

Appeal Decision

Inquiry held on 13 to 16 and 20 August 2024

Site visit made on 13 August 2024

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2024

Appeal Ref: APP/C1760/W/24/3342514

Broadwater Road, Romsey, Hampshire, SO51 8GH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Churchill Retirement Living Ltd against the decision of Test Valley Borough Council.
 - The application Ref is 23/01700/FULLS.
 - The development proposed is Redevelopment for Retirement Living accommodation comprising of 47 retirement apartments 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 for retirement living accommodation comprising of 47no. retirement apartments including communal facilities, access, car parking and landscaping at Broadwater Road, Romsey, SO51 8GH in accordance with the terms of the application Ref 23/01700/FULLS, subject to the conditions in the attached schedule.

Background and Preliminary Matters

2. The Inquiry opened on 13 August 2024 and sat on the following days: 13-16 and 20 August 2024. Closing submissions took place virtually on 20 August 2024. An accompanied site visit took place after sitting on the first day, where representatives of the main parties and other interested parties accompanied me to observe the site and its relationship with the heritage assets, along with a wider understanding of the Romsey Conservation Area (the Conservation Area). In addition, given the proximity of the site to the event at Crosfield Hall, I made a number of unaccompanied visits before and during the Inquiry. No discussion of the merits of the appeal were permitted during any site visit.
3. The Council issued its decision on 25 March 2024 with seven reasons for refusal following the decision by Members of the Southern Area Planning Committee (SAPC) to refuse the planning application contrary to the Officer recommendation. A Case Management Conference (CMC) was held which I led on 20 June 2024 to discuss the ongoing management of the Inquiry, the likely main issues, including the best method for hearing the evidence, and to ensure the efficient and effective running of the Inquiry. At the CMC, the appellant indicated that they intended to address reasons for refusal and both

parties agreed that dependant on the ongoing discussions between the parties, reasons for refusal (RfR) 3 to 7 may fall away if the content of the planning obligation can be agreed.

4. A signed planning obligation by way of Section 106 of the Town and Country Planning Act 1990 (the s.106 agreement) has been provided as part of the appeal, with the final version dated 20 August 2024 submitted by agreement after the Inquiry closed¹. Consequently, there followed agreement by the main parties that RfR 3 to 7 are no longer in dispute. However, I return to the s.106 agreement later in my decision.
5. The Appellant submitted an amended drawing² at the start of the event in response to comments raised by the Council in its submission. The intention of the amended drawing was to provide a visual interpretation of the Council's comments and comparison to the approach taken by the Appellant in respect of height and width ratios. The Council did not object to the submission of this amended drawing. Consequently, the amended drawing was accepted, as it did not evolve the scheme or prejudice anyone with an interest in the outcome of the appeal.
6. Following cross examination (XX) of its planning witness in session one of day 4 of the Inquiry, the Council reviewed its position following the concessions made by its witness. Through the concessions made during XX the Council decided to withdraw the remaining RfRs, in relation to the effect of the proposed development on heritage assets and living conditions of existing neighbouring occupiers. The consequence of this withdrawal is that the Council no longer opposes this appeal.

Main Issues

7. Taking account of all of the above, there are now no main issues in dispute between the appellant and the Council. However, amongst other things, interested parties have expressed concerns. I, therefore, address the following issues as set out below:
 - the effect of the proposed development on the special architectural or historical interest of heritage assets in the locality, with particular regard to their setting;
 - the effect of the proposed development on the living conditions of neighbouring occupiers at no's 38-48 Palmerston Street (even) and no's 30-36 Palmerston Street (even), particularly through dominance and outlook; and,
 - the effect of the proposed development on designated sites, particularly the New Forest Special Protection Area (SPA) and the Southampton and Solent Waters SPA.

Reasons

Heritage assets

Background

¹ ID15

² ID7 - 10123RS-SK18 B

8. Whilst the Council no longer oppose the appeal, the Council at the start of the appeal arrived at a different conclusion when assessing the effect of the proposed development on the setting of the Conservation Area and on listed buildings. The appellant considers that the scheme will not result in any harm to any heritage assets, similar to the conclusion reached by Council Officers in their recommendation to Members of the SAPC, which was ultimately not accepted.
9. The evidence provided by the Council on this matter, similar to that provided by a number of interested parties in support of the Council's original case, aims to demonstrate a view that various degrees of less than substantial harm would result to a number of heritage assets, including the Conservation Area, a number of listed buildings and Broadlands Registered Park and Garden (the Registered Park and Garden) from the proposed development within their settings. I have dealt with the appeal on this basis.

The Appeal Site

10. The appeal site comprises a single storey building, with a 2-storey element facing onto Broadstone Road that dates to the later 20th century. The building has a large irregular footprint, where its perimeter design creates a central courtyard styled area that is uncovered. The existing building is no longer in use as a care home and has hoarding erected on its boundaries.
11. To the north and east of the Appeal site, on the opposite sides of Broadstone Road and Palmerston Street respectively, is the Conservation Area where a number of listed buildings are also present. To the south of the Appeal site is the Tadburn Lake, then the A27 (Bypass Road) with the Registered Park and Garden and one of its lodges located beyond. To the west of the Appeal site is Crosfield Hall and its car park with more 20th century development in the form of residential blocks with associated parking and garages.
12. The Appeal site once formed part of the Conservation Area, but in November 2020 a review of the Conservation Area boundary was undertaken³, which resulted in the Appeal site's removal, where the justification given was the building having no heritage value with a footprint that does not reflect the character of the area.
13. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) does not extend to the setting of a Conservation Area. Nonetheless, in accordance with Section 66(1) of the Act, I have paid special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses.

The Conservation Area

14. The Conservation Area was first designated in 1970 and has been subject to a number of amendments, the most recent of which was in November 2020 when the Appeal site was removed from the Conservation Area.
15. The Council has produced an appraisal⁴ for the Conservation Area, which

³ TVBC Conservation Area: Boundary Amendment Report, November 2020

⁴ TVBC Conservation Area: Appraisal and Management Plan, December 2020

identifies 10no. Character Areas. The parts of the Conservation Area adjacent to the Appeal site are within Character Area 3: Market Place and Historic Core on Broadstone Road (Area 3) and Character Area 4: The Hundred and Palmerston Street (Area 4). However, only a small section of Area 3 faces the Appeal site, which comprises the car park area to the Manor House, which is a listed building operating as a restaurant, located within Area 4. Consequently, I find Area 4 is more relevant in the consideration of the proposed development in this instance.

16. The appraisal lists the Conservation Area containing many ancient buildings of high significance that contribute to its special interest, amongst other things. The appraisal also lists a number of factors under Area 4, which contribute to its significance. These factors are: *It being two of the principal approaches to the town and its development as a suburb; the varied nature of the residential development, detached Georgian villas and infill Victorian terraces; the continued residential use of the area is of interest however the few commercial uses, nearest the town centre also add interest to the street scene and green front gardens and the buffer of mature trees along the Tadburn Stream contribute to the appearance and more suburban character of this area.* I agree with this appraisal, on the basis of my own assessment.
17. Plan 6 within the appraisal identifies different elements of the setting of the Conservation Area. These include rural setting to the west; Residential suburbs to the north and east; Strong & Co's Brewery Site to the north of the Conservation Area and between the residential suburbs, and the Broadlands Estate to the south. I accept that the area to the south of the Appeal site has more trees, particularly following the course of the Tadburn stream. This certainly contributes to the verdant character of this area. However, due to the proximity of neighbouring urban development, including Bypass Road and its accompanying signage, I do not consider this area to be rural, and more resembles a green corridor. The appeal site is located in proximity of this area in a northerly direction.
18. Plan 2 within the appraisal shows the Conservation Area and the location of the character areas. At the Inquiry, whilst outside the Conservation Area, the area which the Appeal site is located within was referred to as the 'White Triangle' for identification purposes. Given the nature of the development that has occurred in this area, including the formation of Broadwater Road to connect Middlebridge Street to Palmerston Street, the area has many 20th century features. Whilst historic maps and images demonstrate how Romsey has developed over time, the distinction between the historic and later development can clearly be seen at the junction of Broadstone Road and Palmerston Street.
19. I observed that the significance of the Conservation Area as a whole partly derives from the mix, architectural and historic quality of the area's historic buildings and also the historic pattern of development. I have had regard to paragraph 201 of the National Planning Policy Framework (the Framework), amongst other things, which requires an assessment of the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset.
20. The setting of the Conservation Area includes the more recent suburban

expansion beyond its boundary in which the Appeal site sits. Even though most of its significance derives from its historic development as a suburb and the varied nature and arrangement of historic buildings, its setting, contributes to its significance, albeit to a lesser degree. The Conservation Area can be clearly experienced from the Appeal site due to the proximity and inter-visibility and is therefore within its setting. At present due to its later 20th century origins, the appeal site makes a neutral contribution to the setting of the Conservation Area.

Listed Buildings and the Registered Park and Garden

21. Following the CMC and as part of the Inquiry, the Council provided a list of the other heritage assets that it considered would be affected by the proposed development. This list was refined by the Council before the opening of the Inquiry. Notwithstanding the appellant's position that the proposed development would cause no harm to heritage assets, as part of their rebuttal on heritage matters, a colour coded plan⁵ was created, which sought to visually interpret the Council's findings on this matter. The interpretation of the plan was not disputed by the Council or any other party.
22. This plan captured the listed buildings in the vicinity of the Appeal site⁶ identifying the level of less than substantial harm from very low, to low and then to medium. The general view of the Council is that the listed buildings closest to the Appeal site would be the most affected with a medium level of less than substantial harm being attributed. Whilst noting all of the listed buildings identified, my initial focus shall be on those closest to the Appeal site, with a medium level of less than substantial harm as purported by the Council. The plan also highlighted properties where no harm was considered to arise, including 23a and 23b Palmerston Street and Mill Cottage, 64 Palmerston Street. Also, several properties located on The Hundred are identified as not being harmed, including a number which look down Palmerston Street towards the Appeal site.
23. Turning to the listed buildings where in the opinion of the Council, the proposed development would result in a medium level of less than substantial harm, these are: No's 19-21 Palmerston Street (odd) (the Manor House), 20-28 Palmerston Street (Even), 30-36 Palmerston Street (even) and 38-52 Palmerston Street (even). These properties are all located near the Appeal site. Their settings include their close relationship to one another and with the road structure contributing to their wider setting, which contributes in a small way to their significance. The Appeal site sits within this wider setting. Given its later 20th century origins, large irregular footprint and perimeter design the appeal site in its current condition makes a neutral contribution to this wider setting.
24. The range of properties provide a clear understanding of the evolution of the urban form with the Manor House dating from the 16th century, No's 20-28

⁵ Figure 1-B Alleged Levels of Less than Substantial Harm

⁶ 51-55 The Hundred (1277310) Grade II listed; 1 Palmerston Street (1232429) Grade II listed; 4 Palmerston Street (1277087) Grade II listed; 3-7 Palmerston Street (1232430) Grade II listed; 6-18 Palmerston Street (1232470) Grade II listed; Park House, 9 Palmerston Street (1277070) Grade II listed; 11-17 Palmerston Street (1232432) Grade II listed; 19-21 Palmerston Street (1232433) (also known as the Manor House) Grade II listed; 20-28 Palmerston Street (1277088) Grade II listed; 30-36 Palmerston Street (1277310) Grade II listed; 38-52 Palmerston Street (1277049) Grade II listed; Red Lodge (1093645) Grade II listed and the Registered Park and Garden (1000166) Grade II* listed.

and 30-36 dating from the late 18th century and no's 38-52 dating from the early 19th century. The significance of the Manor House also derives from it having an agricultural character through its rustic appearance and origins, compared to, and predating the other buildings on Palmerston Street. It is also one of the earliest domestic buildings to survive in Romsey.

25. The area immediately surrounding these properties, including the Appeal site forms part of the tight development in this urban context, providing an appreciation of the identified heritage assets and therefore forming part of their settings. Notwithstanding, the 20th century origins of the Appeal site and the adjacent sites, which can be seen in views in conjunction with the heritage assets, this setting, in so far as it relates to this appeal, has a neutral contribution to the significance of the listed buildings located closest to the Appeal site. Consequently, I find the other listed buildings identified in the locality that are located further away from the Appeal site, with reduced intervisibility also receive a neutral contribution to their settings from the Appeal site.
26. Red Lodge and the Registered Park and Garden are also located nearby to the south of the Appeal site. The significance of the lodge building derives in part, from its historic fabric, architecture and function to control a new access to the Registered Park and Garden. The significance of the Registered Park and Garden derives in part from its open green space and parkland landscaping that was remodelled in the late 18th century by Lancelot 'Capability' Brown. Additional planting was then undertaken by the third Viscount Palmerston in the early to mid-19th century.
27. The setting of the Red Lodge and Registered Park and Garden includes the area around from where they can be seen, which contributes in a small way to their significance. Taking into account Bypass Road, intervening trees and landscaping, the separation distance and characteristics of the Appeal site, this makes a neutral contribution to the significance of the heritage assets, in so far as they relate to this appeal.

Impact of the appeal scheme

28. I recognise that the proposed development would amount to a change in the street scene and consequently to the setting of a number of heritage assets, including the Conservation Area, listed buildings and the Registered Park and Garden. However, change itself does not necessarily equate to harm. I acknowledge that the scheme has been the subject of pre-application advice, which included a public consultation and has on 2no. occasions benefitted from comments by Test Valley Design Review Panel⁷(DRP). I accept that in both instances the DRP comments, included suggestions and were critical particularly in the case of the second set of comments received in August 2023. However, there are inconsistencies within these comments surrounding the alignment of the proposed development with Palmerston Street.
29. The disused building currently occupying the Appeal site through its condition is currently having a neutral effect on the setting of the Conservation Area. Even if it was not disused, its contribution to the setting of the Conservation Area would still be limited due to the findings contained

⁷ First comments received on 7 March 2023 and the second set of comments received on 7 August 2023.

within the Conservation Area: Boundary Amendment Report. Consequently, there is a clear opportunity to enhance the setting of the Conservation Area, the listed buildings and the Registered Park and Garden through the development of the Appeal site.

30. In any event, whilst matters of design and appearance will be factors to be considered in the effect of the proposed development on the setting of the heritage assets, it has not been raised as a specific issue with the reasons for refusal on the Council's decision notice. There is agreement that the Appeal site is in an important and prominent location within Romsey. The submitted Visually Verified Montages⁸ (VVMs) were referred to, on many occasions at the event to highlight key points. Whilst the proposed development would result in more development being introduced to the Appeal site, the location can readily handle the extra built form when compared to that, which already exists.
31. At the Inquiry, discussions surrounding height to width ratios became a focus on a number of days, where the amended drawing was frequently referenced, particularly when their approach was questioned. This assessment was undertaken on the basis of the closest property with the proposed development, which would be No 48 Palmerston Street. The appellant referenced the Urban Design Compendium; By Design, Manual for Streets and The National Model Design Code (NMDC), subsequently, it was agreed verbally by the Council under XX that the approach taken by the appellant was not flawed and the scheme complied with guidance contained within NMDC.
32. Consequently, I find that the proposed development has followed the principles of good place making and reflects the arrangement and dimensions between properties in the Conservation Area. This is a positive aspect when considering the relationship between the scheme and the setting of the heritage assets.
33. I accept that the Appeal site sits approximately 1.67m taller than the properties on the opposite side of Palmerston Street, but given the findings surrounding height to width ratios, I do not find the scale of the proposed development to be unacceptable. Additionally, I find that the appellant has taken on board a number of comments, advanced by the DRP and included them within the design, such as better aligning the scheme with Palmerston Street. The form of the scheme, including the changes in ridge lines, subtle setbacks to the front elevation, the composition of materials and fenestration details all help to articulate the scheme and create a visually attractive development.
34. The introduction of active frontages on both Palmerston Street and Broadwater Road, whilst successfully turning the corner at this junction are positive features that enhance the current situation. Other factors such as the retention of the hedgerow on Palmerston Street, would enable the proposed development to successfully integrate into its surroundings, by preserving existing vegetation that already positively contributes to the setting of heritage assets. Additionally, whilst some concern has been raised in respect of the layout of the proposed development and the use of prefabricated

⁸ VVMs by NPA Visuals, January 2024

chimneys, amongst other things, I have no doubt that the scheme would complement the Appeal site.

35. I accept that when looking down Palmerston Street from The Hundred, the views of the trees along Tadburn Lake will likely reduce as a consequence of the proposed development. However, this effect will not be significant. The VVMs⁹ clearly show that the proposed development would be visible from Bypass Road and in the vicinity of Red Lodge and the point of access to the Registered Park and Garden. Whilst these images give a clear representation of the scheme from this location, the trees are not in leaf, compared to the time of year when I undertook my site visit. This seasonal change would further reduce the visual impact of the scheme when viewed in this location.

36. The Appeal site makes a neutral contribution to the setting of all of the heritage assets under consideration in this appeal and that would be unchanged as a result of the proposed development. Therefore, no harm would result to the significance of any heritage assets.

Conclusion

37. For the reasons given above, I conclude that the development as proposed would not result in any heritage harm to the significance of the Conservation Area when taken as a whole. I have also found no harm to the significance of other listed buildings or the Registered Park and Garden.

38. Consequently, the scheme complies with Policies E1 and E9 of the Test Valley Borough Revised Local Plan (LP), which seek high quality development in the Borough and development and/or works affecting a heritage asset will be permitted provided that it would make a positive contribution to sustaining or enhancing the significance of the heritage asset taking account of its character, appearance and setting; and the significance of the heritage asset has informed the proposal through an assessment proportionate to its importance, amongst other things. The scheme would also accord with the requirements of the Framework and Section 66(1) of the Act.

Living conditions

39. The Council's decision notice identifies an adverse impact from the proposed development on the living conditions of the occupiers of Nos 38-48 and 30-36 Palmerston Street, through a sense of enclosure and overbearing impact. The submitted drawings clearly show that with regard to Nos 30-36, these properties will not directly face the scheme and will continue to face down Broadwater Road. Whilst the proposed development will be at an oblique angle to these properties, there is no possibility that Nos 30-36 would receive any of the purported effects as the living conditions currently afforded by the occupiers of these properties would largely remain unaltered.

40. With regard to Nos 38-48, there is no doubt that they would have a more direct relationship with the proposed development. However, in the case of No 38 and to some extent No 40, these properties would be sited opposite the sub-station, where the Appeal site is chamfered and in the case of No 38 a view down Broadwater Road would still be possible. On the previous main issue, I referred to discussions at the event surrounding height to width

⁹ Figure 4, View 2 (existing) and Figure 5, View 2 (proposed)

ratios, where it was agreed that the scheme complied with guidance contained within NMDC.

41. This assessment was undertaken at the closest point, which is between No 48 and the proposed development. Consequently, as there would be an acceptable relationship between No 48 and the scheme, there would also be an acceptable relationship between the proposed development and Nos 40 to 46, as the respective distances are greater. This position was accepted by the Council's planning witness under XX. In the absence of evidence to the contrary and following my own findings during my site visit, I consider that the proposed development would be acceptable in this regard.
42. For the reasons given above, I conclude that the proposed development would not adversely affect the living conditions of neighbouring occupiers at 38-48 and 30-36 Palmerston Street, particularly through dominance and outlook. Consequently, the scheme complies with LP Policy LHW4, which seeks to provide for the privacy and amenity of its occupants and those of neighbouring properties, amongst other things. The scheme would also accord with the requirements of the Framework.

Effect on the Designated sites

43. The Appeal site is located within the specified 13.6km of the New Forest SPA and within 5.6km of the Solent and Southampton Water SPA. Both are European sites designated to protect important habitat for bird species. These distances define the zones identified by recent research where new residents would be considered likely to visit these sites. These SPAs support a range of bird species that are vulnerable to impacts arising from increases in recreational use of the sites that result from new residential development.
44. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) requires me as the competent authority in the context of this appeal to undertake a Habitat Regulation Assessment to establish whether there are likely significant effects from the proposal, either alone or in combination with other plans or projects upon the SPA. Both SPAs have an important recreational use, and it is likely that occupants of the proposed development would visit them for recreational purposes causing disturbance to these areas. In this regard, and considering the evidence before me, it is clear that the proposal, when combined with other developments in the area, would likely have significant effects upon the qualifying features of the SPA.
45. In addition, increased nitrates from foul wastewater associated with the proposed development could also have likely significant effects in combination with other development, particularly upon the Solent and Southampton Water SPA, as they could exacerbate eutrophication, causing an increase in some nutrients. Therefore, in the event I allow the appeal, I am required to undertake an appropriate assessment in accordance with the Habitats Regulations.

Appropriate assessment (AA)

46. The Council in consultation with Natural England (NE) as the Statutory Nature Conservation Body has adopted a strategy whereby a scale of

developer contributions has been agreed that would fund the delivery of measures to address these issues. With regard to the New Forest SPA, a new strategic area of alternative recreational open space is being delivered that would offer the same sort of recreational opportunities as those offered by the New Forest SPA. With regard to the Solent sites, funding is to be provided to the Solent Recreation Mitigation Partnership (SRMP). Funding is to be secured through a per-dwelling contribution from developments where those developments result in a net increase in dwellings.

47. As part of my AA it is necessary to ascertain the implications for the Appeal site and what any potential effects could be. Further to Regulation 63(3) of the Habitats Regulations, I have consulted NE as part of this AA and had regard to their comments in relation to this matter. NE have confirmed that they have no objection to the proposed development providing compliance with the requirements of the Council's avoidance strategies for the New Forest SPA and the Solent and Southampton Water SPA, securing the required contributions. Furthermore, NE have confirmed that they are satisfied that the proposed development would avoid and mitigate impacts to the European site.
48. In the particular instances of this scheme, total contributions of £61,100.00 and £25,151.00 would be payable towards the New Forest SPA and Solent and Southampton Water SPA, respectively, as set out in the avoidance strategies. As the competent authority in this appeal, I am satisfied that with regard to recreational impacts, the s.106 agreement would secure suitable mitigation to protect the integrity of the SPAs and I will take them into account in coming to my decision. I will discuss the s.106 agreement further in the next main issue.
49. Regarding the drainage of foul water, there is existing evidence of high levels of nitrogen and phosphorus in the water environment across the Solent, with evidence of eutrophication at some designated sites. The advice from NE is that the applicants for development proposals resulting in a net increase in dwellings are required to submit the nitrogen budget for the development to demonstrate no likely significant effect on the European designated sites due to the increase in wastewater from the new housing.
50. In support of the proposed development the applicant has submitted a proposed offsite mitigation strategy. The proposed strategy comprises the removal of land within an off-site agricultural holding from future agricultural production. NE have previously agreed the amount of nitrate impact that needs to be mitigated but queried the use of the initial proposed mitigation land. However, the proposed solution has changed from that put forward originally within the planning application submission, which NE commented upon in their letter dated 5 September 2023.
51. Following the comments received from NE, the Appellant is now proposing to use a NE approved credit provider at Roke Manor to provide the required nitrate mitigation credits to facilitate the proposed development, which would be secured through the s.106 agreement. NE have been consulted on this and raised no objection to this approach and considers it adequately mitigates any adverse effects upon the Solent and Southampton Water SPA.

Conclusion

52. For the reasons set out above, and taking account of the mitigation measures proposed, the proposed development would not adversely affect the integrity of the SPAs. The Council also accepts that the terms of the s.106 agreement are sufficient to mitigate any adverse effects on the SPAs.
53. Consequently, the proposed development would comply with LP Policy E5, which amongst other things, requires development that is likely to result in a significant effect, either alone or in combination, on an international or European nature conservation designation, or a site proposed for such designation, will need to satisfy the requirements of the Habitat Regulations. The scheme would also comply with the New Forest SPA Mitigation – Interim Framework (October 2014); Solent Recreation Mitigation Strategy (December 2017); the Habitats Regulations and the Framework.
54. LP Policy COM2 has been referred by the Council in relation to RfR4 on its decision notice. However, this policy relates to settlement hierarchy, therefore I find it is not directly applicable to this main issue.

Planning obligation

55. The executed s.106 agreement that has been submitted, includes financial contributions towards off-site Affordable Housing, Public Health, Informal Open Space, Outdoor Sports and Recreation, the New Forest SPA, the Southampton and Solent Water SPA, as well as securing off-site land for nitrate mitigation.
56. I have noted the disagreement between the parties surrounding a contribution towards Outdoor Sports and Recreation. However, there is no disagreement to the overall amount comprising the financial contribution, just a suggestion by the appellant that the sum for Outdoor Sports and Recreation should be directed towards affordable housing instead. Nonetheless, whilst noting the occupiers for the proposed development would be of retirement age, there is nothing before me to suggest that future occupiers would not benefit from such facilities for outdoor sports and recreation.
57. In view of the above, I consider the obligations set out in the s.106 agreement are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind. Therefore, they meet the tests within CIL Regulation 122 and those set out in paragraph 57 of the Framework. As such, I have taken them into account in reaching my decision. Consequently, I conclude that the terms of the s.106 agreement remove any previous conflict with the development plan as identified in RfR no's 3 to 7 on the Council's decision notice.

Other Matters

58. I have had regard to the considerable number of objections received from interested parties, as part of the original planning application and this appeal. I also note the views expressed by those interested parties who attended the Inquiry, expressing a wide range of concerns including, but not limited to the following: proposed tenure and cost; parking provision; disabled access, including provision for mobility scooters; outside space; insufficient

community engagement; level of affordable housing contribution¹⁰; housing land supply; supply of retirement living accommodation and under occupied stock, amongst other things.

59. The proposed tenure and cost will largely be determined by market forces, whilst the level of parking provision has been supported by the Local Highway Authority. Disabled access will be covered under Building Regulations legislation and there is nothing before me to suggest that the proposed development will not be accessible for people with disabilities or cater for their specific needs. In assessing the proposed development there is nothing before me to substantiate the claims to a deficiency in the provision of outside space, which I find to be suitable in size and usable. The level of affordable housing contribution has been questioned, but the amount has been clearly justified by the appellant through their own assessment, which has been accepted by the Council.
60. An appeal decision¹¹ has been supplied to support the view that under-occupied stock carried very little weight. However, I cannot be certain that differences do not exist between the schemes, particularly as more units are involved. The Council's housing land supply position and the supply of retirement living accommodation has been referenced, but these matters are not determinative factors in this appeal or would alter my conclusions on the main issues. Concerns have also been raised in respect of insufficient community engagement. However, I find no evidence to substantiate this view. I also note that these matters were considered where relevant by the Council in the determination of the planning application. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
61. The potential effect on the objectives and aspirations contained within the South of Romsey Town Centre, Masterplan Report dated September 2020 (the Masterplan) has been raised by some interested parties. This aspect was discussed at length at the event. Aspects of the Masterplan, such as the design principles to 'Transform Broadwater' through accessibility and mobility¹², Sustainability¹³ and Identity¹⁴ were examined, amongst other things. Through the discussions it was established and agreed verbally by the main parties that the proposed development would not harm the design principles that underpin the Masterplan or the proposals within the Masterplan itself. In the absence of substantive evidence to the contrary, I consider the development of the Appeal site as proposed would not detract from the guiding principles or priorities that the Masterplan seeks to achieve.

Conditions

62. I have considered what planning conditions would be appropriate in light of the discussions at the event, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained

¹⁰ Bewley Homes v SSLUHC; Waverley BC. 2024 EWHC 116 (Admin) 16.5.24; APP/C3810/W/22/3292333 and APP/H2265/W/20/3265741

¹¹ APP/C3810/W/22/3292333

¹² Fig 4.1 on page 32 of the Masterplan

¹³ Fig 4.2 on page 33 of the Masterplan

¹⁴ Fig 4.3 on page 34 of the Masterplan

within Paragraph 56 of the Framework and the Planning Practice Guidance. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans/documents is necessary.

63. Pre-commencement conditions for full details of the layout for the parking and manoeuvring onsite of contractor's and delivery vehicles during the construction period and its implementation prior to the commencement of development and retained for the duration of the construction period, and an Environmental Management Plan are reasonable and necessary in the interest of the living conditions of neighbouring occupiers and highway safety.
64. These pre-commencement conditions are agreed between the Council and appellant for the purposes of section 100ZA and regulation 2 of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018. In each case they are required pre-commencement as they are fundamental to the acceptability of the proposed development.
65. Pre-occupation conditions for hard and soft landscape works; landscape management and maintenance and space to be laid out and provided for the parking and manoeuvring of vehicles to enable them to enter and leave the site in a forward gear are reasonable and necessary in the interest of character and appearance, and highway safety.
66. Other conditions relating to materials to be used in the construction of all external surfaces; a bin store management plan; conditions of occupation; arboriculture; ecology; construction/demolition times; fixed plant or machinery; water efficiency; flood risk; external lighting; decorative features/details; windows, rooflights, doors and external fixings are all reasonable and necessary to define the permission and in the interest of character and appearance, highway safety, living conditions and the environment.

Conclusion

67. The proposed development would accord with the development plan, when considered as a whole and there are no other material considerations, including the provisions of the Framework that indicate otherwise.
68. For the reasons given above, I conclude the appeal should be allowed.

W Johnson

INSPECTOR

Schedule of Conditions

Time Limit

1. The development hereby permitted shall be begun within three years from the date of this permission.

Approved Drawings

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: 10123RS-PA00; 10123RS-PA01 REV B; 10123RS-PA02 REV B; 10123RS-PA03 REV B; 10123RS-PA04 REV B; 10123RS-PA05 REV B; 10123RS-PA06 REV B; 10123RS-PA07 REV B; 10123RS-PA08 REV B; 10123RS-PA09 REV B; 10123RS-PA10 REV B; 10123RS - PA11; 10123RS - PA12; 10123RS-PA13 REV B; 10123RS-PA14 REV B and JBA 23-010-SK02 C.

Pre-commencement

3. Prior to the commencement of ground works associated with the construction of the retirement living apartments full details of the layout for the parking and manoeuvring onsite of contractor's and delivery vehicles during the construction period shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the commencement of development and retained for the duration of the construction period.
4. Prior to the commencement of development an Environmental Management Plan shall be first submitted to, and approved in writing by, the Local Planning Authority. The Environmental Management Plan shall cover the control of noise, dust and spoil during the demolition, site preparation and construction phases of development. The Environmental Management Plan shall include the provision of wheel washing, and any other suitable facility, to avoid the deposit of spoil onto the highway network. Work shall be undertaken in accordance with the approved Environmental Management Plan.

Pre-occupation

5. The development hereby permitted shall not be occupied until full details of hard and soft landscape works have been submitted and approved. Details shall include-where appropriate: proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, or other storage units, etc.); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating lines, manholes, supports.); retained historic landscape features and proposals for restoration, where relevant. Soft landscape works shall include 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. The landscape works shall be carried out in accordance with the implementation programme and in accordance with the management plan.

6. The development hereby permitted shall not be occupied until a schedule of landscape management and maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and an implementation programme, shall be submitted to and approved in writing by the Local Planning Authority. The approved management plan shall be carried out in accordance with the implementation programme.
7. The development hereby permitted shall not be occupied until space has been laid out and provided for the parking and manoeuvring of vehicles to enable them to enter and leave the site in a forward gear in accordance with the approved plan and this space shall thereafter be reserved for such purposes at all times.

Other

8. No development shall take place above DPC level of the development hereby permitted until samples and details of the materials to be used in the construction of all external surfaces hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
9. Prior to the first use of the new bin store a management plan shall be submitted detailing the private refuse collection measures, including the size of any refuse vehicle, the plan shall also detail the measures which the applicant will put in place and retain to minimise noise and odour impacts as a result of the use of this area. No waste collections shall be made outside of the hours of 07:30 to 18.00 Monday to Friday. Refuse collection shall be undertaken in accordance with the approved plan.
10. Each unit of accommodation hereby permitted shall be occupied only by:
 - persons of 60 years or older or
 - persons living as part of a single household with such a person or persons; or
 - persons who were living as part of a single household with such a person or persons who have since died.
11. No development shall take place in relation to the substation until a revised arboricultural assessment has been submitted detailing the protection of the adjacent Hornbeam during installation works. Development shall be undertaken in accordance with the approved details.

The development of the main building hereby approved shall be undertaken in full accordance with the provisions set out within the Arboricultural impact appraisal and method statement (ref 22191-AIA3-DC, 9th May 2023) and its associated tree protection plan ref 22191-4.

12. Development shall proceed in accordance with the measures set out in the Ecological Appraisal ref 784-B043706 (Tetra Tech, May 23) and Biodiversity Net Gain Assessment (Tetra Tech, May 23) Thereafter, enhancement features shall be permanently maintained and retained in accordance with the approved details, with photographic evidence provided to the Local Planning Authority within 6 months of occupation.
13. There shall be no construction or demolition works, no machinery shall be operated, no processes carried out and no deliveries received or dispatched outside the following times: 07:30 to 18:00 hours Monday to Friday and 08:00 to 13:00 hours on Saturday. In addition, no such activities shall take place on Sundays, Bank or Public holidays.
14. No fixed plant or machinery serving the completed development which may be audible beyond the site boundary shall be installed on site without prior written consent from the local planning authority. In seeking sign off of this condition the applicant is advised to provide details of the proposed plant, its location, any mitigation proposed and if mitigation includes use of a barrier a relevant cross section.
15. The development hereby approved shall be designed and built to meet Regulation 36 2 (b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.
16. The development shall be carried out in accordance with the submitted flood risk assessment (Titled: Proposed Residential Development at Edwina Mountbatten House, Romsey and produced by the Civil Engineering Practice, Proj.No. 23763 and dated June 2023) and the following mitigation measures it details: Finished floor levels shall be set no lower than 16.70 metres above Ordnance Datum (AOD), as specified in section 5.4.8 of the FRA. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
17. Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to first installing any such lighting. Development shall be carried out in accordance with the approved details.
18. Prior to the installation of any decorative features/details (timberwork, brickwork and chimneys) shall be submitted to and approved in writing by

the local planning authority. In addition, details of the name sign for the building, and for the re-siting of any plaques from the existing building shall be submitted. Development shall be undertaken in accordance with the approved details.

19. Full details of all new windows, rooflights and doors (to include scale drawings 1:20/1:50 including sections and face-on drawings) shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The windows and doors shall be installed in accordance with the approved details.

20. Details of the siting and design of any proposed Guttering and rainwater goods, and external meter boxes/ducting/flues/vents/aerials/ meter boxes, and any other externally visible services shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. The installation of the meter boxes/metal ducting/flues shall be in accordance with the approved details.

****End of Schedule****

APPEARANCES

FOR THE APPELLANT:

Christopher Boyle KC, Counsel

Instructed by Planning Issues Ltd

He called:

Matthew Shellum BA(Hons) DipTP MRTPI

Planning Director and Head of Appeals at Planning Issues Ltd

Rob Jackson BArch MArch RIBA ARB

Design Director at Planning Issues Ltd

Dominic Scott BA(Hons) Dip LA(dist) MLI

Urban Design Director at Stantec

Paul White BA(Hons) MPhil MCifA PIEMA

Company Director at Ecus Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Sioned Davies, Counsel

Instructed by Test Valley Borough Council

She called:

Rob Burns BA MCD

Director of Place and Context

Nick Wright BA(Hons) MSc

Senior Historic Buildings Advisor at Donald Insall Associates

Alexandra Webb BSc (JT Hons) MSc MRTPI

Associate at Southern Planning Practice

INTERESTED PARTIES:

Cllr John Parker

Romsey Town Council

Cllr Mark Cooper

Romsey Town Council

Cllr John Critchley

Romsey Town Council

Neill Beasley

Romsey and District Society

Steve Lees

Romsey and District Society

Margaret Lamb

Local Resident

Alec Fry

Local Resident

INQUIRY DOCUMENTS

- ID1 – Appellants Opening Statement
- ID2 – Council’s Opening Statement
- ID3 – Statement of Steve Lees (Romsey and District Society)
- ID4 – Statement of Cllr John Parker (Romsey Town Council)
- ID5 – Statement of Neill Beasley (Romsey and District Society)
- ID6 – Composite set of CD Plans
- ID7 – Plan SK18B – Additional Height Ratios
- ID8 – TVBC Housing Implementation Strategy, April 2023
- ID9 – Planning (Listed Buildings and Conservation Areas) Act 1990, Part II, Para 66
- ID10 – Planning (Listed Buildings and Conservation Areas) Act 1990, Part II, Para 72
- ID11 – Statement of Marea Woodhouse
- ID12 – Closing Submissions for the Council
- ID13 – Closing Submissions for the Appellant
- ID14 – Statement of Alec W Fry

DOCUMENTS SUBMITTED WITH AGREEMENT AFTER THE INQUIRY

- ID15 – Signed s.106 agreement dated 20 August 2024 (received Wednesday 21 August 2024)