Planning Inspectorate

Appeal Decision

Inquiry held from 25 February 2025 to 21 March 2025

Site visit made on 27 February 2025

by Jonathan Bore MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2025

Appeal Ref: APP/V1260/W/24/3351431
Former Southern Gas Network Site, Bridge Street, Christchurch, Dorset, BH23 1AZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Ltd against Bournemouth Christchurch and Poole Council.
- The application Ref is 8/23/0657/FUL.
- The development proposed is redevelopment to form a multigenerational community comprising 177 open market, affordable and retirement living apartments, 237 square metres of Class E commercial space, communal facilities, access, car parking, landscaping and all associated works.

Decision

1. The appeal is allowed and planning permission is granted for redevelopment to form a multigenerational community comprising 177 open market, affordable and retirement living apartments, 237 square metres of Class E commercial space, communal facilities, access, car parking, landscaping and all associated works at the former Southern Gas Network Site, Christchurch, BH23 1AZ in accordance with the terms of the application, Ref 8/23/0657/FUL, and the plans listed in Condition 2, subject to the conditions in the attached schedule.

Applications for costs

2. Applications for awards of costs were made by the Appellant against the Council and vice versa. These are the subject of separate decisions.

The development plan and emerging plan

3. The development plan consists of the Christchurch and East Dorset Core Strategy (2014) and the saved policies of the Christchurch Local Plan (2001). The Core Strategy sets out the planning strategy for Christchurch and East Dorset until 2028. It was formulated long before the current standard method of calculating local housing need was introduced and its provisions do not reflect current housing needs. It is agreed between the parties that there is a maximum of 2.1 years supply of deliverable housing land and a shortfall of at least 10,397 dwellings against a five year supply. This is a severe shortfall, and the plan is clearly out of date. Policy KS4 which seeks to meet housing requirements carries very little weight.

4. The Core Strategy locates the site in Christchurch town centre. Policy CH1, Christchurch Town Centre Vision, identifies the area of the appeal site as suitable for a range of town centre uses and states that development should comply with flood risk policy. It adds that further detail will be set out in a site allocations development plan document. However, such a document has never been produced and the policy itself is out of date in the absence of a plan-led approach towards meeting local housing needs.

5. Little weight is given to Policies HE1 of the Core Strategy and BE5 and BE15 of the Christchurch Local Plan, which relate to conservation areas and listed buildings. They are well out of date and not compatible with the Framework. However, Policy HE2, Design of New Development, is generally compatible with Paragraph 135 of the Framework and remains relevant.

6. The Council has submitted the draft Bournemouth Christchurch and Poole (BCP) Local Plan for examination. The site is the subject of a draft allocation for an estimated 150 homes subject to various criteria, which are discussed later in relation to flood risk, and there are other larger housing allocations nearby.

7. However, while the inquiry was still open, but after the physical sittings had finished, the Inspectors appointed to examine the submitted advised the Council by letter dated February 2025 to withdraw the plan. They concluded that the Council had not complied with the legal Duty to Cooperate as required by s33A of the 2004 Act and that this failure could not be remedied during the examination process. The comments of the parties to this appeal on this subject have been taken into account in this decision. Whilst the formal withdrawal of the submitted plan has not taken place at the time of writing, the plan can be given very little weight, although its evidence base is material to this appeal.

8. In the circumstances the scheme has primarily been assessed against national planning policy in the National Planning Policy Framework (the Framework) and against Planning Practice Guidance (PPG).

The benefits of the scheme

9. The scheme would occupy a large brownfield site within Christchurch town centre and would have many planning and sustainability benefits. These include the following.

- The provision of 177 much needed homes in an area with a severe housing shortfall and a shortage of available housing land.
- The provision of retirement homes for which there is a demonstrable need, freeing up larger homes for re-occupation.
- The development of a large derelict town centre site, making the best use of brownfield land in a sustainable location and removing the air of dereliction and blight from this part of Bridge Street.
- The physical manifestation of an important investment in Christchurch, and the introduction of additional spending power into the town centre.
- The repair and re-use the Boiler House and Pump Room.

10. The significance of these benefits cannot be stressed too strongly. They fully support the objectives of the Framework.

Main Issues

11. The main issues in this case are:

    1. The effect of the scheme's design and scale on the character of the area, the settings of heritage assets and protected trees.

    2. Flood risk and drainage.

12. The Council raised a further objection relating to the lack of 3 bed homes in the scheme. Core Strategy Policy LN1 seeks a mix of homes. However, the retirement living aspect of the scheme would be likely to release larger under-occupied homes on to the market, so in practical terms there would be no conflict with the objectives of Policy LN1. This is not a main issue.

Reasons

Issue 1: The effect of the scheme's design and scale on the character of the area, the settings of heritage assets and protected trees

13. The site lies outside the Christchurch Central Conservation Area on the southern side of Bridge Street. The northern side of the street opposite the site falls within the conservation area and is mostly lined with 2 and 3 storey buildings with pitched roofs on narrow plots, although there are some gaps. Victoria Bridge to the west of the site is Grade I listed and there are Grade II listed buildings at 38, 40a, 40, 48 and 50 Bridge Street and non-designated heritage assets at 42, 44 and 46 Bridge Street. These are mostly domestic-scale buildings of the 18th and 19th Centuries. Beyond the conservation area boundary, also on the northern side of the road, are further non-designated heritage assets at 52, 54, 56 and 74-78 Bridge Street. Despite its fragmented nature, Bridge Street derives character from the modest scale and traditional forms of development along its northern side.

14. Seen from Bridge Street and in views from Victoria Bridge, the proposed development would read as three main storeys above a ground floor plinth, with a further set back storey at roof level. The scheme would be rather taller than the buildings opposite and would display a regularity of rhythm and a consistency of roofline that is not found nearby. The main three storey element would consist of a series of bays in white brick, with buff brick detailing, recessed elements and glass balconies. The colour and arched brick detail are loose references to the light rendering and arched window heads of some nearby buildings, but the bays, roof forms, grain, scale and materials of the scheme would not reflect the traditional building forms on the northern side of Bridge Street. These aspects were raised as concerns by Historic England in its objection to the planning application by letter dated 24 October 2023.

15. The contrast between the appeal scheme and the historic development on the northern side of Bridge Street would be very evident. But development on the southern side of Bridge Street has not followed the same path as that on the northern side. The appeal site was a former gasworks containing substantial gas holders. These were highlighted within the 2005 Conservation Area Appraisal as an unattractive intrusion into the townscape. They have been demolished, and the appeal site is now an extensive, unattractive piece of derelict industrial land that

detracts from the character and appearance of the locality. The derelict Boiler and Pump Room building, a non-designated heritage asset, is the only remaining feature of note on the site, but that too has a detrimental effect on its surroundings because of its condition. The area to the south of Bridge Street is less sensitive in respect of height, bulk and form than the northern side. It contains the modern three storey freestanding former Council Offices which the Council has been marketing with the potential for an additional two floors, and there are other large footplate buildings in this area as well as extensive areas of car parking.

16. The activities that were carried on south of Bridge Street, and the buildings and structures that were placed there over time, have always been fundamentally different in scale and use, and in their relationship to the street, from those on the northern side. The resulting one-sidedness of Bridge Street at this point is recognised in the Conservation Area Appraisal. The heritage assets have their own integrity and special interest derived from their relationship to the historic thoroughfare leading eastwards from Victoria Bridge. They have historically existed in the context of radically different structures opposite. The bridge itself has its own integrity as a listed building, its importance being derived from its intrinsic design and character and its position on the old road from Christchurch. It follows that, although substantial parts of the appeal site would be seen from Victoria Bridge, Christchurch Central Conservation Area and the listed buildings facing Bridge Street, the site is not within their functional or historic setting.

17. The site is, of course, within their visual setting, and it is appreciated that the Council and Historic England might prefer development on the site to follow more closely the scale, grain and form of development of the buildings on the northern side of the road. A design approach of this sort might, if feasible, create a comfortable continuum of small-scale fine grained development on both sides of Bridge Street, rather than the contrasting appearance of the appeal scheme. But this is not the only valid design solution. It would not be derived from a historic development pattern; it would create something that did not exist in the past. It would not recognise the distinction in the evolution of the two sides of the road. Given the character and historic evolution of the southern side of Bridge Street, there is no compelling reason why the development should follow the form that exists opposite on Bridge Street and no special reason why it should not have a contrasting form and scale. The scheme, though different, would not be so out of scale, incongruous or unattractive as to harm the significance of the heritage assets on Bridge Street.

18. There are other design parameters and constraints that exert a strong influence over the development of the appeal site, including the need to protect the scheme against flood risk and to make the best use of this town centre site in an area of housing shortfall. Some additional height is to be expected for these reasons. The need to allow for the flow of flood water, the provision of a flood resistant undercroft and the necessity of uniform floor levels for ease of access have resulted in a less fine-grained form of development. The absence of an active ground floor frontage to Bridge Street except at the point of entrance is unavoidable because of the need for a raised ground floor, a likely requirement for any development in Flood Zone 3a. The design is an appropriate response to the site and has been evolved through consultation and design review. It makes efficient use of the land and it handles the issue of flood risk effectively.

19. The scheme would get rid of an unattractive derelict site in Christchurch town centre which is a visual blight and would remain so for an indefinite period if the Council's approach to flood risk were to prevail (see Issue 2). It would renovate and bring back into use the Boiler House and Pump Room and turn it into an attractive feature in the street. It would thus considerably improve the visual settings of the Christchurch Central Conservation Area, the listed buildings and the non-designated heritage assets.

20. Modern materials would be acceptable in the openings of the Boiler House and Pump Room for thermal efficiency and ease of maintenance. The Council criticised the location of the entrance to the main part of the development, but it would emphasise and make good use of the junction between the Boiler House and the new buildings.

21. The scheme would result in the removal of protected trees from the Bridge Street frontage and part of the eastern side of the site. Despite heavy pollarding, they contribute moderately to the street scene. But they were planted to hide views of the gas holders, which no longer exist, and the scheme proposes, appropriately, to plant new trees in positions which would enable development to make better use of the site. The new trees would help to soften the Bridge Street frontage and the western elevation and would be a more suitable species for their urban environment. Future tree maintenance is not of concern given the long term control exercised over the site by the operator.

22. Finally, the scheme would not have any effect on the significance of Purewell Conservation Area, which lies too far to the east for its setting to be affected.

Conclusion on Issue 1

23. The massing, height, design, grain, form and scale of the development would not harm the character of the locality. In this regard the scheme would not conflict with paragraph 135 of the Framework, or with Policy HE2 of the Core Strategy which seeks high quality design which reflects local distinctiveness and is compatible with its surroundings.

24. The scheme would not harm the significance of the designated and non-designated heritage assets and would significantly improve their settings. It would accord with the objectives of Chapter 16 of the Framework.

25. The removal of a number of protected trees is acceptable to make way for a development which would make better use of the site. The scheme would replace the trees with a more appropriate species for their urban location.

Issue 2: Flood risk and drainage

Background

26. The Christchurch Bay and Harbour Flood and Coastal Erosion Risk Management Strategy (the FCERM) has jointly been produced by Bournemouth, Christchurch and Poole Council (BCP) and New Forest District Council. The option development and appraisal for the FCERM was undertaken against a spatial framework comprising 6 Strategy Management Zones (SMZs) and 18 smaller Option Development Units (ODUs). The site falls within SMZ 2 (Christchurch Harbour) and within ODU 9 (Stanpit).

27. ODU 9 is defended from flooding. The Lower Avon Flood Defence Scheme was officially opened on 25 September 1998. The scheme is maintained by the Environment Agency; further south the riverbank is maintained by BCP Council. The scheme was designed to provide protection against design flood levels of 1 in 100 years (1%) for the period up to 2043 and it has proven an effective flood defence. There is no current need for its refurbishment according to the FCERM strategy implementation programme. The defences are described in the strategy as having potential need for intervention in the period 2045-2049.

28. For these reasons the site has been for many years considered to fall within Flood Zone 3a and is shown as such in the Christchurch Borough Council Strategic Flood Risk Assessment (SFRA) which comprised both SFRA Level 1 and SFRA Level 2 (September 2019). However, a new BCP Council SFRA Level 1, produced by the Lead Local Flood Authority and endorsed by the Environment Agency, was published in May 2024 as part of the evidence base for the emerging plan which the examining Inspectors are now advising the Council to withdraw.

29. The SFRA was high level only. It reviewed available hydraulic models, climate change scenarios and the policy framework. It showed a larger proportion of Christchurch, including the appeal site, to be within Flood Zone 3b, functional flood plain.

30. The Environment Agency released new hydraulic modelling in November 2024 which provides a detailed reassessment of the fluvial and tidal flood risk across the Christchurch area and includes future climate change scenarios. The SFRA has not yet been updated with that modelling, but it has been taken into account in this decision.

31. Functional flood plain is defined in accordance with the PPG as (among other things) land which would naturally flood with an annual probability of 1 in 30 years (3.3%) or greater with any existing flood risk management infrastructure operating effectively. At present, no part of the site would naturally flood in a 1 in 30 year (3.3%) event with the existing defences in place.

32. The projections of the 2024 Environment Agency modelling, including future climate change scenarios, indicate that with the existing defences the site and its locality would not be affected by the projected 1 in 30 year (3.3%) annual probability fluvial event in the 2040 epoch. However, the site would be affected by 2070 onwards. For tidal flooding, the projections indicate that the site would not be affected in the 2040 and 2070 epochs, but when the projected 2120 scenario is modelled the site and wider area would fall within the 1 in 30 (3.3%) annual probability tidal floodplain. Modelling suggests that there would be potential for more frequent flooding by the end of the 100 year “design life” of the development.

33. There is an outstanding objection to the scheme from the Environment Agency, and an Environment Agency representative gave evidence at the inquiry in respect of flood risk on behalf of the Council.

The relevant flood zone

34. Policy P10 of the emerging local plan, which has failed the legal Dury to Cooperate test, sought to make development of the appeal site subject to certain preconditions which cannot be met at present. These were based on the contents of the 2024 SFRA Level 1. They include the following.

- A funding strategy in place for flood defence maintenance and improvement. The Council is committed to one, but it has not been produced.
- An updated SFRA Level 2 containing an affirmation that the site can be considered to fall outside “future Flood Zone 3b”. This too has not been produced by the Council.
- A financial contribution from the scheme towards flood risk infrastructure. This has not been sought by the Council.

35. The ability to meet these preconditions is clearly outside the control of the Appellant. Yet the Council considers that, unless they are met, the site and its locality should be considered “future Flood Zone 3b” which, by PPG definition, is functional floodplain through which flood water would be allowed to flow unimpeded and where only water-compatible development should be permitted. The Council describe this as a knockout blow to the appeal scheme. This leaves the Appellant in a helpless position and would sterilise a large, highly sustainable town centre brownfield site, regardless of the demonstrable ability to make the development safe for its lifetime (see below). The position of the Council is not adequately justified for many reasons.

36. Firstly, by PPG definition the site currently falls within Flood Zone 3a and will continue to do so for many years as it is protected by a modern flood defence scheme. It is not functional flood plain according to the definition in Table 1 of in PPG “Flood Risk and Coastal Change” where water from rivers or the sea must flow or be stored in times of flood, nor is there any proactive plan to make it so. It plainly does not have that character; it is part of a built up urban area. Whilst it is necessary to take into account future climate change scenarios, there is no explicit policy in the Framework or in PPG that supports the superimposition of a “future Flood Zone 3b” policy over a highly populated defended area that will clearly meet the definition of Flood Zone 3a for many years even if its defences are not raised. The Environment Agency witness who gave evidence on behalf of the Council agreed that the site did not meet the normal definition of Flood Zone 3b.

37. Secondly, the 2024 SFRA on which the Council bases its negative approach to the appeal scheme is not a development plan document, it is a Level 1 background document produced as part of the evidence base for the emerging local plan. The PPG states that a SFRA is a study to assess the risk to flooding now and in the future, taking account of climate change, and it is used to inform the sustainability appraisal of the plan and inform the allocation of land. Published national advice from the Environment Agency states that an SFRA will help various parties consider flood risk when making planning decisions about the design and location of any development. Thus whilst the SFRA is a material consideration, it is not itself a planning policy document and should not be regarded as such. It is not examined and does not carry the weight of the development plan. As regards planning policy, the examination into the emerging local plan did not even get as far as considering the policy for the appeal site or the soundness of the flood-related criteria in the policy before the plan was found legally unsound. There is no detailed SFRA Level 2 at present.

38. Thirdly, the PPG makes it clear that the identification of functional floodplain should take account of local circumstances and not be defined solely on rigid probability parameters. The definition of this area as “future Flood Zone 3b”, would not

adequately take into account local circumstances. It would affect a substantial part of the town of Christchurch, including part of the town centre, and its homes, businesses and heritage assets. This is a large community currently defended by a modern flood defence scheme, where it is reasonable for people to expect to continue living and working and undertake new development. Indeed, it is noteworthy that whilst resisting development on the appeal site, the Council itself has been actively marketing its former offices adjacent to the appeal site as a development opportunity. The consequences of a "future Flood Zone 3b" definition for the area would be so serious that they would require a public and political decision based on the thorough and open evaluation of options following proper public consultation, at a level of examination and scrutiny very much higher that of the Level 1 SFRA.

39. Fourthly, if the site were defined as "future Flood Zone 3b", it would prevent its regeneration. It would mean that, despite the appeal scheme being designed so that habitable accommodation would remain unaffected by extreme flooding events and the development would be safe from flooding for its lifetime (see below), this important town centre brownfield site would remain vacant and a blight on its surroundings. It would be unable to assist in meeting the serious housing shortfall in the district. The designation of this site as "future Flood Zone 3b" would be an unnecessary impediment to the achievement of several important national planning objectives set out in the Framework.

40. Fifthly, the pessimistic funding scenario described at the inquiry by the Council is unjustified. Whilst there are inevitable uncertainties around funding from central government, CIL and from development opportunities, the Council has resolved to develop a funding strategy to plan, identify and secure contributions before any scheme is required. The FCERM's preferred approach for ODU 9 is to construct new raised defences from epoch 2 and raise defences incrementally over time, described as the National Leading option. This recognises the social benefit from providing improved flood defences for this area and is aligned with the outcome of the public consultation described in section 5.3 of the FCERM strategy. The FCERM recognises that where flood risk improvement schemes are not recommended to occur for several years, this provides time to source funding contributions. This is the case for the appeal site.

41. Finally, the FCERM Strategy (3.3.4 to 3.3.6) highlights the uncertainties around the magnitude of future climate change and sea level rise and the availability of funding for FCERM projects in the future and states that is imperative that the long term plan should be flexible.

42. For all the above reasons, it is inappropriate for the Council to take such an inflexible approach and treat the site and a substantial part of its environs as "future Flood Zone 3b" – in other words functional flood plain in which only water-compatible development is acceptable. For the purposes of this appeal the site should be regarded as falling within Flood Zone 3a. There is ample time for funding to be raised for the upgrading of the flood defences. The appropriate policy for Flood Zone 3a, as set out in the Framework and in the PPG, should be applied in this case. This requires the application of the sequential approach and, if that is passed, the exception test.

The sequential test

43. The Appellant's Flood Risk Sequential Test Report, based on the policy and guidance in the Framework and PPG, considered a range of sites in areas of lower flood risk using the Council's list of five-year housing land supply sites and the Brownfield Land Register Part 1. It identified 7 sites which had the potential to accommodate a net increase of 40 or more dwellings, but none had the ability to accommodate the full 177 dwellings proposed in the scheme. The Council responded with a list of sites which it considered were potentially sequentially preferable, but it is clear from the submitted evidence that several would be too far from the town centre to support retirement living development; some are unavailable either because they are subject to active development proposals or because they would be unlikely to come forward within the next 5 years; and some would be too small to sustain a viable retirement living development. The Appellant's sequential test and rebuttal evidence are thorough and convincing.

44. As regards development format and the potential for disaggregation, the scheme would be a multi-generational housing development in which age restricted apartments and market apartments would be provided close together, with shared external areas and open space to provide opportunities for the generations to mix. Such development is supported by the Older People's Housing Taskforce Report. The size of the development makes this a viable and realisable proposition. For the purposes of the sequential approach, the proposal should be regarded as an integrated development concept which should not be regarded as suitable for disaggregation.

45. For the above reasons the sequential test is met. This conclusion is based on the evidence presented at the inquiry into this appeal and is not dependent on whether the Council at the local plan examination had considered that the site met the sequential test.

The exception test

46. The Framework states that to pass the exception test it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk; and the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, would reduce flood risk overall.

47. The sustainability benefits are described in paragraph 8 of this decision. They are very important indeed, and considerably outweigh the flood risk.

48. As regards the safety of the development for its lifetime: the Appellant has produced a Flood Risk Assessment, a Safe Access Technical Note, a Flood Risk Management Plan and a Flood Resilience Technical Note. The latter follows the standards in the Code of Practice for Property Flood Resilience.

49. The design 1 in 200 (0.5%) annual probability 2120 tidal flood level is 2.99m AOD and the equivalent design 1 in 100 (1%) annual probability fluvial event is 2.69m AOD. Under the worst climate change sensitivity test the equivalent tidal flood level is 3.49m AOD.

50. All homes on the lowest floor would be a minimum of 4.0m AOD. There would therefore be a minimum of 1m freeboard above the highest central tidal prediction

and 0.5m against the worst sensitivity test scenario. Thus even if a 1 in 200 year tidal flood event were to take place towards the end of the lifetime of the development, under the worst case sensitivity test climate change scenario, in circumstances where the flood defences had not been raised, no residential unit would be flooded.

51. As regards safe access and escape, in the absence of raised defences certain flood events could affect the lowest level of the site and surroundings, with the potential for more frequent events later in the lifetime of the development. However, Environment Agency flood forecasting would provide early warning of flood alerts, and these would be received and acted upon by the nominated Flood Warden in accordance with the Flood Risk Management Plan. Fluvial flood events would have about 10 days' notice, whilst tidal flood events would be predictable in advance. There would therefore be sufficient time for occupants to be evacuated before a flood and for preparations to be made. The Flood Warden would ensure that all apartments were evacuated, secured and that services would be turned off and isolated. The provision of a detailed emergency plan is the subject of a condition.

52. The Council provided illustrations of difficult evacuations during flood events, but those were evacuations of individuals from properties which bear little relation to the kind of development proposed in the appeal scheme. In the appeal proposal, flood events have been planned for, an adequate and convincing emergency plan has been produced and resilience would be built into the scheme. The Appellant would retain and operate the development in the long term and would be able to exercise adequate control over any evacuation, with compliance underwritten through the lease terms. Safe access routes would be secured through the emergency plan and residual risk would be safely managed.

53. The lower floor of the proposed buildings would be designed to allow flood water to flow through and would not contain residential accommodation. However, they would include undercroft parking, fire escape stair cores, refuse and storage areas, the main entrance and the owners' lounge. There would also be commercial uses within the refurbished Pump and Boiler House. The buildings, materials and structures would be designed at their lower levels to resist flood events, foul drainage runs would have non-return valves and there would be no service penetrations below 2.99m AOD plus 350mm freeboard. There would be temporary flood gates to the parking area. The building would also contain design features to allow for rapid recovery including recoverable floor and wall finishes, closed cell insulation, raised services and resilient storage facilities and appliances. Post flood recovery would be undertaken in accordance with the recognised methodology. The conversion of the Pump House and Boiler Room, into a commercial building would enable the existing damaged structure to be made more resilient and it would not be occupied by vulnerable users.

54. As for the potential maintenance burden on the drainage system in the event of frequent flooding, there is no convincing evidence to suggest that the attenuation tanks could not be designed into the layout of this large site to ensure their effectiveness and secure them against flotation, or that the landscaped areas could not be designed to accommodate water in the event of tidal locking. The risk of siltation, damage and pump failure would be mitigated because the operator would retain the site freehold and would have a strong long term interest in upholding standards of maintenance and flood resilience on the site, as has been the case in the many developments it has previously undertaken. Conditions are attached

requiring the submission of a detailed surface water management scheme and details of management and maintenance arrangements.

55. The scheme would satisfy the exception test and would be safe for its lifetime taking into account the vulnerability of its users.

Conclusion on Issue 2

56. The appropriate flood risk designation for the site is Flood Zone 3a. The proposal meets the sequential test and the exception test for the reasons given above. The evidence provides full confidence that the site would be adequately protected against flood risk, that it would remain safe for its users throughout its lifetime, and that it would be drained and adequately maintained even if the flood defences were not raised. In respect of flood risk protection, resilience against climate change and the provision of adequate drainage, the scheme would meet the objectives of the Framework and the PPG.

57. Policy P10 of the emerging plan carries little weight because of the legal failure of the local plan at examination. The relevant development plan policy for this site in respect of flood risk therefore remains Policy ME6 of the Christchurch and East Dorset Local Plan Core Strategy (2014) which seeks appropriate flood resistance and resilience measures in areas of flood risk as a means of future proofing against the effects of climate change. The appeal scheme would meet those requirements.

58. The scheme would be acceptable in respect of all matters of flood risk and drainage.

Conditions

59. Necessary conditions are attached which seek details of materials, landscaping, and landscape management, arboriculture and tree protection, construction management, surface water management and maintenance, the investigation and remediation of site contamination, phosphorus mitigation, evacuation and emergency plans, highway works, noise attenuation, biodiversity enhancement, groundwater infiltration and piling, security measures, and the recording of the Pump House and Boiler Room. Where appropriate I have removed excessive prescription and duplication from the parties' suggested conditions.

60. It is reasonable to require the recording of the Pump House and Boiler Room, even though it would not be demolished, as it is a non-designated heritage asset and the only surviving remnant of the site's historic use, and it would be subject to various alterations.

61. A condition relating to the New Forest SAMM contribution is not necessary because there is a clause in the s106 agreement which deals with the matter. The amount of contribution specified in the s106 agreement is derived from a 2023 per-dwelling BCP figure, and although the Council has sought to question its current validity, it has not presented any alternative figure. The specific figure in the s106 agreement provides greater certainty as to the financial burden on the developer than would a condition. The obligation is clear in requiring payment to New Forest District Council.

62. Regarding phosphate mitigation, a more prescriptive condition setting out the number of phosphate credits is not appropriate, but in the interests of realism, the

calculation should be based on an average occupancy rate that reflects the operator's real life experience.

63. Conditions relating to the minimisation of noise to external spaces, construction traffic air quality and the provision of 245 cycle parking spaces are unnecessary for the development to go ahead and have not been included.

Planning obligation

64. The s106 agreement dated 12 March 2025 includes a range of obligations. Those that are necessary cover SANG and SAMM contributions, a NHS contribution, a travel plan, TRO contribution 1, and highway works. The New Forest SAMM contribution has been discussed above.

65. The travel plan clause includes a requirement to include a travel voucher for each market dwelling. This is unnecessary as the site is in a highly accessible location in the town centre. This requirement should have no effect.

66. The scheme does not include affordable housing owing to viability issues on this constrained site. The clause in the s106 obligation which raises the possibility of affordable housing and car club contributions following viability review is disputed by the Appellant. Viability review is referred to in the Council's affordable housing SPD, but there is no reference to it in the development plan and thus no basis in the statutory planning framework to seek it. The clauses in the s106 agreement which relate to viability review, and the related requirements concerning affordable housing, car club and TRO contribution 2 should not therefore have effect.

Conclusion

67. The development would be different in form and scale from the fine grained traditional buildings on the northern side of Bridge Street, but owing to the separate evolution of the two sides of the road and the different design parameters and constraints that affect the site, it is not necessary to adopt a design that reflects the characteristics of the northern side. The scheme would not harm the character of the locality and would visually benefit the area, It would not conflict with paragraph 135 of the Framework, or Policy HE2 of the Core Strategy.

68. The scheme would not harm the significance of the nearby designated and non-designated heritage assets and would significantly improve their visual settings. It would accord with the objectives of Chapter 16 of the Framework.

69. The removal of a number of protected trees is acceptable because it would enable better use to be made of the site. The scheme would replace the trees with a more appropriate species for their urban location.

70. On all reasonable grounds, and by PPG definition, the site should be regarded as falling within Flood Zone 3a. The scheme passes both the sequential and the exception tests as set out in the Framework and the PPG. The development would be safe against flooding for its lifetime and would provide for adequate drainage.

71. The development plan is out of date and, in the light of my assessment above, there are no policies in the Framework protecting assets of particular importance, including heritage and flood risk, that provide a strong reason for refusing the development.

72. The development would make full use of a large derelict brownfield site in the town centre of Christchurch. It would assist in addressing the significant need for new homes in the area and the serious shortfall in housing land supply. It would also address the need for retirement living accommodation and would help to free up larger under-occupied homes. The development would assist with the regeneration of the area and would boost the town centre by direct investment and through the additional spending power of the future residents. Theses many benefits provide an overwhelming reason for planning permission to be granted.

73. I have considered all the other matters raised, but they do not alter the balance of my conclusions.

74. For all the reasons discussed, this appeal is allowed and planning permission granted.

Jonathan Bore

INSPECTOR

CONDITIONS

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

2. The development shall be carried out in accordance with the following plans:

10112CA - PA200	Location Plan as Existing
10112CA – PA201	Masterplan and Site Plan
10112CA – PA202	Masterplan and Roof Plan
10112CA – PA250	Site Sections A-A & B-B
10112CA – PA251	Site Sections C-C & D-D
10112CA – PA252	Site Sections E-E & F-F
10112CA – PA300	Northern Retirement Living Block Lower Ground Floor Plan
10112CA – PA301	Northern Retirement Living Block Ground Floor Plan
10112CA – PA302	Northern Retirement Living Block First Floor Plan
10112CA – PA303	Northern Retirement Living Block Second Floor Plan
10112CA – PA304	Northern Retirement Living Block Third Floor Plan
10112CA – PA305	Northern Retirement Living Block Roof Plan
10112CA - PA310	Northern Retirement Living Block North and West Elevations
10112CA – PA311	Northern Retirement Living Block South and East Elevations
10112CA – PA312	Northern Retirement Living Block Internal Elevations
10112CA - PA313	Northern Retirement Living Block Gable Elevations
10112CA – PA400	Western Block Lower Ground Floor Plan
10112CA – PA401	Western Block Ground Floor Plan
10112CA – PA402	Western Block First Floor Plan
10112CA – PA403	Western Block Second Floor Plan
10112CA – PA404	Western Block Third Floor Plan
10112CA – PA405	Western Block Roof Plan
10112CA – PA410	Western Block West and South Elevation
10112CA – PA411	Western Block East and North Elevations
10112CA – PA500	Eastern Block Lower Ground Floor Plan
10112CA – PA501	Eastern Block Ground Floor Plan
10112CA – PA502	Eastern Block First Floor Plan
10112CA – PA503	Eastern Block Second Floor Plan
10112CA – PA504	Eastern Block Third Floor Plan
10112CA – PA505	Eastern Block Roof Plan
10112CA – PA510	Eastern Block West and South Elevations
10112CA – PA511	Eastern Block East and North Elevations
10112CA – PA600	Boiler and Pump House Building Existing Floor Plans
10112CA - PA601	Boiler and Pump House Building Existing North and West Elevations
10112CA – PA602	Boiler and Pump House Building Existing South and East Elevations
10112CA – PA603	Boiler and Pump House Building Proposed Floor Plans
10112CA – PA604	Boiler and Pump House Building Proposed North and West Elevations
10112CA – PA605	Boiler and Pump House Building Proposed South and East Elevations
10112CA – PA700	Mostyns Factory Outlet Existing Roof Plan and Elevations
22-215	La Mamma's and Boiler and Pump House Measured Building Survey and Elevations
20142-5	Tree Protection Plan

3. Details and samples of the materials to be used on the external surfaces of the buildings hereby permitted shall be submitted to and approved in writing by the local planning authority prior to the commencement of any development above ground level. The development shall be carried out in accordance with the approved details and samples.

4. Details and samples of materials to be used for the refurbishment and conversion of the Boiler and Pump House Building shall be submitted to and approved in writing by the local planning authority prior to any works being carried out on the building. The development shall be carried out in accordance with the approved details and samples.

5. Prior to the commencement of any above ground works hereby permitted, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a timetable approved in writing by the local planning authority. Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of similar size and species.

6. Prior to occupation of the development hereby permitted, a landscape management plan shall be submitted to and approved in writing by the local planning authority, setting out management responsibilities and maintenance schedules for all landscaped areas. The landscaped areas shall be maintained throughout the lifetime of the development in accordance with the approved landscape management plan.

7. The development hereby permitted shall be carried out in accordance with the approved arboricultural impact assessment and method statement by Barrells (13 July 2023) and the approved tree protection plan (20142-5).

8. No development shall take place, including any works of demolition and site clearance, unless a demolition and construction management plan has been submitted to, and approved in writing by, the local planning authority. The construction and demolition phases of the development will be carried out fully in accordance with the approved demolition and construction management plan.

9. No development, excluding demolition, shall take place until a detailed scheme (including floatation calculations) for managing surface water, based upon the hydrological and hydrogeological context of the development, which accords with 332510537/101/012 P01 & 332510537/101/013 P01 and which discharges runoff to the southern watercourse at a rate not exceeding 2l/s, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be implemented in accordance with the submitted details before the development is first occupied.

10. Detailed management and maintenance arrangements for the surface water scheme, which takes into account tidal and fluvial inundation of the site and any subsequent remediation, shall be submitted to and approved in writing by the local planning authority, before any residential occupation of the site. Thereafter,

the drainage system shall be managed and maintained in accordance with the approved details.

11. Prior to the commencement of any work in association with the development hereby approved, including site preparation works, a detailed intrusive investigation and report prepared by a suitably qualified and competent person in accordance with the Environment Agency 'Land Contamination Risk Management' guidance shall be submitted to and approved in writing by the local planning authority. The report shall comprise an assessment of the risks from contamination to all relevant receptors. If the risk assessment identifies any unacceptable risks and/or establishes the presence of a significant pollutant linkage, a remediation strategy/plan shall be submitted to and approved in writing by the local planning authority prior to the commencement of development and shall be implemented as approved. The local planning authority shall be notified in writing of the intended commencement of remediation works no less than 14 days before the works commence on site.

12. The presence of any previously unencountered contamination that becomes evident during the development of the site or remedial works shall be reported to the local planning authority in writing within one week, and work on the affected area shall cease with immediate effect. At this stage, if requested by the local planning authority, an investigation and risk assessment shall be undertaken, and an amended remediation scheme shall be submitted to and approved by the local planning authority prior to recommencement works in the affected area. The approved details shall be implemented as approved.

13. Following completion of remediation works but prior to any part of the permitted development being occupied, a verification report which demonstrates the effectiveness of the completed remediation works, and any requirement for longer-term monitoring of contaminant linkages, maintenance, and arrangements for contingency action, shall be submitted to and approved in writing by the local planning authority.

14. No part of the development hereby permitted shall be commenced unless proposals for the mitigation (including any offsetting arrangements) of the impact of phosphorus arising from the development on the River Avon Special Area of Conservation (SAC), have first been submitted to and approved in writing by the local planning authority. Such proposals shall provide:

    (a) for mitigation which achieves a phosphorous neutral impact from the development for the duration of its lifetime; and

    (b) details of arrangements for the ongoing monitoring, management and maintenance of all identified mitigation such as is necessary to ensure that a phosphorous neutral impact will at all times be secured.

    No part of the development shall be occupied unless all mitigation identified in the approved details has been provided in accordance with the approved details. Monitoring, management and maintenance thereafter shall be carried out in accordance with the approved details.

15. Before the commencement of development, a flood warning, evacuation and emergency strategy shall be submitted to and approved in writing by the local planning authority. The approved strategy shall be put in place prior to the first occupation of the development and shall be maintained throughout its lifetime unless the local planning authority gives written consent to any variation.

16. Prior to the commencement of any work above eaves level, plans and particulars showing the stopping up of the existing Bridge Street vehicular access layout, together with details of levels, sections, drainage and street lighting of the proposed footway widening to the Bridge Street frontage and the proposed works to bring Stony Lane South up to public highway adoptable standards shall be submitted to and approved in writing by the local planning authority. The approved works shall be fully completed prior to the first occupation of any residential unit and the Bridge Street widened footway area shall be available for public use at all times thereafter.

17. Noise attenuation shall be carried out in accordance with section 6 of the Howell Acoustics Noise Assessment (Project no. HA259, dated 21 July 2023). All works which form part of the scheme so approved shall be completed prior to the first occupation of the northern block and shall be permanently retained unless the local planning authority gives written consent to any variation.

18. All plant, machinery and equipment, including air conditioning units and any air handling plant in relation to the commercial unit shall be attenuated to achieve a Rating Level (BS4142:2014) of 5dB below the background noise level determined at the nearest noise sensitive receptor, when the plant is intended to operate.

19. Prior to the occupation of the development, details of biodiversity enhancements, to include bird boxes, tiles or bricks on and around the new buildings and native and wildlife friendly landscaping, shall be submitted to and approved in writing by the local planning authority. The biodiversity enhancements shall thereafter be installed as approved and permanently retained.

20. No infiltration of surface water drainage into the ground shall take place other than in accordance with details submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

21. Piling using penetrative methods shall not be carried out other than in accordance with details submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.

22. Prior to the first occupation of the development, security measures at the southern entrance gate, car parking access control and surveillance of communal areas, designed to Secured by Design Standards, shall be installed in accordance with details submitted to and approved by the local planning authority and the measures shall be permanently maintained thereafter unless the local planning authority gives written consent to any variation.

23. Prior to any work being carried out to the Boiler and Pump House, the building shall be recorded in accordance with the Historic England publication 'Understanding Historic Buildings: A Guide to Good Recording Practice' and the record shall be deposited with the local planning authority prior to the first occupation of the building.

24. Each dwelling within the Retirement Living development hereby permitted shall be occupied only by a person aged 60 years or over; a person aged 55 years of older living as part of a single household with the above person in (i); or a person aged 55 years or older who was living as part of a single household with the person identified in (i) who has since died.

APPEARANCES

FOR THE APPELLANT:

Sasha White KC and Edward Arash Abedian of Counsel of Landmark Chambers, instructed by Mr S Goodwill, Managing Director, Planning Issues.

He called:

Amy Hensler BEng (Hons), MSc, C.WEM, MCIWEM. CEnv, Director of Flood Risk at Stantec UK Limited (Flooding)

Catherine Ritson BL(Hons), CMLI, Technical Director, SLR Consulting Limited (Landscape)

Rob Jackson Barch March RIBA ARB, Design Director, Planning Issues (Design)

Paul White BA(Hons) MPhil MCIfA PIEMA, Strategy Director & Interim Practice Area Lead Historical Environment, Cura Terrae (formerly Ecus Ltd) (Heritage)

Chris Allder MSc HNDArb FArborA MICFor RCArborA, Associate Director and Consultant, Barrell Tree Consultancy (Trees)

Matthew Shellum Ba(Hons) DIPTP MRTPI, Head of Appeals, Planning Issues Ltd. (Planning)

FOR THE LOCAL PLANNING AUTHORITY:

Annabel Graham-Paul of Counsel, instructed by Robert Firth, Senior Solicitor, Bournemouth, Christchurch and Poole (BCP) Council

She called:

Alan Frampton, BSc (Hons) MSc C.Wem MCIWEM, Strategy, Policy and Environment Manager, South West Flood and Coastal (SWFaC) hosted at BCP Council

Michael Holm, BSc (Hons) Flood and Coastal Risk Management Advisor, Environment Agency

Christopher Osborne, GMICE, MSc, MPHYS, Inland Flood Risk Manager, South West Flood & Coastal (SWFaC) hosted at BCP Council

Catherine Miles, BSc (Hons), MSc, PG Dip UD, MRTPI, Urban Design and Heritage Manager, BCP Council

Ruth Povey, BSc (Hons), MA, MA, IHBC, MRTPI Senior Planning Officer (Heritage), BCP Council

Bea Ridley, ND (Arboriculture), Lantra Professional Tree Inspection Course, Arboricultural Association membership, Senior Arboricultural and Landscape Officer, BCP Council

Christopher Whitehouse, BSc (Hons) MRICS, Managing Director, NextPhase

DOCUMENTS

Core documents

CD1.1 to CD1.73: Original application submission

CD2.1 to CD2.4: Additional/Amended Plans/Reports submitted after validation

CD3.1 to CD3.3: Development Plan

CD4.1 to CD4.21: Inquiry Documents

CD5.1 to CD5.51: Other relevant documents

CD6.1 to CD6.15: Emerging BCP Local Plan

CD7.1 to CD7.18: Consultee Responses on Planning Application

CD8.1 to CD8.3: Additional Responses following Appeal Notification

CD9.1 to CD9.23: Proofs of Evidence - LPA

CD10.1 to CD10.8: Proofs of Evidence - Appellant

CD11.1 to CD11.3: Case Laws and Appeals

CD12.1 to CD12.7: Rebuttals - LPA

CD13.1 to CD13.3: Rebuttals - Appellant