

APP/W0530/W/22/3296300

APPEAL BY CHURCHILL RETIREMENT LIVING LIMITED

NON-DETERMINATION OF A FULL PLANNING APPLICATION FOR REDEVELOPMENT TO FORM 39 RETIREMENT LIVING APARTMENTS FOR OLDER PERSONS INCLUDING COMMUNAL FACILITIES, CAR PARKING AND ASSOCIATED LANDSCAPING

AT STATION ROAD, GREAT SHELFORD, CB22 5LT

COUNCIL'S CLOSING

[CD1] = Core Document 1; X = Examination in Chief; XX = Cross-examination

Whether the development would be of high-quality design and its effect on the character and appearance of the area

Policy context on design

- 1 There can be no doubt of the importance of design to achieving sustainable development (NPPF, 126):
 - *'The creation of high quality .. buildings and places is fundamental to what the development process should achieve'*; and
 - *'Good design is a key aspect of sustainable development...'*
- 2 The integral role which good design plays in achieving sustainable development is also expressly acknowledged in the overarching objectives of national policy. The social objective of supporting strong, vibrant and healthy communities is achieved as much *'by fostering well-designed, beautiful places...'* as it is by ensuring that a sufficient number and range of homes can be provided (NPPF, 8(b)).
- 3 At the same time, the need to secure high-quality design and high standards of amenity are not new concepts in national policy. The Local Plan (2018) properly refers to those objectives as they were expressed in the 2012 NPPF, and goes on to set a series of design principles by reference to them under Policy HQ/1 ([CDC1], 5.1). The aim is that any new development *'preserves and enhances the special character of South Cambridgeshire generally and the locality specifically'*. Any development must also *'take proper care to respond to its surroundings'*, where well designed buildings and places - amongst other things – *'contribute*

to the quality of life, *'achieve high environmental standards'*, and *'deliver a high-quality public realm'* (ibid., 5.5).

- 4 The Local Plan rightly emphasises that design should not be approached as a simple checklist nor as an optional extra. *'Policy HQ/1 establishes a set of fundamental design principles that should be applied to all development to ensure it contributes to social, economic and environmental sustainability...'* (Local Plan, 5.6).
- 5 As explained by Ms. Moon, the NPPF 2021 provides a new emphasis on the achievement of high-quality design, with its focus on beauty in design (NPPF, 8(b), 126). It is also made clear that development which is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design (NPPF, 134).
- 6 Importantly, national policy on design makes no concession to the need for particular types of housing, nor making an effective and efficient use of land. So much is clear from the National Design Guide, which explains that: *'Well-designed new development makes efficient use of land with an amount and mix of development and open space that optimises density. It also relates well to and enhances the existing character and context.'* ([CDC2], para. 65, emphasis added).
- 7 For the same reason, it is wrong to suggest that the weight to be attached to the Council's District Design Guide SPD (2010) should be lessened because it pre-dates the NPPF and the need to make an effective and efficient use of land (MS, 5.38, 5.40). Such a suggestion reflects neither the thrust nor the detail of national policy on design, which has not been diluted through the introduction of the NPPF.
- 8 The District Design Guide provides guidance on established principles of design policy, which remain consistent with the NPPF:
 - On private gardens and amenity space, it states that the design of the grounds surrounding buildings are as important as the design of the buildings themselves, and sets out ideal sizes of private amenity space for residential units ([CDB2], 6.70, 6.75).
 - On privacy and overlooking, it states that protecting privacy and avoiding overlooking of neighbouring houses should be given high priority in any residential context, and establishes preferable minimum distances to prevent overlooking of habitable rooms (ibid., 6.67 – 6.68).
- 9 Given the way those standards are framed, the Council has rightly not sought to apply them as absolute requirements. Rather it has drawn on that guidance - and a number of other factors - to form the view that the appeal scheme fails to reflect its local design SPD on overlooking and amenity space, contrary to NPPF, 134.
- 10 It is against that policy background that the design of the scheme falls to be considered. Three broad points can be made:

- (1) The objective of making an effective use of land is qualified by the need to safeguard and improve the environment, and (as relevant) ensure healthy living conditions (NPPF, 119), which engage design and residential amenity considerations.
- (2) “Optimising density” does not justify overdevelopment or a compromise to the objectives of design policy. The support for making an efficient use of land is expressly qualified by reference to *‘the importance of securing well-designed, attractive and healthy places.’* (NPPF, 124(e)).
- (3) Given the thrust of policy on design at a national and local level, a scheme which results in a merely “satisfactory”, or “appropriate” response to its surroundings falls short of meeting the policy objectives. That is:
 - The design principles in HQ/1 must be applied to support the overriding objective stated in the policy that *‘All new development must be of high-quality design’*.
 - The scheme must be of high-quality, visually attractive, with a high standard of amenity, adding to the overall quality of the area (NPPF, 130).

11 As to the baseline against which the design of the appeal scheme is to be assessed, this should not be limited to the existing site. Any improvement against that baseline forms only a small part of the picture, given the need for the scheme to respond positively to its surroundings, both to the north and the south. The character of this part of Station Road has changed and is changing. Through the built-out permission for the 12 townhouses to the north of the site, the implemented permission for the care home to the south of the appeal site, and the conversion of Reed House further south, there is now a predominantly residential character to this part of Station Road. The new residential edge character to Station Road must meet residential design standards.

12 Assessed against that proper context, the appeal scheme represents an overdevelopment of the site with a built form which is harmful to the character and appearance of the streetscape. The layout and intensity of the scheme also results in a cramped site, with a corresponding lack of adequate amenity space - both for individual apartments, and in terms of communal amenity space, with those communal and private spaces which are provided being of poor quality.

Overdevelopment in built form

13 It is the three-dimensional built form of the western block fronting Station Road, taken together with the form of its flank elevations and the central block extending back into the site, which result in a dominant building, harmful to the street scene.

Frontage to Station Road

14 Whilst the siting of the western block reflects the building line of the townhouse development to the north, its siting remains relatively close to the carriageway, at 4.5 - 4.75m. When combined with its height (2.5 storeys) and width (34m), the block will be substantial in form, increasing the level of enclosure to this part of the street.

- 15 The dominance of this substantial frontage is accentuated by its detailed design:
- There is little variety in height and set back along the 34m width of the frontage;
 - The eaves of the frontage are the same height across its whole width;
 - There is only minor articulation of the wall plane and ridge line (only 2 limited bays with marginally lowered ridge lines).
- 16 Moreover, the narrow strip of landscaping between the frontage and the pavement (at most 2.5m) will do little to mitigate the dominance of the frontage. Given that the landscaping serves the ground floor apartments at this end of the scheme, with living room windows looking out onto Station Road, the height of any hedging or planting will necessarily be limited (GL, App. 5, Fig. 4).
- 17 The western frontage of the appeal scheme also relates poorly to the development to the south on this side of Station Road.
- 18 The western elevation of the care home scheme is of a similar height to the appeal scheme's western frontage, but the care home is not dominant. It is well integrated into the street scene, providing a sense of space (EM, Reb. App. EM3). That is because:
- it is set back by 17.6m from the carriageway;
 - its width (6.9m) is about one fifth of the width of the appeal scheme's western frontage (34m);
 - it is gable fronted with a roof span comparable to elements of Reed House; and
 - it is set behind substantial landscaping which filters views from Station Road.
- 19 The Reed House development is of a smaller scale, made up of 2-storey properties with pitched roofs which reduce in height from the junction. It is not dominant in the street scene given its domestic scale, and given its variety in step back: each unit steps back progressively from the junction, with the most recent extension set back approximately 4.4m from the carriageway.
- Views of the flank elevation to the western block and the central block, emphasising the harmful dominance of the proposal in the street scene*
- 20 The existing gaps to the north and south of the appeal site buildings permit views into and across the appeal site - and the sky beyond - which help to provide a sense of space to this part of Station Road.
- 21 With the appeal scheme in place, the gaps either side of the western frontage will only serve to reveal the substantial scale and mass of the western block, juxtaposed with its flank elevations (11m in depth), and the central block of the appeal scheme (17m to the kink).
- 22 The substantial massing of the development, extending back into the site, will be clear in views when travelling north and south along Station Road, and in longer range views towards and across the appeal site from Woollards Lane, adding to the sense of enclosure along Station Road.

- 23 Again, the detailed design of the central block, extending back into the site, does little to offset its dominance:
- The central block comprises a long, 3-storey façade with no variety in roof height.
 - The shallow fringe of the pitched roof form is not in keeping with the pitched roofs of the area, and does little to disguise the depth of the central block. The roof form is also out of proportion to the deep plan of the 3-storey central block.
 - The ridge height of the eastern block rises further, which will only add to the impact on the streetscene.
- 24 The narrow area of landscaping proposed between the refuse collection area and the access to the appeal scheme will not soften the dominance of the western frontage, juxtaposed with its flank elevation, and the central block, in views from Station Road when approaching from the north (GL, App. 5, Fig. 4).
- 25 Whilst the landscaping along the southern boundary of the appeal site will filter views from the south to a degree, given its scale and depth, the 3-storey elements of the western block and the 3-storey central block will still add materially to the overall dominance of the proposal in the street scene from this angle (ibid., Fig. 06).
- 26 Having regard to its scale and massing, the substantial built form of the western frontage, taken together with its flank elevations and substantial central block, results in a dominant building which would be discordant and intrusive in the street scene, particularly when seen in the context of the consented care home and Reed House development to the south.

Overdevelopment in terms of layout and intensity

- 27 The overdevelopment of the appeal scheme is also a function of its layout and positioning within the appeal site:
- The distorted H shaped building footprint is a complex form which takes up over two thirds of the appeal site's area (c.70%), pushing the landscaped areas to the edges of the site, and dividing the remaining external amenity spaces (c.30%) into separate, unlinked areas.
 - The positioning of the western frontage relatively close to Station Road, means that the landscaping area adjacent to the road is narrow (at most 2.5m), with limited useable space and no defensive planting.
 - The central and eastern blocks have very deep plans, which add to the dominance of the building, given their scale and form, and adversely affect the arrangement of external amenity space.
 - The arrangement of the bulk of the parking spaces (12 out of 16), wrapping around Apartment 1, leaves little room (1.8m) for defensive planting or screening for its single aspect, east facing windows.
- 28 In the light of the above, it is hard to escape the conclusion that the quantity and quality of external amenity space has been compromised in the quest for extra capacity.

- 29 The density of the proposed development, at over four times the average net density envisaged for Rural Centres under Policy H/8 (135dph vs 30dph), is indicative of a flawed design which results in the overdevelopment of the site.¹
- 30 The density of the proposed development and the resulting layout of the scheme, also appear to be a product of a mischaracterisation of the area in which the appeal site is situated. Mr. Lemberg wrongly characterises Great Shelford as having a ‘town centre’ within its Conservation Area (GL, 2.13). It is not a town, but a ‘village’ within the Council’s rural area, which is identified for the purposes of the Local Plan as a Rural Centre (Policy S/8). Having mischaracterised Great Shelford as a town, Mr. Lemberg cites the easy walking distance to the town as justifying the site having a higher than average density (GL, 7.14). For that reason, the design of the appeal proposal has resulted in an overdeveloped site with a density to match a “town centre” scheme, consistent with the ‘Precedent Churchill Developments’ provided for more built up towns (GL, App. 3, see e.g. Hythe p.22 near the city of Southampton, Huntingdon p.23, Carshalton p.27 near Croydon, and Eltham p.30 in SE London).
- 31 In any event, optimising density does not justify overdevelopment which compromises the achievement of a high-quality design and high standards of amenity (see above).

Resulting poor quality design of external amenity spaces

- 32 The resulting external amenity areas are of poor quality design, both in terms of their size and their useability.
- 33 The District Design Guide SPD does not set absolute thresholds for private amenity space (see above). But even allowing for some flexibility in applying the guidelines, the private and communal external space provided in this scheme is significantly short of what is required.

Communal amenity spaces

- 34 The provision of 790sqm of communal amenity space falls about 20% short of what is expected (975sqm) (EM, Reb. 2.6 and App. EM4, applying DDG, 6.75):
- Mr. Lemberg’s calculation cannot sensibly include the narrow, landscaped strip in front of the western frontage as a communal amenity space for residents (GL, App. 11, p.80). There is no footpath through this area for residents to use.
 - In any event, areas in front of the 4 ground floor Apartments are given over to private patios, and should not be double counted as communal amenity space².
 - Similarly, private amenity space adjacent to living rooms in the southern amenity area should not be double counted³.

¹ Given that density is a product of design, there is little that can meaningfully be gained by comparing the densities of other schemes (GL, App. 11). However, of those sites in the area, visits to 176 – 178 Cambridge Road and the Former Barley House - both care homes (not retirement apartments) - and the Hauxton Meadows site - a high density gateway building on a former factory site - will reveal why their design justifies a higher density.

² The District Design Guide makes the point that communal gardens should not unduly affect the privacy of residents’ internal accommodation, particularly those at the same level as the communal space ([CDB2], 6.73).

³ See FN2 above.

- Buffer areas between entrances, access ways and car parking are unlikely to be used and should not be counted.

35 Equally importantly, the communal areas are of poor quality. Fundamentally, this is the result of there being inadequate space to provide a high-quality landscaping strategy.

Generally

- The external spaces to the north and south are not designed as multi-functional spaces and only support passive uses such as sitting. No spaces are provided for activities such as gardening or group exercise.
- The layout of the building divides the external spaces into two completely disconnected halves. There are no footpaths provided linking the north and south amenity areas, which would facilitate movement around the outside of the building between them.
- The opportunity has not been taken to link directly the shared internal space with the southern amenity area, to encourage social interaction, gardening, contact with nature and exercise (EM, App. EM1, 4.2.1).

Northern amenity area

- The layout and form of the building means that the northern amenity area will be considerably overshadowed, making it less suitable as a shared amenity space for outdoor activities and gardens (see GL, App. 6).
- The northern amenity area is also not significantly screened or sheltered from the car park and its associated movements⁴, making it less suitable for anything other than sitting out.

Southern amenity area

- The only communal entrance from the building onto the southern amenity area is at the end of the corridor adjacent to Apartment 8 in the western block, at the opposite end of the building from the single lift (GL, App. 10). The route to that amenity area is not convenient to residents on the upper floors accessing it from the other side of the building and / or needing to use the lift.
- There are no shared terraced spaces and no facilities for outdoor activities and social interaction (apart from the provision of lawn areas).
- The garden does not include raised beds, or planters for residents for planting food. There are no storage areas for gardening implements or a potting shed. This is despite the fact that the DAS states that residents often set up gardening clubs (GL, App. 14, p.7).

36 For the above reasons, the proposal does not include high quality landscaping contrary to Policy HQ/1(m). It is no answer to suggest that a detailed landscaping scheme could meet these concerns. The Landscape Strategy is the Appellant’s best attempt at demonstrating that a high-quality scheme can be provided in the space available. The lack of available space means that any landscaping scheme will be of poor quality.

Private external amenity spaces for Ground floor flats

⁴ The Transport Statement estimates that the proposed development will generate 80 trips across a 12hr period ([CDA17], 4.7).

37 In general terms, there is no clear delineation or screening between the private external amenity areas at ground level and the communal gardens, creating an uncomfortable relationship between the two, which will compromise privacy, contrary to Policy HQ/1(m).

38 More specifically, the external amenity areas for about half of the ground floor apartments (5 out of 11) will be of poor quality.

Ground floor apartments along the western frontage

39 The narrowness of the landscaping strip (at most 2.5m) in front of Apartments 8, 9, 10, and 11 does not allow for defensive planting (GL, App. 5, Fig 4). Given the pavement to Station Road will be next to the western façade, there will be a lack of privacy for these external areas.

40 Moreover, the patios do not meet any real functional requirement. It is difficult to see how, for example, a table and chairs could easily be accommodated here, given their size (less than 3sqm), and the fact that the living room doors will open out onto them (GL, App. 10)⁵. Apartment 11, in particular, on the NW corner adjacent to the access, will be very exposed to views from the street and from the car park entrance (GL, App. 5, Fig. 4), particularly given the need for visibility splays to be provided for the widened access, limiting the height of any planting up to 0.6m (GL, App. 13 and Condition 18).

Apartment 1

41 The bulk of the car parking spaces (13 out of 16) surround the northern side and eastern aspect of Apartment 1. The private external amenity space for Apartment 11 will look out towards 8 of those spaces. The private amenity space is of limited functional value given its size, and is poorly screened from these parking areas, which will involve the manoeuvring of vehicles on a daily basis⁶.

42 The lack of a clear definition between public and private space, and the lack of opportunities for recreation, social interaction as well as support for healthy lifestyles, is contrary to Policy HQ/1(m).

Private balconies for upper floor flats

43 The District Design Guide SPD recommends that upper floor apartments should have use of a private balcony, of a minimum of 3sqm, *plus* use of a communal garden (25sqm per apartment) ([CDB2], 6.75).

44 Even applying the Design Guide flexibly, the provision of private balconies to the upper floor apartments falls well short of what is expected.

45 Of the 28 upper floor apartments, 20 do not have balconies. This is a gross under provision, compounded by the fact that:

⁵ The HAPPI Report (2009) recommends that apartments for older people have patios / balconies with enough space for tables and chairs as well as plants (EM, App. EM2, p.38).

⁶ With the potential for added movements, given the parking spaces themselves are relatively small, as commented upon by the Highways Authority (KPC, App. 3, 4th para.).

- (1) The communal external amenity space provided is inadequate in size and of poor quality (see above).
 - (2) With specific reference to older people's housing, the HAPPI Report (2009) refers to the benefits of large, sheltered or semi-enclosed balconies, which can feel more like extra rooms, to provide a practical substitute to the private gardens which residents may have enjoyed in the past (EM, App. EM2, p.35).
 - (3) There would be nothing in principle to prevent the scheme from accommodating balconies to complement the street scene, avoiding issues with overlooking (EM, Reb. 2.8).
- 46 As with the ground floor patios, the balconies are also of poor quality in terms of their useability. Although each provides the recommended 3sqm, allowing for the door opening onto the balcony will leave little useable space for a table and chairs⁷.
- 47 Viewed in context, the provision of only 8 balconies to the upper floor flats is inadequate in terms of their number and useability, contrary to the District Design Guide SPD (para. 6.75).
- 48 The Appellant's response is to argue that the most important amenity space for their residents is the Owners' Lounge (inside), that occupants rarely take advantage of large gardens in their schemes, and that owners prefer an apartment to enjoy an interesting view, rather than large open areas for active recreation.
- 49 With respect that misses the point. The whole purpose of design policy aimed at providing high-quality external amenity spaces is precisely to encourage active use and recreation of such areas with the physical and mental health benefits that brings, consistent with the social objective of sustainable development (NPPF, 8(b)). These policy objectives should apply to both young and old.
- 50 Here, planning permission is sought for an older living apartment scheme with occupants restricted to 55yrs and over (Condition 3), not 80yrs and over. Mr. Lemberg stated that the scheme was for the 'active elderly' (XX of GL). The *Healthier and Happier* study records that: 'These days many people in later life are as active as ever. Indeed, amongst the over 80s there are some 53,000 people who are still in employment. Others are increasingly enjoying action-packed retirements.' (MS, App. 6, p.14). There is no good reason to suggest that occupants who are 55yrs and older will not make use of high-quality external amenity areas, if they are provided.
- 51 The Inspector in the *Thatcher's Needle* appeal made similar points in robustly rejecting the Appellant's approach to external amenity space in December 2021⁸. In the *Royston* appeal, the Inspector stated that notwithstanding the typical age of a resident, an acceptable level of amenity space needs to be provided to ensure that there is a suitable area for sitting out or indeed exercising (EM, Reb, App EM5).

⁷ See reference to HAPPI report at FN5 above.

⁸ 'I find the appellant's assertion that active use of external amenity space would be relatively limited and that open spaces would be used in a passive way unconvincing. Whilst I accept the average age of occupiers, and understand that many will purchase an apartment in this location due to increasing frailty, the proposed development is not a care facility...' [CDD8] *Thatcher's Needle* Appeal Decision, para. 63.

- 52 For those reasons, the appeal scheme will result in:
- (1) an overdevelopment of the site which harmfully dominates, is discordant, and intrusive in the street scene, responding poorly to the development to the south of this part of Station Road in particular, contrary to Policy S/7(1)(a) and Policy HQ/1(a), (c), (d), and (e);
 - (2) a cramped site due to its layout and positioning within the appeal site, which is a product of a density over four times the average net density for Rural Centres, contrary to Policy H/8; and
 - (3) external amenity areas which are poor in terms of their quantity and quality, contrary to Policy HQ/1(h) and (m), and the Council's District Design Guide SPD, para. 6.75.
- 52 Overall, the scheme is not of high-quality and will not provide a high standard of amenity for its residents. It is not well-designed, and will not add to the overall quality of the area, contrary to national policy (NPPF, 8(b), 130). In those circumstances, both local and national policy⁹ require that permission be refused.

The effect of the development on the living conditions of nearby residents

- 53 The requirement of national policy to create places with a high standard of amenity for existing and future users (NPPF, 130(f)) is reflected in local Policy HQ/1(n), under which proposals must (as relevant) protect the amenity of surrounding users from development that results in unacceptable overlooking.
- 54 The context in which the District Design Guide SPD provides recommended minimum separation distances is the '*high priority*' given to protecting privacy and overlooking of neighbouring houses in any residential context ([CDB2], 6.67). The '*modest scale and rural setting*' of the district's villages forms the basis of its local distinctiveness (DDG, p.63) and this is reflected in the generally low-density nature of development and the expectation of spaces between buildings. The importance given to high standards of amenity in achieving sustainable development under the NPPF has not been watered down. For that reason, there is no justification for overriding the recommendations of the District Design Guide on the basis that it predates the NPPF.
- 55 As explained by Mrs. Pell-Coggins, the Council has not sought to apply the recommended minimum separation distances as absolute thresholds, and a degree of flexibility should be applied (KPG, Reb. 3.1). However, as applied here, the agreed separation distance of 17.3m between the south facing windows to No. 4 Station Road and the Apartments on the north elevation of the appeal scheme is considerably short of the 25m expected for 2-storey development, let alone the 30m expected for a 3-storey development such as this. It can be noted that the separation distance here is more akin to the preferred minimum distance of 15m between windows and its property boundary ([CDB2], 6.68).

⁹ NPPF, 134

- 56 The window to window distances for other schemes in Great Shelford provided by Mr. Lemberg need to be assessed on a case by case basis¹⁰. As explained by Mrs. Pell-Coggins, Fletchers Way and Old School Court provide typical street relationships where the properties are within the same development. The Granta Terrace scheme also provides a typical street relationship (KPC, Reb. 3.7). Even if those distances do not meet the District Design Guide recommendations, that would not justify the 17.3m separation distance here.
- 57 The particular circumstances of No. 4 Station Road and its outlook, only serve to underline the point that the proposal will lead to unacceptable overlooking of this property. A number of points can be made:
- (1) No. 4 Station Road is a 2-bed house comprising 3 floors of accommodation. Both in terms of its number of bedrooms and in terms of its internal floorspace, it is a relatively small property.
 - (2) The relatively small internal floorspace of the property makes the outlook from its windows, and the use of its outside areas, all the more valuable.
 - (3) The first-floor window affected attaches to a habitable room which is the main living area to the property. That makes the outlook from its windows all the more valuable.
 - (4) If the developer's brochure for the property is accurate, the second-floor window affected also attaches to a habitable room, namely a bedroom (KPC, Reb. 3.5, and App. 6, p.13).
 - (5) The windows affected on the first and second floors are also south facing, and therefore all the more likely to be enjoyed for their view.
 - (6) Whilst there are other windows serving the lounge and dining area, that does not make the window affected a secondary window. The first-floor comprises an open plan room, with a lounge and dining area. The doors to the rear serve one part of the room, and the window to the south serves the other.
 - (7) Whilst the bedroom also has other windows, the south facing orientation of the affected window means it is at least as important as any other.
 - (8) The views from the south facing windows at first and second floor currently provide relatively open views across the appeal site.
- 58 The appeal scheme would result in overlooking to an unacceptable degree from the following elements:
- (1) The 17.3m window to window separation distance, which falls considerably below the expected minimum distance of 30m for 3-storey development.
 - (2) The bedroom windows to Apartments 21 (1st floor) and 35 (2nd floor) would directly face towards the first-floor lounge / dining area, and second-floor bedroom of No. 4 Station Road (GL, App. 4, Site Plan, plus First and Second Floor Plans).
 - (3) The full-length living room glazed doors with Juliet balconies to the same Apartments (Nos. 21 and 35) will also have an oblique view facing towards the same habitable rooms of No. 4 Station Road.
 - (4) Finally, the living room windows to Apartments 22 and 36 will also have oblique views facing towards those same habitable rooms.

¹⁰ The distance of just over 20m between the 1950s dwellings on Station Road and the townhouses to the north of the appeal site was found to be acceptable by the Inspector, but that involved views across Station Road, which would be a typical street relationship [CDD4, para. 7].

- (5) This amounts to 2 separate windows directly facing habitable rooms at No. 4 Station Road, and 4 windows / doors with oblique views, which together will give the perception of overlooking, adding to the harm.
- (6) The appeal scheme is for retirement apartments, meaning that residents are likely to be in and around their apartments more often than people who work. Use of bedrooms may be more frequent.

59 It remains unclear whether the roof terrace on No. 4 Station Road is actually used. The absence of the balustrade and accommodating works around its perimeter is not determinative of this issue, since they could be erected without planning permission at any stage. As explained by Mrs. Pell-Coggins, although there would be a height difference between the terrace and the second-floor bedroom windows of Apartments 21 and 35 of the appeal scheme, there would be additional harm caused by overlooking from these windows (KPC, 3.10).

60 Nothing should be read into the fact that the current owners / occupiers of No. 4 Station Road have not responded to the planning application or appeal process, and it would be wrong to speculate. The relationship between the properties, and the harm caused by overlooking is a proper planning consideration which should be assessed objectively, particularly bearing in mind that owners and occupiers can change.

61 There would be nothing in principle to prevent the Appellant from developing the site for flatted residential development through a different design which avoids direct and oblique overlooking of windows to No. 4 Station Road, and it is defeatist to contend otherwise (MS in X).

62 For the above reasons, the appeal scheme will result in overlooking which would lead to a severe loss of privacy to the dwelling at No. 4 Station Road. The living conditions of an existing occupier would be unacceptably harmed, contrary to Policy HQ/1(m) and a high standard of amenity for neighbouring users would not be achieved, contrary to NPPF, 130(f).

Whether the development would provide acceptable contributions towards infrastructure

63 The Council's CIL Compliance Statement comprehensively sets out the basis on which the Council seeks each of its contributions. It applies the Appellant's occupancy rates and provides evidence against each of the topics required to be addressed in the PPG on Planning Obligations. It properly informed the s.106 discussion and was explained by Mr. Fisher.

64 A key theme of the Appellant's case for claiming that certain contributions are not CIL compliant, is the contention that given the average age of their residents (80yrs) they will not use such facilities.

65 As explained by Mr. Fisher, this is a retirement facility for residents of over 55yrs, not a care home. Even with average aged residents of 80yrs, there will be a proportion of residents aged between 55yrs and 80yrs who are likely to use these facilities. The purpose of planning policy should be to encourage healthier communities and activity, which should apply to both young and old. This is supported by:

- (1) The Healthier and Happier study on the increasingly active lifestyles of the over 80s (MS, App. 6, p.14).
- (2) Mr. Lemberg's oral evidence that the scheme was for the 'active elderly' (XX of GL), and his written evidence: '*Along with on-site provision of outdoor amenity space the residents also benefit from the amenities of the Great Shelford Recreation Ground...*' (GL, 6.18).
- (3) The *Thatcher's Needle* appeal decision in which the Inspector stated that: '*It would be folly to assume that a good proportion of future occupiers would not take part in sports and recreational activities in the area*' ([CDD8], para. 63).

66 As to the evidence gathered by the Appellant suggesting a lack of interest amongst some residents for using sports facilities or allotments, the responses from a few Lodge managers are anecdotal, and should carry little weight as representing the views all retirement scheme residents.

67 In particular, in this area, there are a number of sports which would be accessible and attractive to the active elderly. For outdoor sports, the Recreation Ground in Great Shelford has a bowling green and 4 tennis courts, with a significant proportion of older players (CIL Compliance Statement, para. 3.7), and Sawston Sports Centre hosts a Walking Netball group (ibid. 3.9). As to netball and football groups, there are significant proportions players who are 55yrs and over at Sawston Sports Centre (ibid. 3.10). For indoor sports, Sawston Sports Centre has 3 badminton courts, and runs pilates and yoga classes (ibid. 8.6).

68 For the above reasons, there is a proper basis for seeking the contributions in issue, notwithstanding the Appellant's contentions as to the average age and likely use of such facilities. The sums sought are CIL compliant.

Whether the development would comply with the Development Plan as a whole, and the planning balance

Overall conflict with the Development Plan

69 There are fundamental objections to the development in terms of its design and impact on neighbouring amenity, each of which gives rise to substantial and unacceptable harm. As explained by Mrs. Pell-Coggins, either or both should lead to refusal of the appeal (KPC, 2.11).

70 In design terms, the appeal scheme is not of high-quality and will not provide a high standard of amenity for its residents. It will result in development which is:

- (1) Contrary to the key design policy of the Local Plan, that all new development must be of high-quality design, because the scheme is
 - (a) in conflict with design principles (a), (c), (d), and (e) of Policy HQ/1, due to the overdevelopment of the site and a scheme which harmfully dominates, is discordant, and intrusive in the street scene, responding poorly to the development to the south of this part of Station Road;
 - (b) in conflict with the housing density policy H/8, which is a product of a cramped site due to the layout and positioning of the building within it, with a density over four times the average net density for Rural Centres; and

- (c) in conflict with design principles (h) and (m) of Policy HQ/1 (and the District Design Guide SPD, para. 6.75) given the external amenity areas will be poor in terms of their quantity and quality.
- (2) Contrary to the objectives of the development framework of the spatial strategy (Policy S/7(1)(a)), given the development will not be of a scale, density, and character appropriate to its location, and because it is not consistent with other policies in the Local Plan.
- 71 Separately, in terms of its impact on neighbour amenity, the appeal scheme will result in overlooking which would lead to a severe loss of privacy to the dwelling at No. 4 Station Road. It will unacceptably affect the amenity of a neighbouring residential use in conflict with design principle (m) of Policy HQ/1. This too is contrary to Policy S/7(1)(a) given the inconsistency with the design policy of the Local Plan.
- 72 The Council's position that either or both of the harmful impacts should lead to refusal, reflects the fact that the very nature of design and residential amenity issues engage key objectives of the Local Plan and the achievement of sustainable development. Policy HQ/1 establishes a set of fundamental design principles that should be applied to all development to ensure it contributes to social, economic and environmental sustainability and makes a positive difference to people's lives (Local Plan, 5.6).
- 73 A harmful poor-quality design and overlooking leading to a severe loss of privacy cannot sensibly be traded off against the conformity of the scheme with other parts of the Local Plan. Given the nature of the harm raised, it cannot be balanced against the need for older people's housing in the same way as, for example, a degree of landscape harm caused by a housing scheme on a greenfield, edge of village, site might be balanced against the need for housing to meet a 5yr HLS in a Local Plan.
- 74 In any event, and separately from the nature of the harm, the level of harm here, both in design terms, and the harm to residential amenity, is sufficient to lead to overall non-compliance with the Development Plan.
- 75 Assessing conformity with the Development Plan is not a mechanistic or mathematical exercise¹¹. It is not a case of counting up the number of conflicts and conformities with a Local Plan. It is a classic exercise of planning judgment for the decision maker.
- 76 For the above reasons, whilst it is recognised that the development is in accordance with other policies and objectives of the Local Plan, including the need to deliver older people's housing, and that a Local Plan will point in different directions in support of and against a particular proposal¹², given the nature and level of harm to design and residential amenity policy here, the proposal does not accord with the Development Plan, taken as a whole.

¹¹ *City of Edinburgh Council v SoSS* [1997] 1 WLR 1447 at 1459H – 1460A per Lord Clyde, considering the practical application of the comparable provision to s.38(6) in Scotland: ‘.. it is undesirable to devise any universal prescription for the method to be adopted by the decision-maker, provided always of course that he does not act outwith his powers. Different cases will invite different methods in the detail of the approach to be taken...’

¹² *Ibid.* at 1459E: ‘He will also have to consider whether the development proposed in the application before him does or does not accord with the development plan. There may be some points in the plan which support the proposal but there may be some considerations pointing in the opposite direction.’

- 77 There is no substance to the Appellant's contention that the assessment of overall compliance with the Development Plan requires a mechanistic assessment of each and every relevant policy of the Development Plan for consistency and weight. There is no requirement, whether in an Officer Report, or in a planning proof, expressly to carry out such an exercise. Mrs. Pell-Coggins explained that she took into account all relevant policies in coming to her stated view.
- 78 Applying s.38(6) of the PCPA 2004, the scheme is not in accordance with the Development Plan and should be refused permission, unless material considerations indicate otherwise.

Other material considerations

- 79 When assessed against national policy in the form of the NPPF and the PPG, the case for refusal is further supported.
- 80 The poor-quality design of the development and harmful impact on the street scene, with poor quality landscaping, would be contrary to the social and environmental objectives of sustainable development, as it would not foster a well-designed and beautiful place, nor protect and enhance the built environment (NPPF, 8(b), (c)). Specifically:
- (1) The scheme would not create a high-quality, beautiful building and place which is fundamental to what the planning process should achieve (NPPF, 126);
 - (2) The scheme would not add to the overall quality of the area, would not be visually attractive as a result of good layout and appropriate and effective landscaping, and would not be sympathetic to local character including the surrounding built environment (NPPF, 130(a), (b), (c));
 - (3) The scheme would not be well-designed and should be refused, especially because it fails to reflect local design policies and government guidance on design (NPPF, 134).
- 81 The harmful overlooking of No. 4 Station Road, leading to a severe loss of privacy, would be contrary to the social objective of sustainable development and the need to support healthy communities (NPPF, 8(b)). Specifically, the scheme would fail to achieve a high standard of amenity for existing occupiers neighbouring the site (NPPF, 130(f)).
- 82 As explained above, the renewed focus on beautiful design in the NPPF 2021, supported by the National Design Guide (2021), only serves to emphasise the high standards of design required to achieve sustainable development; standards that this scheme falls well short of meeting.
- 83 Moreover, this is not a tilted balance case. The Council has an adopted, post-NPPF plan, a relatively healthy 5yr HLS (6.5yrs: KPC, App. KPC8, p.37), and Housing Delivery Test result (114% for SCDC). There is rightly no suggestion by the Appellant that the Local Plan policies are out of date.
- 84 The argument that less weight should be applied to the housing density Policy H/8, and the density part of Policy S/7(1)(a), because of the need to have regard to national policy objectives of making effective and efficient use of land, is misconceived:

- (1) Policy H/8(2) itself recognises that the average net densities it provides may vary, where justified. It can and has been applied flexibly. Yet, its proper application here shows that the product of a poor design is an average net density many times greater than that envisaged for housing in Rural Centres.
- (2) In supporting development that makes efficient use of land, the current version of the NPPF itself requires that *'the importance of securing well-designed, attractive and healthy places'* is taken into account (NPPF, 124(e)).
- (3) In any event, the making of an effective and efficient use of land are not new concepts in national policy. Unsurprisingly, they were features of the NPPF 2012 against which the Local Plan 2018 was assessed for consistency¹³.

85 The argument that the Council's District Design Guide SPD should carry less weight for similar reasons, and because it pre-dates the NPPF, is also weak. As explained above, national policy makes no concession to the need for particular types of housing, nor making an effective or efficient use of land. Far from diluting the importance of design, the NPPF has emphasised its fundamental importance.

86 The PPG on Housing for older and disabled people supports the significant weight which Mrs. Pell-Coggins has given to the provision of specialist housing for older people. At the same time, the critical need for housing for older people which the PPG identifies, should not be overplayed:

- The PPG stops short of requiring plans to allocate sites for specialist housing for older people, leaving it up to the plan-making body (ID: 63-013). The critical need does not translate into such a requirement.
- The publication of the PPG in June 2019 did not result in any material changes to national policy in the NPPF 2021 which followed 2yrs later.

Planning balance

87 Given the nature and level of harm to design policies and policies protecting residential amenity, it is not surprising that the planning balance points to refusal of this scheme, notwithstanding the considerable weight which attaches to its benefits (KPC, Section 5).

88 Whilst Mr. Shellum's assessment reveals some measure of agreement on the weight to be attached to the benefits, in several places the weight to the benefits has been overstated.

Meeting the need for specialised older persons accommodation

89 Significant weight should be attached to the need for specialist accommodation for older people. However,

¹³ One of the core planning principles of NPPF 2012 was to *'encourage the effective use of land by reusing land that has been previously developed (brownfield land)...*' (NPPF 2012, para. 17); In requiring good design, developments should *'optimise the potential of the site to accommodate development...*' (ibid. para. 58).

- The weight to be given to the PPG should not be overplayed (see above).
- The steps taken by the Council to meet that need should be taken into account. The Local Plan requires that a wide choice, type and mix of housing is provided to meet the needs of different groups including older people ([CDB1], Policy H/9). It recognises that the population of the District is ageing, the preference for smaller properties, and the range of models which can play a part in providing that accommodation (ibid., 7.38-7.39). The Council is granting permissions to meet that need, and there are currently available specialist properties for older persons in Great Shelford and the wider area¹⁴.
- The recent House of Lords Committee Report on meeting housing demand should not be mistaken for Government planning policy [CDC5]. It is an advisory document. The Government's response emphasises the importance of building high-quality, well-designed new homes, and there is no suggestion of a compromise to that principle because of need ([CDC6], p.1).

Redevelopment of previously developed land and making an effective and efficient use of land

- 90 Substantial weight has been applied to the re-use of a brownfield site by Mrs. Pell-Coggins (KPC, 5.2)¹⁵.
- 91 The effective and efficient use of land should carry some weight, but the national policy context which informed the Local Plan included these considerations, and the need to deliver high-quality schemes and a high standard of amenity is not diluted by reference to them (see above).
- 92 Mr. Shellum's reliance on the Green Belt in the Council's District as placing a significant constraint on the availability of suitable land for development is misplaced (MS, 5.5, 8.13, 8.14). The Green Belt covers only 25% of the District. The development of sites within the Development Frameworks under Policy S/7 (as here) is not restricted by the Green Belt, and the Council promotes the appropriate release of Green Belt sites through its emerging plan (KPC, Reb. 2.9-2.10, Reb. App. 2)

Economic Benefits

- 93 Mrs. Pell-Coggins properly applies moderate weight to these benefits, noting that the majority of jobs generated would be of a temporary nature, and that any residential development of the site would be likely to generate expenditure in the local economy.
- 94 The ORB publication '*A Better Life*' can only carry very limited weight (MS, App. 4). It is over 20 years out of date in its assessment of impacts on local economies (published in 2003). The section provided also relates to private sheltered housing, not retirement apartments.

¹⁴ Eight schemes for older people have been granted since 2017, including C2 and C3 schemes (Cambourne and Coldhams Lane are C3). A further 110 retirement apartments were granted permission in December 2021. As at 29 June 2022, Rightmove shows one house for sale in an over 60s development in Great Shelford, and a further 9 retirement properties within 1 mile of Great Shelford (KPC, Reb. 2.12-2.14, and Reb. Apps. 3-5).

¹⁵ The NPPF states that '*substantial weight*' should be given to the value of using suitable brownfield land within developments (NPPF, 120(d)). By contrast, there is only '*support*' for the development of under-utilised land (ibid. 120(d)) and support for '*Significant development*' in sustainable locations (NPPF, 105). It is an overstatement to attach substantial weight to these other aspects.

95 The *'Silver Saviours for the High Street'* document also carries limited weight in demonstrating the economic benefits which this scheme would bring to this area. The figures quoted by Mr. Shellum of 85 temporary construction jobs and 6 permanent jobs (MS, 8.20) bear little resemblance to the employment likely to be generated by this scheme:

- The figures are based on a 45 apartment scheme (not 39, as here) (MS, App. 5, p.9).
- The 85 construction jobs are assessed against letting the site remain undeveloped (MS, App. 5, p.9). The additional construction jobs created would be less than half that figure (30), when compared to the site being developed for 31 first time buyer flats (p.23), in circumstances where the Council acknowledge that the site can be developed for residential, flatted development.
- The document explains that the figures for permanent jobs (quoted by Mr. Shellum as 6) are not the same as direct employment figures (p.9), and that a single retirement living development is likely to employ c.1 person (p.23).
- The calculation of local expenditure by residents, and consequential permanent job creation cannot be an exact science, and will necessarily be case specific.

Social Benefits

96 Whilst there will be some social benefits which carry some weight, they have been overstated by Mr. Shellum. As explained by Mrs. Pell-Coggins, for a retirement apartment scheme such as this, the savings for the NHS are likely to be limited to more minor issues not involving visits to hospitals or GP surgeries. The social benefits should also be considered in the light of the poor-quality design and harm to residential amenity.

97 The *'Healthier and Happier'* study should only carry limited weight in demonstrating the social benefits which this scheme will bring about, and the figures quoted by Mr. Shellum carry very little weight when properly scrutinised:

- The figures for fiscal savings to the NHS and social care services are for the *'average person living in specialist housing for older people'* (MS, App. 6, p.19). They are not for *'Each person'* as stated by Mr. Shellum (MS, 8.23).
- Moreover, the document states that the *'average resident in a homes for later living property is in their early 80s'* (MS, App. 6, p.19). That necessarily means that there will be a proportion of residents who are less than 80yrs, for which the quoted figures do not apply.
- The Table of fiscal impacts confirms this narrow approach, because it assesses costs per person only for those over 80yrs (p.20). That does not assess the likely lesser costs associated with the proportion of residents who are under 80yrs.
- In any event, the figures provided cover both extra care and retirement living accommodation. Given their greater needs, residents of extra care homes are likely to rely more heavily on healthcare. A calculation specific to a retirement living scheme is not provided.

Environmental Benefits

- 98 Mr. Shellum's assessment that moderate weight which should apply to the environmental benefits wrongly relies upon an 'enhancement' to the setting of the Great Shelford Conservation Area (MS, 8.28).
- 99 This misconstrues the position of the Council's Conservation Officer. No objection was raised by the Officer. That is effectively an acknowledgement of no harm to the Conservation Area. As explained by Mrs. Pell-Coggins, it is a mischaracterisation to suggest that the response acknowledges an enhancement to the Conservation Area (KPC, Reb. 2.5).
- 100 Moreover, it is plain from elsewhere in his proof that Mr. Shellum has wrongly conflated two separate areas of assessment in coming to this view (MS, 6.8). Whatever the Conservation Officer's view on heritage matters, the harm to the character and appearance through the poor design of this scheme is an entirely separate matter.
- 101 Any scheme would be required to be designed to energy and water efficiency standards, and comply with climate change policy.
- 102 As with the social benefits, any environmental benefits here should be considered in the light of the harm to the built environment arising from this scheme.

Release of under-occupied housing stock

- 103 Mrs. Pell-Coggins attaches moderate weight to the release of housing stock back into the open market, noting that any residential development of the site would have such an effect.
- 104 Whilst it can be acknowledged that there would be a positive impact on local housing markets brought about by the provision of a retirement apartment scheme (*'Housing Markets and Independence in Old Age'* (MS, App. 7, p.5), the assessment in that report is of less relevance here (MS, 8.32):
- The study itself heavily qualifies its figures on the amount of money generated for the housing market, given its sales figures were drawn from a 3yr period either side of the housing recession of 2008 ([CDA9], p.28).
 - It assumes that the take up of the apartments here will necessarily release family sized homes, when that cannot be a given.
 - It assumes that the majority of those homes released will be in the local area, when there is nothing to prevent older persons from around the country from taking up these apartments, which would change the figures.
 - Mr. Shellum emphasises the importance of using existing housing stock in areas where housing supply is restricted (MS, 8.33), but acknowledges that this area has a relatively healthy housing land supply.
- 105 Overall, the Appellant has considerably overstated the benefits. Proper application of the planning balance should lead to refusal.

Conclusion

106 This is poor-quality scheme, which will fail to add to the overall quality of the area, and will result in a poor standard of amenity to its residents, and a severe loss of privacy to one of its neighbours. Properly considered, the proposal is fundamentally at odds with what the planning and development process should achieve.

107 For those reasons, the Inspector is respectfully invited to dismiss the appeal.

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15 July 2022

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