with the requirements of Policy DIS 6. The general SoCG confirms

that the conflict with and limited weight to be given to Policy DIS 6 are agreed matters.

11. The emerging Diss and District Neighbourhood Plan (DDNP)¹ includes a proposed allocation for a hotel on the appeal site. However, given the stage of the DDNP and the submitted objection to the relevant policy on the basis of its soundness², I can only afford it very limited weight.
12. The main parties are also in agreement that the site comprises previously developed land and that the Council can demonstrate a deliverable five year housing land supply. The Council do not object to the principle of developing the site wholly for retirement housing. I have no reason to disagree and do not consider the principle of development any further.

Character and Appearance

13. The appeal site comprises a broadly L-shaped piece of vacant former industrial land located to the rear of the 'Thatcher's Needle' public house on Park Road in Diss. The site is surrounded by non-residential uses including Morrison's supermarket, commercial/industrial buildings at 'Feather Mills', a bus station and fire station. To the south of the site are a range of buildings and infrastructure associated with the Eastern Power Networks electrical substation. Beyond the substation lies the River Waveney valley.
14. On the opposite side of Park Road is Park Field, and the boundary to the town's Conservation Area. Park Field includes a range of play and recreation equipment and a public car park, and footpath links leading to Denmark Street and to Mere Street. This area of open space and the Mere provide an attractive setting to the town centre which lies beyond. On my site visit I took the opportunity to view the appeal site from the elevated viewing platform to the rear of the Town Council offices. I noted the presence of the heavily vegetated areas around the River Waveney, beyond the substation. The substation represents a significant detractor in the majority of views of the appeal site.
15. The appellant's views on area character differ somewhat to that of the Council, with the Council placing more weight on the wider area of Diss in particular the context of the historic core of the town. Following my visit to the appeal site and the surrounding area my view on this matter is the site's setting is more akin to the mixed commercial character which dominates the south side of Park Road.
16. Neighbouring uses include a number of large buildings, hardstandings (car parks and bus station), and telecommunications and electricity infrastructure. This is in contrast to the north side of Park Road, where towards the town centre the area takes on a character more typical of that described in the Conservation Area Character Appraisal³ and section 2.6 of the Council's supplementary planning document on design, the South Norfolk Place Making Guide (SNPMG). I concur with the appellant that there is a lack of established and coherent character to the south side of Park Road. Furthermore, the

¹ CD-DNP1: Diss and District Neighbourhood Plan 2021-2038 Regulation 14 Pre-Submission Final Version (June 2021)

² CD-DNP2: Planning Issues on behalf of Churchill Retirement Living representation on the Diss and District Neighbourhood Plan (18 August 2021)

³ Diss Conservation Area Character Appraisal and Management Plan (September 2012)

Council were unable to identify any receptors outside of the appeal site which would be adversely affected by the visual impacts of the development.

17. The Council do not raise any concerns in respect of the external appearance of the appeal scheme and its detailed design, including the heights of the buildings. Rather, the effect in terms of character and appearance are in relation to the layout of the buildings within the site and their proximity to one another, in terms of density and massing ('overdevelopment'). The Council were unable to cite any significant harm arising to the character and appearance of the wider area of Diss. The appellant explained how their scheme had attempted to overcome the issues relating to setting of the Conservation Area which were set out in my colleague's previous appeal decision⁴. Effects on the significance of heritage assets do not form part of the Council's case, but I agree that such effects would be neutral and do not consider this matter any further.
18. The Council's concerns principally relate to the cottage blocks. Blocks D and E would be situated to the corners of the site, in close proximity to the substation and fronting onto car parking areas for both the cottages and the apartments. The Council drew my attention to section 3.7.2 of the SNPMG which refers to the relationship between parking areas and dwellings.
19. I disagree that the car parking would dominate the site or that its siting and linear shape would result in harm to area character. It would be principally situated to the rear of the site, and be screened by the apartment block so that it would not result in harm to the street scene. Furthermore, in this location it would not cumulatively add to the mass of existing hardstanding around the Thatcher's Needle. The appellant highlighted that there would be a landscaped buffer of just less than 3 metres between the car park and the site boundary where it adjoins the substation. This would allow for sufficient space for tree planting to assist in screening and softening the visual impact of the development.
20. Moreover, the rows of car parking spaces in front of the cottages would be interspersed with areas of planting, and the cottages themselves would have small front gardens. Consequently, I am satisfied that the car parking areas would not dominate the development.
21. Blocks D, E and F would have the effect of enclosing the rear of the site which would otherwise be dominated by the substation. Whilst on plan they may appear somewhat 'squeezed in' as suggested by the Council, I am assured by the verified views⁵ which demonstrate that, with landscaping having matured over five years, the site would offer a sense of place which is currently lacking within the site and its immediate surroundings.
22. Overall, whilst the appeal proposals would not achieve the sense of spaciousness and amount of soft landscaping with the Council desires, I consider the density, massing and layout of the proposals to be acceptable and that no significant harm to character and appearance of the site nor the surrounding area would arise. Glimpses of the green backdrop of the Waveney valley would be maintained between and over the buildings. I am satisfied that the recommended conditions could ensure that an agreed landscaping scheme

⁴ APP/L2630/W/16/3150673

⁵ Appendix 7, Gideon Lemburg Proof of Evidence

is appropriately implemented as well as protecting existing trees around the boundary. I am also assured by the arrangements for a site manager to be responsible for ensuring the maintenance of the landscaped areas to a high standard.

23. The proposed development would be in accordance with Policy 2 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS) and Policy DM 3.8 of the South Norfolk Local Plan Development Management Policies Document (DMPD) which require a high standard of design which creates a sense of place and respects local distinctiveness. Specifically, I find no significant conflict with criterion 4(a) of Policy DM 3.8 which supports development where there is a satisfactory relationship of structures, spaces and routes within the site and a successful integration into the surroundings.
24. I also find that the proposed development is largely consistent with the SNPMG in terms of its effects on character and appearance, and I am satisfied that appropriate regard has been made to the guidance set out in the National Design Guide. Consequently, I find no conflict with paragraphs 130 and 134 of the National Planning Policy Framework (the Framework) in relation to achieving well-designed places, taking account of local and national design guidance.
25. The Council also cite conflict with DMPD Policy DM 4.8 however I find this to be of limited relevance given it relates to retention and conservation of significant trees. The proposed layout and suggested conditions allow for retention of the majority of existing trees including those protected by Tree Preservation Order (TPO)⁶.

Living Conditions

26. There are no existing residential properties in close proximity to the appeal site. The Council's concerns about living conditions relate to outlook, overbearing effects, shading by trees and availability of light to future occupiers of the dwellings.
27. Section 3.8.2 of the SNPMG refers to the importance of outlook to the wellbeing of residents, and specifies that new housing should be designed to provide a reasonable outlook for each dwelling. I have already found the layout of the proposed development, including the location and design of the car parks, to be acceptable in terms of character and appearance. It follows that I also find the effects on the outlook of future residents over the car parking areas to be acceptable, and this is largely due to the availability of space for landscaping between the buildings and the parking spaces.
28. The presence of the substation is unavoidable, and the occupants of a number of the proposed dwellings would have some degree of views towards the infrastructure. Cottage blocks D and E would be nearest, but would have largely oblique views over the substation site. I found on my site visit that the largest and most dominant electricity apparatus is not immediately adjacent to the site boundary. Separation distances would be such that the equipment would not be overbearing to an unacceptable degree. Over time, the proposed landscaping scheme would assist in softening effects on outlook. Therefore, whilst the view of the substation would not be an attractive one, I do not find

⁶ Additional Document 8 – Tree Preservation Order 1992 No.2 (SN120)

that its presence would result in a poor level of amenity for new occupiers in conflict with Policy DM 3.13. Overall I consider that the outlook would be a reasonable one, in accordance with the SNPMG.

29. The future occupants of block D, flanked by blocks A to C to one side and trees along the substation boundary to the other, would experience a level of enclosure and shading. Notwithstanding this, their gardens would face west and the occupants would receive a good level of afternoon/evening sunlight. The retained trees would provide some shading, but not to an unacceptable degree. On the other hand, the trees would provide a level of screening to the substation as well as environmental benefits. As a result of its orientation, block C would not result in any significant overshadowing to the gardens of block D, which would be around 10 to 11 metres long⁷, offering ample sitting out space with areas of both sun and shade. Whilst the trees are not situated within the appeal site, I am satisfied that the overhang could be controlled with appropriate landscape management.
30. The apartment block would undoubtedly dominate the site, being part three storey and occupying a much greater footprint than the cottages. Nonetheless, its eaves would be the same height as that of the cottages, with the second floor lit by dormer windows within the roofspace. It would be surrounded by landscaped open spaces to all sides, with the largest garden area to the east where cottage block F is located.
31. The apartment block would be situated just over 15 metres from block F and around 18.6m⁸ from block E with intervening open space. I was directed towards two nearby housing developments at Parkside Court (accommodation for the elderly) and Water Gardens, and I took the opportunity to view them on my site visit. Whilst they provide a useful reference point in terms of the separation distances involved, to my mind they are of a different character to the development proposed, and the garden spaces and parking arrangements vary. Whilst the Council accepted that the distances were similar, they maintained that those proposed on the appeal site would be insufficient. However they were unable to direct me towards any policies or guidance which refer to acceptable separation distances.
32. The properties affected on the appeal site would be part of the same retirement complex, and be able to share communal facilities, therefore the perception of such effects would be reduced in this case. Furthermore, the proximity of buildings to each other would provide a sense of security and community to occupiers. As such, I consider that any overbearing and overshadowing effects on the cottages would be satisfactory.
33. The protected trees⁹ would result in a degree of enclosure and shading to the site given their size and proximity to the north east boundary. Apartments 7, 30 and 53, located to the north east corner of the apartment block, would be situated nearest to the trees. Nonetheless, being located on the corner, the floor plans indicate that these particular apartments would be triple-aspect and would enjoy alternative views and levels of light. Other east-facing apartments would be located further away from the trees and thereby less affected. The Council also suggested that the cottages in Block F would also be affected by

⁷ Appendix 6, Gideon Lemberg Proof of Evidence

⁸ As above

⁹ Additional Document 8 – Tree Preservation Order 1992 No.2 (SN120)

the trees, however given the orientation of the trees to the north, the availability of alternative aspects, and the intervening open spaces I find the effects on living conditions of the future occupiers would be acceptable.

34. I agree with the appellant that the trees should be viewed as a benefit rather than causing harm, in terms of their visual and biodiversity benefits as well as providing welcome shade for elderly residents in the summer months. I am satisfied that any pressure for future pruning and felling would be properly managed due to the protected status of the trees together with appropriate landscape maintenance.
35. Section 3.8.2 of the SNPMG refers to the importance of lighting to wellbeing. It specifies that new housing should be dual aspect where possible, avoiding north facing, single aspect flats. A proportion of north facing and single aspect apartments are proposed within the development (nine out of a total of 58).
36. The daylight and sunlight report¹⁰ indicates that whilst not every dwelling could achieve ideal levels of sunlight, all of the rooms meet or surpass the BRE daylight recommendations. The appellant explained the constraints of the site and the internal layout required for this type of development. The necessity for shared corridors leading to the communal spaces without the need to exit the building makes it difficult to avoid some of the apartments being north facing and single aspect.
37. The occupants of the north facing apartments would enjoy a generally open outlook and would be able to make use of alternative spaces, including a dual-aspect communal lounge and shared garden areas. I was directed to a letter¹¹ which refers to some of the appellant's other developments which have successfully incorporated a number of north facing and single aspect apartments. I heard how occupants are offered a variety and choice of apartments and that the appellants have no difficulty in selling such units on other developments. The details of them are not before me, however the evidence provides a useful illustration of the various constraints and reasons why future residents might purchase such apartments. Overall, whilst the sunlight levels to a number of apartments would not be ideal, I am satisfied that the evidence has demonstrated that the inclusion of north facing and single aspect apartments in the proposed development to be acceptable.
38. I conclude on this main issue that the effects of the proposals on the living conditions of future occupiers would be acceptable, and would not be 'poor', which is the test set out in part 1) of DMPD Policy DM 3.13. The proposal is also generally reflective of the guidance set out in the SNPMG at 3.8.2 in terms of lighting and outlook. In turn, the proposed development would be in compliance with paragraph 130 f) of the Framework, and parts H1 and H2 of the National Design Guide.

Viability: Affordable Housing

39. JCS Policy 4 requires housing developments of 16 dwellings or more/ 0.6 hectares to include 33% affordable housing. It specifies that the proportion sought may be reduced where it can be demonstrated that site characteristics would render the site unviable in prevailing market conditions. Supporting text paragraph 5.29 recognises that viability depends upon a wide range of site

¹⁰ Appendix 9, Gideon Lemberg Proof of Evidence

¹¹ Appendix 6, Matthew Shellum Proof of Evidence

specific circumstances. It is an agreed matter that any affordable housing contributions would be provided by an off-site contribution as opposed to on site provision. This is in view of the type of development proposed and management/maintenance fees involved, and I have no reason to disagree with this.

40. The appellant previously provided viability evidence which sought to demonstrate that there would be zero surplus available for any contributions, including for affordable housing. Following a review of the Council's viability evidence and production of the topic-specific SoCG, the appellant amended their viability appraisal¹². This included an adjustment to the sales rates to take account of the inclusion of cottages in the development¹³. Being individual dwellings, they are likely to sell more quickly than the apartments, given that they are not reliant on the completion of the larger building. In turn this has the effect of reducing the empty property costs and overall finance costs.
41. Consequently, the appellant sought to demonstrate a surplus of £161,763 to be put to planning obligations. The submitted UU splits this into £83,164.16 for an off-site affordable housing contribution and a £78,598.84 open space contribution. The UU includes a 'blue pencil' clause which enables the total sum of £161,763 to be put to either affordable housing or open space should I find that any individual obligation does not comply with regulation 122 of the CIL Regulations 2010. I consider this in the following section in relation to open space contributions.
42. At the inquiry, the Council continued to dispute a number of assumptions in the appellant's viability appraisal; gross development value (GDV), build costs, and sales and marketing costs.
43. The appellant's calculation of GDV follows the Retirement Housing Group (RHG) methodology¹⁴ which refers to a percentage of the price of an existing 3 bed semi-detached house in medium and low value areas. Despite the lack of guidance as to the classification of the value of an area, based on the evidence before me I would agree with the appellant that Diss can be excluded as a high value area where the RHG methodology recommends a further premium.
44. The RHG methodology seeks to assist with viability appraisals of sheltered and extra care housing where no locally specific information is available¹⁵. Both parties were unable to point me to any other similar developments within Diss which could provide such locally specific information. The Council's inclusion of an uplift on the appellant's GDV is based on Ms Powell's assessment of the current local market and premiums for retirement accommodation. However Ms Powell was only able to point to anecdotal evidence in suggesting such an uplift.
45. Ms Powell's rebuttal referred to advertised prices for older person's accommodation in the town of Beccles¹⁶ in an attempt to demonstrate locally specific information. Whilst I accept that Beccles is within a reasonable distance of Diss, it became clear in examination of Mr Mackay's evidence that the type

¹² Appendix 5, R James Mackay Rebuttal – Summary appraisal updated position

¹³ Paragraph 4.4, R James Mackay Rebuttal

¹⁴ Appendix 1, R James Mackay Rebuttal – RHG Briefing Note on Viability, Three Dragons May 2013 (Amended February 2016)

¹⁵ As above, section 7

¹⁶ Page 7, Tracey Powell Rebuttal

of development is different to the proposals before me. In particular, Foundry Place is advertised as 'Retirement Living Plus' which, when considering the facilities offered, falls under the PPG¹⁷ definition of an extra care development. The Council were in agreement that such accommodation would attract a higher premium than sheltered housing, as indicated in the RHG methodology. This is regardless of the 'care package' selected by the occupants. The Elliott Garrood Gardens example differs as it appears to be a bungalow development only. Furthermore, there is insufficient evidence before me to suggest that Diss and Beccles share the same or even similar property values. As such the quoted developments are not directly comparable with the proposed development before me, and cannot be relied upon as being locally specific information on which to base GDV.

46. The RHG methodology is of some age, but it is based on percentage formulas which could apply to house prices during any time period. I am conscious that it is guidance to viability practitioners and I am not aware of reference to it in any planning policy. However, given the lack of any other guidance specific to older person's housing, I am inclined to apply the values specified by the appellant which are guided by the RHG methodology. In doing so, I note the approach has been referred to in the Aspinall Verdi viability study for Babergh and Mid Suffolk¹⁸, and the Study of Retirement Housing¹⁹ for the Norfolk Councils. I note that both are relatively recent documents, indicating that the RHG guidance remains applicable.
47. The main parties have also taken differing approaches to build costs in terms of use of Building Costs Information Service (BCIS) past rates over differing periods of time, which in turn comprise different sample sizes in informing the cost inputs. Whilst the appellant applies the 'default period' of 15 years for BCIS median rates, the Council have instead applied a five year period. Whilst there is nothing to preclude using either method, I note that the RICS guidance²⁰ advises that samples of fewer than 20 should be treated with caution, given that the higher the number in the sample, the more reliable the results are likely to be.
48. The appellants build costs stand at £8,427,872 whilst the Council suggest £8,056,064 is more accurate based on the more recent five year period, albeit with smaller samples. In particular, the sample for apartments is especially small with just 9 comparable developments. The Council were unable to supply any meaningful evidence as to why the five year sample should be preferred above the default period. Whilst I understand Mrs Powell's comments regarding the recent news articles on higher build costs recently due to events including 'Brexit' and the Covid-19 pandemic, these are not fully reflected in the BCIS figures in the evidence before me. As such I have accepted the appellant's approach based on the 15-year default period given the use of larger samples used in accordance with RICS guidance.
49. The third and final area of dispute between the parties relates to marketing costs with the Council favouring 4% of sales values as opposed to the appellant's 5%. The Council were unable to point to any data to support 4%

¹⁷ Planning Practice Guidance 'Housing for older and disabled people' - paragraph 010

¹⁸ CD-V5 – Aspinall Verdi Plan Viability and CIL Review Study (21 October 2020) Paragraph 3.4

¹⁹ Additional Document 12: Report for Norfolk Councils Study of Retirement Housing – Demand and Planning Issues (March 2021)

²⁰ Appendix 3, R James Mackay Rebuttal – BCIS tender price studies location study (May 2020)

apart from an assertion that it is cheaper to market developments than it used to be, due to the increasing use of the internet and social media.

50. I was told by the appellant that older person's housing typically costs more (and takes longer) to market than regular housing, largely due to it being limited to a smaller cross-section of the house-buying population. The evidence indicates that there is a tendency for buyers to be more cautious, with older people seeking to consult on the purchase with extended family. Furthermore, it was put to me that there is a preference for buyers to see the finished product rather than buying off-plan, resulting in longer sales periods.
51. I therefore find the appellant's 5% of sales values to be more realistic, if rather conservative. This is taking account of the actual recent sales of similar developments by the appellant²¹ which indicate an average 7.49% sales and marketing costs. I also note the 6% typical costs set out in the RHG note.
52. Overall, the appellant's appraisals provide robust evidence that contributions for planning obligations including affordable housing cannot exceed £161,763. I therefore find that the proposal makes adequate provision for affordable housing and that it accords with JCS Policy 4. There is no dispute that the Council have a need for affordable housing provision²². Its provision via an off-site contribution would go towards addressing this need. I am satisfied that the obligation is necessary to make the development acceptable, directly related to the development, and fairly and reasonably related to the development in scale and kind. The proposed development comprises C3 residential development and a failure to secure affordable housing via a planning obligation would fail to meet the affordable housing needs of the district as identified in the Strategic Housing Market Assessment (SHMA)²³. It thus accords with the relevant tests for planning obligations.
53. I consider whether the amount offered should be split between both affordable housing and open space in the next section, following my assessment of open space contributions.

Open Space

54. DMPD Policy 3.15 requires new housing developments to provide adequate outdoor play facilities and recreational open space commensurate with the level of development proposed, in order to meet the needs of occupants. The Council agree that the fourth putative reason for refusal is capable of being addressed by a financial contribution of £78,598.84 towards off-site open space, to be secured via a planning obligation²⁴.
55. The completed UU includes such a contribution. However, the appellant disputes whether the obligation meets the tests set out in 122(2) of the CIL Regulations and paragraph 57 of the Framework. The UU includes a 'blue pencil' clause such that should I agree with the appellant that all of the tests are not met, the open space obligation would not bite and the funds would instead be allocated to affordable housing contributions.

²¹ CD-PA17: Planning Issues response to NPS Affordable Housing and Viability Review (Sept 2021) Appendix 3

²² General Statement of Common Ground, page 11

²³ Additional Document 10 - Strategic Housing Market Assessment Central Norfolk Parts 1 and 2 (2016)

²⁴ General Statement of Common Ground, page 11

56. Disagreement also remains between the parties in relation to the level of contribution and how it is calculated. The Council's supplementary planning document 'Guidelines for Recreational Provision in New Residential Developments' (Open Space SPD) is referred to in Policy 3.15 and provides a tool for such calculations. It specifies that proposals will be assessed on the basis of their individual circumstances, and that children's play space is not applicable given the age restriction applied to the development. The Open Space SPD does not include any other specific guidance regarding retirement housing. Given the C3 classification of the development, provision of 'older children and adults recreation space' and 'informal recreation space' is not precluded.
57. The proposed development includes an amount of shared garden/amenity space around the site. The parties agree that such on-site space could be included as part of the 'informal recreation space' as required by the SPD. The appellant calculates the usable amenity space around the apartments to be 1826 square metres²⁵. In addition, the appellant considers that private gardens to the cottages and the apartment balconies should also be included in the calculations for on-site provision. Consequently, the Council's calculation is lower than the appellant's at approximately 1600 square metres, and excludes the smaller areas immediately outside apartments, private gardens to cottages and balconies.
58. The DMPD includes in its glossary a definition of 'recreational open space' which mirrors the definition of open space set out in Annex 2 of the Framework, and the Council pointed me to the reference to 'public value'. Whilst there is no formal definition of open space provided in the SPD nor is there specific reference to it being 'public' in the document, the DMPD is clearly cross-referenced.
59. The amenity space around the apartments has an element of public value and should be included in the calculations, because it would be used communally by all residents and their visitors, as well as providing a visual amenity. However I disagree with the appellant that the gardens of cottages and balconies and the small areas of land immediately outside apartments should be included. They form private space meant for the residents of each individual dwelling only. They do not comprise communal amenity space, nor do the fenced off gardens act as a wider visual amenity. As such, I agree with the Council's calculation of on-site open space, and that the balance should be provided off-site via a financial contribution secured by planning obligation.
60. The parties' position also varies regarding the application of the occupancy multiplier set out in the Open Space SPD, which results in differing calculations of the financial contribution for the balance. The appellant suggests that a rate of 1.3 persons per unit would be more appropriate than the more generous occupancy rates set out in Table 4 of the SPD.
61. The Open Space SPD does not appear to include any flexibility regarding use of the multiplier, and is primarily geared towards general needs housing. The evidence is persuasive in that a large proportion of the appellant's developments tend to house single occupiers²⁶ with of an average age of

²⁵ Appendix 4, Gideon Lemberg Proof of Evidence – Amenity Provision

²⁶ Appendix 7, Matthew Shellum Proof of Evidence – Occupation Statistics

around 80²⁷. Whilst I accept that such lower occupancy cannot be guaranteed, and the condition allows for couples aged over 60 (with a partner aged 55 or over), there is a reasonable likelihood that the appellant's occupancy rate would be more fitting to the development proposed.

62. Re-calculations based on the 1.3 occupancy rate suggested by the appellant result in 95 occupants (instead of 126) with a corresponding reduction in the total open space requirement and a lower off-site payment of £53,749. This is the amount that would be payable should I find that the obligation meets the tests set out in 122(2) of the CIL Regulations and paragraph 57 of the Framework.
63. I find the appellant's assertion that active use of external amenity space would be relatively limited and that open spaces would be used in a passive way unconvincing. Whilst I accept the average age of occupiers, and understand that many will purchase an apartment in this location due to increasing frailty, the proposed development is not a care facility. It would be folly to assume that a good proportion of future occupiers would not take part in sports and recreational activities in the area. I accept that bowls may well be a favoured sport, and the appellant's indication that there is sufficient provision of bowls facilities in the town, however their assessment does not include the wide range of other sports which may be suitable for older persons.
64. Even if a proportion of the 95 residents expected to be generated by the development met the typical description set out by the appellant, the proposed development would still result in an increased level of demand for recreation facilities in the locality; both formal and informal. There is a clear policy basis for the contributions. In this respect, I find that the obligation would be necessary and directly related to the development. The lower contribution of £53,749 would fairly represent the demand for open space generated by the development, taking account of the revised occupancy multiplier.
65. Park Field has been identified as an appropriate location for the funds to be spent. Given the close proximity of this area of open space to the appeal site, and the links it provides to the town centre, I consider it highly likely to be used by the future occupants.
66. Annex N.3.3 of the Procedural Guide²⁸ refers to a range of evidence which can assist in assessing whether any financial contribution provided through a planning obligation meets the tests. In this case there is a lack of up-to-date quantified evidence of the extent to which the existing facilities at Park Field are able or unable to meet the additional demands which may arise from the proposed development. It is unclear whether any improvements or further equipment provision in this location is necessary. On my site visit, I noted Park Field to be well equipped with both children's and adult recreational equipment including courts, a pavilion and seating areas. I found it to be a good quality, well maintained space. Furthermore, there are no consultation responses before me from open space or leisure facility providers, and no evidence to suggest a local shortfall in provision of any kind either at Park Field or any other local facility.

²⁷ Appendix 5, Matthew Shellum Proof of Evidence – Retirement Living Explained p.14

²⁸ Procedural Guide: Planning appeals – England (October 2021)

67. Consequently, I am not satisfied that the open space contribution would fully meet the tests within Regulation 122 of the CIL Regulations and paragraph 57 of the Framework. Therefore Schedule 2 of the UU should not take effect and the total sum of £161,763 should be put to the affordable housing contribution only, for which there is an agreed identified need in the District.

Other Matters

68. A range of other matters were raised by interested parties at the inquiry and in the consultation responses. A number of representations referred to a preference for access to be taken from the adjacent 'Morrisons' roundabout. The roundabout is outside of the ownership and control of the appellant and is not part of the scheme before me. There is provision within the plans for a footway link to the adjacent supermarket should the relevant land agreements be provided in the future. Likewise, the layout does not preclude a future link to the Waveney Valley beyond.
69. There are no proposals before me to improve the adjacent bus station nor regarding any redevelopment of the adjacent Feather Mills site (allocated by Policy DIS 7). Whilst there are no direct pedestrian links proposed to both sites, they are a very short walk via the accesses and I note that that there is no suggestion in either Policy DIS 6 or DIS 7 that links between the sites are necessary. I have previously noted that the DDNP can only be given limited weight given its stage of preparation and outstanding objections.
70. There are no technical objections from the local highway authority to the vehicular and pedestrian access arrangements nor in terms of traffic generation, and there is insufficient evidence to the contrary to persuade me to conclude otherwise. The parking provision for future residents is acceptable given the central location of the site, which is readily accessible by other modes of transport, and the evidence indicates declining ownership of cars in future residents of the expected age profile. There are a number of public car parks in close proximity to the site which would be adequate for visitor parking, and I am satisfied that this would not be a barrier to granting consent. There would be sufficient space within the site for secure cycle and mobility scooter parking, which is shown on the proposed site layout plan. A construction management plan condition would assist in minimising effects on highway safety during the construction phase.
71. The majority of trees which bound the site would be retained as part of the development. The evidence does not suggest that any protected species are present on the site. A suitable landscaping scheme could result in biodiversity enhancements together with the measures set out in the Ecological Appraisal, and secured by conditions.
72. An updated noise assessment was carried out in June 2021, which appropriately considers the proximity of the appeal site to the adjacent substation and commercial uses. The report includes recommendations for a range of acoustic mitigation measures to address noise from the surrounding land uses, and the Council have since agreed a condition which adequately deals with such matters.
73. I understand that an extra care development has recently been approved elsewhere in the town. However the proposals are for a different offer of accommodation for older people and I have already found that there is an

identified need for retirement housing both in Diss and the district as a whole. The potential selling prices of the apartments and whether they would be sold to local people are not matters which are within the control of the planning system. There is a lack of evidence before me to indicate that any existing issues relating to pressures on local infrastructure including doctor's surgery provision would be exacerbated by the development.

74. Any deficiency in pre-application consultation or otherwise with the Town Council and other local organisations is not a matter which is material to my decision. The submission of another planning application on the same site has no bearing on my decision given it is not part of the appeal before me.

Planning Balance

75. It is an agreed matter that the proposed development is in conflict with SSAPD Policy DIS 6, given that it does not comprise the retail, leisure and office uses set out in the allocation. Notwithstanding this, I find that the proposed development is in compliance with the development plan when read as a whole, and the most important policies are up-to-date. A number of other considerations also weigh in favour of the grant of permission.
76. Whilst the proposed development does not include an element of care, the PPG²⁹ recognises the variability in the types of specialist housing for older people. The SHMA includes a requirement for older person's accommodation, and the Council confirmed the overall need as 674 units of 'conventional sheltered housing' in the District³⁰. The more recent Greater Norwich LHNA³¹ indicates a higher figure of unmet demand for 1,136 sheltered housing units for ownership in South Norfolk. The Study of Retirement Housing³² breaks this down further for the Diss sub-area to 144 units. The data is persuasive in providing up-to-date evidence regarding the unmet need for the type of housing proposed, to which the proposed development would greatly contribute towards. Consequently, I give significant weight to the delivery of specialist housing for older people.
77. I also give significant weight to optimum use of previously developed land, the accessible location of the development which is in easy reach of the shops and services of the town, and the boost to housing land supply in accordance with paragraph 60 of the Framework. The release of under-occupied housing stock in the local area is not something that can be assured, given that the origin of future occupiers is unknown, and I give this moderate weight.
78. I also give significant weight to the economic benefits which would arise through increased spending by the occupants who are more likely to shop locally³³. I give limited weight to economic benefits during the construction phase given its temporary nature. The social benefits of older person's accommodation identified by the appellant are also worthy of significant weight. Whilst the statistics set out in Mr Shellum's evidence³⁴ are broad and not specific to this site or the locality, they are nevertheless benefits which

²⁹ Planning Practice Guidance 'Housing for older and disabled people' - paragraph 010

³⁰ Additional Document 13 - South Norfolk Council note: Older Persons Accommodation

³¹ Additional Document 11 - Greater Norwich Local Housing Needs Assessment (June 2021)

³² Additional Document 12 - Report for Norfolk Councils: Study of Retirement Housing (March 2021)

³³ Appendix 2, Matthew Shellum Proof of Evidence - 'Silver saviours for the high street' (February 2021)

³⁴ Appendix 3, Matthew Shellum Proof of Evidence - 'Healthier and Happier', Homes for Later Living (Sept 2019)

would arise over and above a regular market housing development due to the communal facilities and on-site assistance offered to residents.

79. I also give significant weight to the provision of affordable housing given the identified need in the locality set out in the SHMA. I give moderate weight to the provision of on-site open space and other environmental benefits including biodiversity enhancements, given that they would be generic to any residential scheme. The relevance of the Fleet appeal decision³⁵ to the proposals was questioned by the Council and I would agree that little weight should be attached to it, given that it is in a different location within which site specific circumstances differ.
80. Together, the aforementioned benefits are compelling and weigh in favour of the proposed development, notwithstanding the agreed conflict with SSAPD Policy DIS 6.

Conditions

81. An updated list of suggested conditions was submitted towards the end of the inquiry together with the appellant's written agreement to the pre-commencement conditions. I have considered them against paragraph 56 of the Framework and the PPG and subsequently undertaken some minor editing of the Council's conditions for precision and clarity.
82. I have attached conditions specifying the time limit and the list of approved plans to provide certainty. I have deleted the CGI plan PL12 given that this is not an accurate scaled plan but a visual representation.
83. A construction traffic management plan condition is necessary in the interests of highway safety. I have amended the condition to make it more precise, and to ensure that there is sufficient provision within the site for construction workers to park and for loading, unloading and storage of plant and materials. Details of access and egress are required given that the existing accesses are shared with the public house, to avoid conflict with existing users. I have deleted the suggested requirement for a pre-condition survey and provision for addressing wear and tear to the highway. This is given the current use of the accesses, including by heavy vehicles, and enforceability would therefore be in question.
84. A materials condition is required to ensure that the external appearance of the building is satisfactory. I consider that samples are unnecessary given that the development is not in a sensitive location. Details of existing and proposed ground and finished floor levels are required in the interests of character and appearance. Details of provision of fire hydrants is necessary in the interests of fire safety.
85. I note the Council's satisfaction with the details in the revised FRA and Drainage Strategy but conditions are necessary to ensure compliance with the surface water drainage and foul water disposal details within, in the interests of satisfactory and sustainable drainage. I have amended both conditions to make them more precise and in accordance with the agreed FRA.
86. Details of hard and soft landscaping are required in the interests of character and appearance, and to assist in screening from adjoining uses. Tree protection

³⁵ CD-AD1 – APP/N1730/W/20/3261194

measures were submitted with the application but a condition is necessary to ensure their installation and maintenance. A condition to require any damaged or dead trees to be replaced is also necessary in the interests of visual amenity and biodiversity. I have amended the biodiversity method statement condition to ensure that it is in line with the submitted Ecological Appraisal. I have also made it less prescriptive given that the details principally relate to biodiversity enhancement. Details of lighting are also required given the biodiversity potential of the existing trees, as well as in the interests of area character and appearance.

87. Given the previous industrial uses on the site and the surrounding land, contamination conditions are necessary to ensure the safety of future users, controlled waters and ecology.
88. A condition is necessary to ensure that the acoustic measures in the updated Noise Impact Assessment are installed and retained, to protect the living conditions of future occupiers. Air or ground source heat pumps have the potential for noise disturbance. Whilst the appellant stated that such energy sources were unlikely to be installed, the condition should remain to allow for flexibility in the future in the interests of amenity. Furthermore, whilst solar PV panels are likely to be included in the development to meet and exceed the 10% renewable/low carbon energy policy requirement (JCS Policy 3), a scheme is required to allow for flexibility in the type of energy source ultimately proposed.
89. I have amended the noise and dust management plan (construction method statement) condition to make it less prescriptive given that there are no existing residential properties adjacent to the site, and to ensure that it is reasonable and enforceable. I heard that the site is in an area of water stress, therefore a water consumption condition is necessary in the interests of the stated water efficiency standard set out in JCS Policies 3 and 20.
90. A condition limiting the ages of the residents who would occupy the development is necessary given the nature of the development applied for and limited amount of car parking proposed.

Conclusion

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

Susan Hunt
Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Juan Lopez	of Counsel instructed by South Norfolk District Council
He called:	
Tracey Powell Bsc MRICS	Registered Valuer for South Norfolk Council, NPS Property Consultants Ltd
Sarah Everard BSc MRTPI	Principal Planning Officer, South Norfolk District Council
Chris Bennett BSc (Hons) MSc Dip TP, Cert UD, MRTPI, IHBC	Senior Heritage and Design Officer, Broadland and South Norfolk Councils

FOR THE APPELLANT:

Neil Cameron QC	of Queens Counsel instructed by Planning Issues Ltd
He called:	
James Mackay BSc (Hons) RICS	Alder King LLP
Matthew Shellum BA (Hons) DipTP MRTPI	Planning Director, Planning Issues Ltd
Gideon Lemberg BArch RIBA ARB	Eastern Design Director, Planning Issues Ltd

INTERESTED PERSONS:

Eric Taylor	Chair of Planning Committee, Diss Town Council
Keith Kiddie	Diss and Roydon Ward Councillor, South Norfolk Council
Graham Minshull	Diss and Roydon Ward Councillor, South Norfolk Council

ADDITIONAL DOCUMENTS

- 1 Neil Cameron QC opening statement on behalf of the appellant
- 2 Juan Lopez opening statement on behalf of the Council
- 3 Appeal decisions CD-AD1 to AD6
- 4 Appeal decision Park Road, Diss APP/L2630/A/16/3150673
- 5 Diss and District Neighbourhood Plan Regulation 14 Pre-Submission version (CD-DNP1)
- 6 Appellant's response to DDNP Regulation 14 consultation (CD-DNP2)
- 7 Lichfields Review of hotel market needs in Diss (CD-DNP2)
- 8 Tree Preservation Order 1992 No.2
- 9 Updated list of conditions
- 10 Strategic Housing Market Assessment Central Norfolk Parts 1 and 2 (2016)
- 11 Greater Norwich Local Housing Needs Assessment (June 2021)
- 12 Report for Norfolk Councils: Study of Retirement Housing (March 2021)
- 13 South Norfolk Council note: Older Persons Accommodation (12 November 2021)
- 14 Tracy Powell Valuation Table update
- 15 South Norfolk Council Community Infrastructure Levy Compliance Statement
- 16 Signed Unilateral Undertaking under S106 of the Town and Country Planning Act 1990 dated 12 November 2021
- 17 Neil Cameron QC closing statement on behalf of the appellant
- 18 Juan Lopez closing statement on behalf of the Council

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be in accordance with the following submitted drawings:
 - Site Location Plan, drawing number 40035DS – PL01A
 - Site Layout Plan, drawing number 40035DS – PL02A
 - Ground Floor Plan, drawing number 40035DS – PL03A
 - First Floor Plan, drawing number 40035DS – PL04A
 - Second Floor Plan, drawing number 40035DS – PL05A
 - Elevation Sheet 1, drawing number 400035DS – PL06A
 - Elevation Sheet 2, drawing number 400035DS – PL07A
 - Elevation Sheet 3, drawing number 400035DS – PL08
 - Cottage Floor Plans, drawing number 400035DS – PL09
 - Cottage Elevations, drawing number 400035DS – PL10
 - Apartment Roof Plan, drawing number 400035DS – PL11A
- 3) No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall provide for:
 - i) access and egress to and from the development site;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials; and
 - iv) wheel washing facilities and any other measures for preventing detritus on the highway;

The approved Construction Traffic Management Plan shall be adhered to throughout the construction period for the development.
- 4) No development shall take place above slab level until details of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out and maintained in accordance with the approved details.
- 5) The approved surface water drainage scheme as set out in the submitted revised FRA and Drainage Strategy (Version 1.3 dated 8 October 2021) shall be fully implemented prior to the first occupation of the development and retained thereafter. The scheme shall include detailed current, over winter, groundwater monitoring results which shall be submitted to and approved by the Local Planning Authority prior to commencement of development.

- 6) The foul water drainage shall be discharged only to the main sewer as set out in the submitted revised FRA and Drainage Strategy (Version 1.3 dated 8 October 2021). The drainage strategy as set out in Appendix 8 of the same report shall be fully implemented prior to the first occupation of the development and retained thereafter.
- 7) No development shall take place until details of the existing ground levels, proposed finished floor levels of all buildings, and the proposed finished ground levels of the site have been submitted to and agreed in writing by the local planning authority. Such details shall also provide comparative levels of eaves and ridge heights of adjoining properties and details of the levels of any existing or proposed boundary treatments. The development shall be carried out in accordance with the details as approved.
- 8) No development shall take place until a scheme has been submitted to and agreed by the Council for the provision of one or more fire hydrants (served by mains water supply). No dwelling shall be occupied until the hydrant(s) serving the site has been provided to the satisfaction of the Local Planning Authority.
- 9) Within six months of the commencement of works on site, full details of the hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These works shall be carried out as approved and these details shall include:
 - boundary treatments (positions, design, materials and type)
 - hard surfacing
 - planting plans;
 - written specifications (including cultivation and other operations associated with plant and grass establishment);
 - schedules of plants, noting species, plant sizes, and proposed numbers/densities where appropriate;
 - ultimate proposed heights of trees and hedgerows; and
 - a timetable for implementation of the landscaping works.
- 10) If within a period of 10 years from the date of planting, any tree or plant or any tree or plant planted in replacement for it, is removed, uprooted or is destroyed or dies, or becomes in the opinion of the local planning authority, 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.
- 11) All approved tree protection measures as set out in the Arboricultural Assessment and Method Statement and Tree Protection Plan 21013-2 shall be installed prior to the commencement of development. The approved tree protection measures shall be maintained in good condition and adhered to throughout the construction period. No construction-related activities shall be undertaken within the identified Construction Exclusion Zones and fenced areas.

- 12) In the event that any tree(s) become damaged during construction, the Local Planning Authority shall be notified, and remedial action agreed and implemented. In the event that any tree(s) dies or is removed without the prior approval of the Local Planning Authority, it shall be replaced within the first available planting season, in accordance with details to be agreed with the Local Planning Authority.
- 13) No development shall take place above slab level until a biodiversity method statement has been submitted to and approved in writing by the LPA. The method statement will include a plan with locations and details of biodiversity enhancements based on those set out within section 5.4 of the Ecological Appraisal (WYG, August 2020), a timetable for implementation and details of aftercare and ongoing maintenance. The works shall be carried out strictly in accordance with the approved details and retained thereafter.
- 14) No external lighting shall be erected unless full details of its design, location, orientation and level of illuminance have first been submitted to and agreed in writing with the local planning authority. Such lighting shall be kept to the minimum necessary for the purposes of security and site safety and shall prevent upward and outward light radiation. The lighting shall thereafter be implemented in accordance with the approved details and shall be retained as thereafter.
- 15) Development shall not begin until an investigation and risk assessment into land quality has been completed in accordance with a scheme to be first agreed in writing by the Local Planning Authority, to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The written report(s) shall identify and consider the potential impacts on all identified receptors. All investigation and reports must be carried out in accordance with current best practice. Based on the findings of this study, details of whether remediation is required together with a remediation method strategy as appropriate shall be submitted to and approved in writing by the Local Planning Authority.
- 16) If condition 15 above determined that remediation is required the development hereby permitted shall be carried out in accordance with the approved contamination remediation scheme. Following completion of remediation and prior to first occupation of the dwellings, a verification report that scientifically and technically demonstrates the effectiveness and success of the remediation scheme shall be submitted to and approved in writing by the Local Planning Authority.
- 17) In the event that contamination that 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. All development shall cease and shall not recommence until:
 - i) A report has been submitted and agreed in writing by the Local Planning Authority which includes results of an investigation and risk assessment together with proposed remediation scheme to deal with the risk identified, and

- ii) the agreed remediation scheme has been carried out and a validation report demonstrating its effectiveness has been approved in writing by the Local Planning Authority.
- 18) The development hereby permitted shall be carried out in accordance with the approved noise remediation scheme as contained in the submitted Noise Impact Assessment (Clarke Saunders June 2021). Following completion of remediation and prior to first occupation of any dwelling, a verification report that scientifically and technically demonstrates the effectiveness and success of the remediation scheme shall be submitted to and approved in writing by the Local Planning Authority.
- 19) No air source heat pump or ground source heat pump shall be installed to any of the proposed dwellings unless either:
- i) The applicant can demonstrate that if the dwelling was existing, the heat pump installed could have been fitted in accordance with The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), Schedule 2, Part 14, Class G in respect of its noise level emission.
- OR
- ii) Full details of the location and acoustic performance of the heat pump, along with any noise mitigation measures, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details as approved.
- 20) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
- i) details of communication with neighbours before and during works;
 - ii) details of contact arrangements by which residents can raise any issues and a mechanism for investigation and response;
 - iii) delivery, demolition and construction working hours;
 - iv) management arrangements and measures to minimise dust and dirt from stockpiles, excavation and transportation of material; AND
 - v) measures to control smoke from burning activities.

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

- 21) Prior to the first occupation of the development, a scheme for generating a minimum of 10% of the predicted energy requirement of the development from decentralised renewable and/ or low carbon sources (as defined in the NPPF 2021 or any subsequent version) shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the agreed strategy has been implemented. The approved scheme shall remain operational for the lifetime of the development.

- 22) The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 105 litres/person/day. All completed water conservation measures identified shall be installed to achieve this rate and retained thereafter for the lifetime of the development.
- 23) Each Dwelling hereby permitted shall be occupied only by:
- (i) A person aged 60 years or over;
 - (ii) A person aged 55 years or older living as part of a single household with the above person in (i); or
 - (iii) A person aged 55 years or older who were living as part of a single household with the person identified in (i) who has since died.

End of Conditions Schedule.