

CHURCHILL RETIREMENT LIVING LIMITED.

SECTION 78 PLANNING APPEAL INTO THE PROPOSED REDEVELOPMENT OF 68 AND
70 KEYMER ROAD, HASSOCKS, SUSSEX.

PUBLIC INQUIRY – 10-12 SEPTEMBER 2024.

“The provision of suitable accommodation, including type and tenure, capable of supporting an older population is therefore important in delivering sustainable, missed and balanced communities”¹

“Mid Sussex has an ageing population which requires a mixture of housing that will meet the needs of older people”²

THE CLOSING SPEECH OF THE APPELLANT

1. These closing submissions have the following structure:
 - 1.1. Section 1 – The proposal is satisfactory in all respects even on the LPA’s case save for its effect on the character and appearance of the area and 4 existing residential properties.
 - 1.2. Section 2 – This is a proposal which could not be more in accordance with the Government’s important policy commitments in the planning system.
 - 1.3. Section 3 – There is a compelling need for this development.
 - 1.4. Section 4 – The proposal will not be harmful to the character and appearance of the area.
 - 1.5. Section 5 – The proposal will not harm the amenity of those who live in close proximity to the proposed development.
 - 1.6. Section 6 – The proposal complies with the development plan and its policies.
 - 1.7. Section 7 – The proposal complies with the NPPF; and
 - 1.8. Section 8 – The planning balance lies overwhelmingly in favour of the grant of planning permission.

¹ Page 141 of the Emerging Local Plan – First column, First paragraph final sentence.

² Page 16 of the Emerging Local Plan – First column, 7th bullet point.

Section 1 – The proposal is satisfactory in all respects even on the LPA’s case save for its effect on the character and appearance of the area and 4 existing residential properties.

2. The following matters are not in dispute now:

- 2.1. Matter of Agreement 1 – The proposed 41 apartments fall within Class C₃ of the UCO. [SoCG 1.3].
- 2.2. Matter of Agreement 2 – The occupancy of the apartments would be age restricted [SoCG 1.3] and as set out in proposed condition 18 in the SoCG.
- 2.3. Matter of Agreement 3 – There is no relevant planning history associated with this site [SoCG 1.6].
- 2.4. Matter of Agreement 4 – The site has a combined size of 0.45 hectares comprising two residential properties [No 68 and 70 KR] [SoCG 1.7].
- 2.5. Matter of Agreement 5 – The site lies within the built-up area of Hassocks [SoCG 1.8 and Giles XX].
- 2.6. Matter of Agreement 6 – The site is within the settlement boundary of Hassocks and there is a policy presumption in favour of development as a starting point [Giles XX and SoCG 1.18].
- 2.7. Matter of Agreement 7 – The principle of new residential development is acceptable [SoCG 1.18 and Giles XX].
- 2.8. Matter of Agreement 8 – The principle of specialist accommodation for elderly people on this site is acceptable [SoCG 1.18 and Giles XX].
- 2.9. Matter of Agreement 9 – The LPA now allege 2, at most 3 policies of the development plan are breached [SoCG 1.19 and Giles XX] namely DP 26, DP 29, and Policy 9.
- 2.10. Matter of Agreement 10 – In terms of the breach of Policy DP 26 and Policy 9 it is accepted that the majority of those two policies are not breached. [Giles XX]
- 2.11. Matter of Agreement 10 – All other DP policies are complied with [SoCG 1.19 and Giles XX]. Therefore, there are 22 policies in which the LPA do not contend there is any breach with the proposed development.
- 2.12. Matter of Agreement 11 – The LPA can demonstrate a 5.04-year HLS position [SoCG 1.20] although the emerging picture is an increase in the requirement if the changes in the NPPF consultation are taken forward by the Government [Giles XX].
- 2.13. Matter of Agreement 12 – The relevant requirement is 4 years per NPPF 226 [SoCG 1.20].
- 2.14. Matter of Agreement 13 – The PPG identifies the need for older persons housing is “critical” [SoCG 1.22 and Giles XX].

- 2.15. Matter of Agreement 14 – The MS SHMA identifies an overall population growth up to 2038 of 33,000 people of which 14,000 will be over 65 years [SoCG 1.25 and Giles XX].
- 2.16. Matter of Agreement 15 – The MS SHMA identifies a shortfall of sheltered housing of the elderly of 816 units up to 2038 [SoCG 1.25].
- 2.17. Matter of Agreement 16 – Of those 816 units, 801 of those units are required to be provided in the open market section [SoCG 1.25 and Giles XX].
- 2.18. Matter of Agreement 17 – There is no contention of unacceptable impact on highway safety [SoCG 1.27].
- 2.19. Matter of Agreement 18 – There is sufficient parking provided to meet Policy DP 21 [SoCG 1.28].
- 2.20. Matter of Agreement 19 – The infrastructure payment of £114,727 is the correct amount for affordable housing and other infrastructure requirements considering the issue of viability [SoCG 1.29].
- 2.21. Matter of Agreement 20 – That provision is appropriate off-site [SoCG 1.30].
- 2.22. Matter of Agreement 21 – The proposed development would not result in any unacceptable direct overlooking to any adjoining neighbourhood property [SoCG 1.31 and R/T].
- 2.23. Matter of Agreement 22 – There is no issue on the proposed materials [SoCG 1.33].
- 2.24. Matter of Agreement 23 – There is no objection to the Keymer Road elevation in respect of scale and massing [SoCG 1.34].
- 2.25. Matter of Agreement 24 – There is no objection on the Ashdown Forest SPA or SAC and no mitigation is required [SoCG 1.35].
- 2.26. Matter of Agreement 25 – The proposal complies with Policy DP 27 in terms of space standards [SoCG 1.33].
- 2.27. Matter of Agreement 26 – There is no issue of impact on any of the retained trees [SoCG 1.36].
- 2.28. Matter of Agreement 27 – If an appropriately worded and agreed Section 106 is provided then there is no longer any issue on affordable housing [SoCG 2.1, third bullet point].
- 2.29. Matter of Agreement 28 – Hassocks is identified as a tier 2 category settlement in the development plan [Shellum paragraph 5.5 and Giles XX].
- 2.30. Matter of Agreement 29 – Within settlement boundaries Policy DP6 allows for redevelopment [Shellum paragraph 5.6 and Giles XX].

- 2.31. Matter of Agreement 30 – In terms of the concern of residential amenity the LPA only contend now that 4 properties will be unacceptably harmed – 72 KR, 66A KR and 9 and 10 TM [Giles XX and R/T].
- 2.32. Matter of Agreement 31 – It is not contended there will be material harm to any property in Dale Avenue or 11 TM [Giles XX and R/T].
- 2.33. Matter of Agreement 32 – The district is heavily constrained. 50% of the District is the High Weald AONB and over 10% is National Park which means that exceptional circumstances are required for major development. That leaves only 40% of the District without those constraint. Also of relevance is the existence of SPA and SACs for example the Ashdown Forest 7 Km zone.³

Section 2 – This is a proposal which could not be more in accordance with the Government’s important policy commitments in the planning system.

3. There is an important noteworthy characteristic of the planning system, which is that the Government seeks to influence strongly, through the production of policy, the types of development which are permitted in response to applications brought forward by the market.
4. The primary vehicles for telling the planning world what they want is through the policy set out in the NPPF and the NPPG. It gives a clear and unambiguous expression of the aims and aspirations of the Government.
5. It is also a fundamental tenet of the planning system that it is not for decision makers to question or contradict government policy. It is a critical steer of the acceptability of a proposal.
6. It is the overarching submission of the Appellant in this matter that the proposal simply could not be more in keeping with those policy aims and aspirations both as encapsulated in those two documents and re-enforced by emerging policy set out in the consultation NPPF and written ministerial statement because this is a development which will:
 - 6.1. Be in a very sustainable location considering the hierarchy in this district as it is located in the second tier of settlements just below the 3 major settlements as set out in the development plan and the emerging development plan. It is noteworthy that this settlement

³ Page 8 of the Emerging Plan.

is expected to have the fourth highest amount of housing in the district during the plan period. That policy aspiration will be met by this proposal.

- 6.2. Be a development which will be highly accessible by foot, public transport, and cycle to those who wish to access in that manner which wholly accords with the aim of national and the development plan. The walk to the centre will be quick, easy, and convenient for those residents who occupy the development.
- 6.3. Be utilising mainly brownfield land which has been developed for many years by housing.
- 6.4. Avoid the use of greenfield, undeveloped land in far less sustainable locations.
- 6.5. Be re-using a site which is patently underutilised currently and accepted by Mr Giles to be again in a manner sought by policy.
- 6.6. Involve a development which will utilise the site efficiently and involving the optimisation of the site with the quantum proposed of 41 units when only 2 currently occupy the site. The LPA seek such an approach – In the emerging plan it says that making effective use of land means maximising opportunities for reusing brownfield sites and ensuring that the full potential of a site is considered when proposals are put forward.⁴
- 6.7. Assist in the regeneration and viability and vitality of the Town Centre by directing additional expenditure towards the town centre again as sought by policy.
- 6.8. Provide additional housing assisting in the desire to significantly boost the supply of housing.
- 6.9. Provide specialist accommodation for the elderly in which the need is critical in a safe, successful, and comfortable format.
- 6.10. Provide for economic growth through construction in the short term and the occupation by 50-60 residents in the longer term.
- 6.11. Provide social benefits for the those who occupy the development with a community, lodge manager and a ready-made social environment.
- 6.12. Free up existing housing which is underutilised by those currently occupying it and is far too big for them.
- 6.13. Assist in the provision of affordable housing by the payment to help those most in need.
- 6.14. Is of good quality design as evidenced by Mr Smith.

Section 2 – There is a compelling need for this development.

⁴ Page 35 of the Emerging Local Plan.

7. The issue of need, and whether the proposal would contribute appropriately to addressing the diversity of housing needs of local people, is not contested by the LPA. The LPA confirmed that there is the existence of a need for this type of housing. That is evidenced by the SHMA.
8. It is of note that the existing DP does not have any policy allocations because it predates the change to the NPPF when LPA's were expressly told to make provision in the DP for such uses. It was also the written evidence of Mr Shellum that very few market retirement living developments have been delivered in MSDC since the adoption in 2018 of the LP.
9. However going forward there is now a need identified by the LPA up until 2038 for the market to provide 801 such units. As the XX of Mr Giles showed although the LPA have tried to make provision for this housing in the emerging development plan most of the sites identified are fundamentally unsuitable because of their characteristics of being greenfield, isolated and a long way from the essential services that proposed residents demand. Also the majority of such allocations are also intended to cater for extra care developments. Also, the majority of such allocations are major projects which will take many years to complete and therefore simply will not address the current need in the short or medium term.
10. The simple point is the only way the need is met is by the market bringing forward sites which are essentially windfall sites.
11. The issue of need for this specialised accommodation for older people within the local area was addressed by Mr Shellum. The key points from his evidence were as follows:
 - 11.1. At a national level, the Government identify in the PPG that the need is "critical". There is a national need for both housing and specialist residential for the elderly. There is a real danger in not meeting that need. No other need is so identified currently in national guidance with that strength of comment.
 - 11.2. The Mid Sussex area in particular has an aged and ageing population. Those 65 years of age and older already make up approaching 30% of the total population of the district and this is projected to increase to more by 2040 as set out in both the DP and the SHMA.

- 11.3. Further, those 85 years of age and older will increase in absolute numbers by 16,000 people through the period to 2040.
- 11.4. This age profile and projected further ageing of the local population represents a challenge to health and social care authorities as the prevalence of chronic health conditions and functional incapacity in tasks essential to the maintenance of an independent lifestyle is closely related to chronological age.
- 11.5. It is important to understand that across a range of domains from health and functional capacity to household composition, lifestyle, and financial circumstances the population of older people is diverse and no one solution in terms of accommodation and care will meet all needs.
- 11.6. The increasing recognition of the positive benefits for individuals and for the community of expanding the range and volume of specialised housing for older people is evidenced in the National Planning Practice Guidance of 2019, in the Adult Social Care White Paper of December 2021 and in the Government's response to the report of the House of Lords' Built Environment Committee report of January 2022 on Meeting Housing Demand.
- 11.7. The proposed development will both respond to need within the existing resident population, as is common ground with the Council, and it will provide substantial public benefit.
12. Therefore, there is a compelling need which is a substantial benefit weighing in favour of the grant of planning permission.

Section 3 – The proposal will not be harmful to the character and appearance of the area.

13. Mr Smith, the appellant's architect, gave evidence on the design of the proposal.
14. He explained that the appellant takes the responsibility of designing developments within built environments very seriously and carefully considers the local context to inform the proposed design.

15. The production of a high-quality product does not stop after construction. The appellant's sister company, Churchill Estates Management, will continue to maintain and manage the proposal throughout its lifetime. It is in the interests of the appellant to provide a high-quality product which is attractive on completion and during its life. These are flats which have an average occupation of 8 years and unlike a lot of developments will have a continued turnover in occupants who will look for a pleasant and well-maintained environment.
16. Mr Smith helpfully explained that the design of the proposal was high quality and bespoke to the site context. The appeal site sits at a transition point, between the town centre and the more residential surrounding areas.
17. The approach to the footprint, scale and massing of the proposal is described in the Design and Access Statement, and in Mr Smith's Proof. This explains the detailed design process resulting in a building which is in keeping with the character of the area.
18. The position of the Appellant is that this concern is simply and irrefutably not made out because of the following factors:
 - 18.1. Factor 1 – The proposal will cause no harm to the character of the locality. The view of Mr Giles is that this is predominantly a residential area. What is proposed is residential development so the character of the locality will be completely maintained if planning permission is granted. The residential character of this area would be retained, and it would continue to form part of the wider townscape.
 - 18.2. Factor 2 – Therefore using a Russian doll metaphor the area of concern can be reduced to only appearance.
 - 18.3. Factor 3 – Again reducing it further there are only allegations of harm against the footprint, scale, and mass of the proposal. This is important for two reasons. Many factors such as elevation treatment, the design of the proposal, the proposed materials, the use of fenestration, the treatment of the Keymer Road Elevation are not in dispute. The concern is therefore small.
 - 18.4. Factor 4 – The visibility of the development will be actually limited as Mr Giles accepted. There are only 4 views that Mr Giles contends are material. That is what led him to only give this harm "moderate" weight in the planning balance.
 - 18.5. Factor 5 – In determining whether what is proposed is harmful it is important to note that it is difficult to envisage a site with less designation or factors influencing or even determining

the decision – there is no listed building in close proximity, no conservation area, no non-designated heritage assets, no SPD, or any other design consideration that requires consideration.

- 18.6. Factor 6 – The policies relied on by the LPA – DP 26 and Policy 9 are high level general policies that set out the considerations relevant and not specific guidance for a site such as this as to what amounts to acceptability or not.
- 18.7. Factor 7 – The footprint of the building, whilst of course larger than that currently there is no harmful or difficult. It leaves very significant space around the building to the boundaries of the site therefore siting comfortably in the plot.
- 18.8. Factor 8 – It is also impossible to discern why the scale and mass is alleged to cause actual harm. Mr Giles's evidence, both oral and written, was completely silent on this point apart from the identification of visibility and change.
- 18.9. Factor 9 – Visibility does not equate to harm – it only equates to harm if what is seen is harmful and there is no evidence that this is. Where the proposal is visible the building will be viewed against the backdrop of the retained trees and the verdant character that currently exists.
- 18.10. Factor 10 – Change does not equate to harm – otherwise that would make a mockery of the Government's desire to use brownfield sites and optimise them into the future in meeting principally housing need.
- 18.11. Factor 11 – There was a reasonable degree of agreement between the witnesses that the character of Keymer Road was one of verdant character with buildings set back behind the verdant setting. The proposal does not change the character of KR.
- 18.12. Factor 12 – You can corroborate a building which is overdevelopment by reference to issues such as lack of amenity space, harm to daylight and sunlight to the proposal and surrounding buildings, by considering whether the building has adequate room for landscaping and adequate car parking. When one audits all these factors there is simply nothing alleged to be breached in this regard by the LPA. It is a real test of acceptability which is passed.
- 18.13. Factor 13 – The only evidence you have had on character and appearance is from a planner. It is noteworthy that they have not called a designer or architect. The only evidence from such a person is Mr Smith whose evidence should be given more weight for that reason alone that he spends every single day designing such buildings and considers character and appearance every single day.

- 18.14. Factor 14 – Finally the lack of belief in this point was revealed when Mr Giles accepted that alone without the second reason of refusal this harm would not outweigh the benefits. Frankly in the politest sense it is a flimsy makeweight which is simply not credible when scrutinised as this inquiry has done.
19. Putting all those factors together it is simply rejected that the proposal causes any material harm justifying refusal.
20. The design of the proposal complies with all the elements of paragraph 130 of the NPPF. It is also a high-quality design, that complies with the policy requirements in policy DP 26.
21. The design equally complies with the imperative throughout section 11 of the NPPF to make effective use of land in meeting the need for homes, and making optimal use of brownfield sites, which this site undoubtedly is. This applies with particular force given the compelling need for specialised housing identified above.
22. If a development on the appeal site is seriously reduced to respond to the LPA's concerns, then this would result in a far smaller building on the appeal site even if it would come forward. Mr Shellum referenced the high residential land values.
23. This would result in homes being built at low densities, not making optimal use of this brownfield site, which is precisely what the Government has encouraged against.

Section 4 – The proposal will provide suitable amenity for those who live in close proximity of the proposed development.

24. The Appellant does not accept this concern in any way for the following factors:
- 24.1. Factor 1 – There is no allegation relating to the proposed 41 properties.
- 24.2. Factor 2 – There is no longer any allegation relating to any Dale Avenue properties or No 11 the Minnells.
- 24.3. Factor 3 – Therefore the concern is limited to only 4 properties.
- 24.4. Factor 4 – That concern is restricted solely to noise and disturbance in relation to 66A and privacy in only the sense of perceived overlooking to No 72, and privacy to No 9 and 10 TM.

- 24.5. Factor 5 – Residential amenity has many components such as noise, outlook, daylight and sunlight, space standards both internal and external, amenity space, privacy. It is noteworthy that the effect on existing residents is very limited even on the LPA’s case.
- 24.6. Factor 6 – The existing situation is not one that should be protected because it is abnormal and also would frustrate the desire of government to use such sites properly and optimise the development on them. If one does not, then the consequences are significant for needing greenfield development which is very consequential for a heavily constrained district such as mid sussex.
- 24.7. Factor 7 – In relation to No 66A:
- 24.7.1. It is noteworthy that they have not attended the inquiry to re-enforce the points made by the LPA.
- 24.7.2. The concern is noise and disturbance in relation to the scooters and the car movements.
- 24.7.3. There is no concern with the refuse store.
- 24.7.4. In terms of the scooters these movements will take place during the day and also, they are electric so largely if not completely silent. Why this will cause material harm to the residents of 66A is baffling. That is reinforced when Mr Shellum estimates in his proof that there will be around 4 scooter movements a day which averages one every three hours.
- 24.7.5. Additionally, there is a concern about car movements, but they will largely be restricted to daytime movements based on the Haywards Heath survey. There is also no empirical evidence that this will actually cause harm in terms of absolute noise levels.
- 24.7.6. Additionally, the headlights of cars are directional and downwards otherwise we would all be blinded. Of course, there might be some spillage but there will be a fence of 1.8 metres and vegetation separating the properties. That boundary treatment is perfectly adequate and acceptable to comply with what the LPA is seeking.
- 24.7.7. Therefore, we refute the concern with Number 66A.
- 24.8. Factor 8 – In relation to 72 KR:
- 24.8.1. The only concern is perceived overlooking which as Mr Shellum said is difficult to understand because the proposed obscure glazing.
- 24.8.2. This concern is again difficult to fathom.

- 24.8.3. The property has one window at ground floor level that appears to be a secondary window.
- 24.8.4. In any event the appellant now proposes obscure glazing closest to this property.
- 24.8.5. Additionally, there is substantial existing vegetation there.
- 24.8.6. Additionally, there is the ability to plant more vegetation there if that is what the LPA desire.
- 24.8.7. Additionally, the separation distances are reasonable.
- 24.9. Factor 9 – In relation to 9 and 10 TM:
- 24.9.1. There is no right to a view.
- 24.9.2. There is no right to silence.
- 24.9.3. Again it appears the concern is perceived overlooking.
- 24.9.4. The hand of Mrs McGuinness was overplayed when she stated that she feared activity and noise from the proposed patios. That is frankly a non-existent concern. Everyone who lives in an urban area has to contend with and accept noise from the neighbours garden. All of us have or have had noisy neighbours and one deals with it. The occupiers of 9 and 10 TM have no right to sterilise the adjacent site. The existing position is abnormal and rare.
- 24.9.5. In any event the concerns are not made out because the occupiers will be respectful, quiet, and considerate.
- 24.9.6. It is also the position that the separation distances are considerable around 33 metres which is far greater than often found in urban areas.
- 24.9.7. There is also very considerable vegetation between the appeal site and No 10 Tm.
- 24.9.8. Between 9 and the appeal site is much less but if the LPA seek the planting of significant intervening vegetation that can take place as there is unquestionably the room to do so.
- 24.9.9. Yes, the view will change but that does not amount to harm.
- 24.10. Therefore, we ask you to robustly and strongly reject the weighting of Mr Giles to give this concern substantial harm in the planning balance.
- 24.11. You could do but it would stop dead any hope of seriously developing brownfield land if concerns of this nature were showstoppers. They simply do not justify refusal and as Mr Shellum said correctly these concerns merit no weight.

Section 5 – The proposal fully complies with the development plan.

25. When assessing whether there is compliance with the development plan, regard must be had to the development plan as a whole, including the relevant policies which are accepted by both the appellant and the LPA to be supportive of the proposal and/or neutral to the proposal.
26. It is common ground between Mr Shellum and Mr Giles that there are 24 policies⁵ that are in play and relevant to the determination of whether this proposal complies with the development plan.
27. Even on Mr Giles' evidence you have the partial breach of 2 or even 3 policies against 22 complied with but don't give Mr Giles's evidence weight on the development plan because it was utterly flawed in that:
- 27.1. He simply did not consider in any proper way the weighting to be given to the policies complied with. Nowhere in his evidence is that exercise undertaken.
- 27.2. The only time he considered the benefits is in the context of other material considerations when the destination has already been reached that the development plan was breached.
- 27.3. It is not rocket science to realise that if you only consider the 2 policies you say are breached when considering section 38(6) then of course your conclusion is predetermined and must conclude the development plan is breached.
- 27.4. But because of this flawed and frankly unlawful approach to Section 38(6) you can summarily dismiss his evidence.
- 27.5. Even worse there was no material attempt to consider in the round all the criteria in overall concluding whether the policies were breached in question. Where in his evidence does he consider the 8 criteria not breached in DP 26 prior to concluding the policy in totality is breached? Where in his evidence does he consider the 7 criteria not breached in Policy 9 prior to concluding the policy in totality is breached.
- 27.6. A second fundamental error in his evidence.
- 27.7. Far more balanced and appropriate is the position of Mr Shellum who considered all the policies, weighed them, and concluded the Development Plan was complied with.
- 27.8. Of course, this is not a mathematical exercise, but it simply does not ring true to have the partial breach of 3 criteria of one policy (out of 11 – DP 26) and to have the partial breach of

⁵ See the Statement of Common ground, and cross-examination of Mr Giles.

3 criteria of another policy (out of 10 – Policy 9) and conclude that overall, the partial breach of two policies outweighs another 22 that you accept are complied with.

28. As set out by Mr Shellum, there is compliance with all relevant policies of the statutory development plan, and compliance with the development plan as a whole. It follows that the determination in accordance with the development plan, as per the first part of section 38(6),⁶ is to grant planning permission when proper strong weight is given to the key policies of the development plan.

The relevant policies of the development plan

| POLICY | | PAGE | COMPLIANCE OR BREACH ALLEGED BY THE LPA |
|--|--|------|---|
| MID SUSSEX DISTRICT PLAN 2018 | | | |
| 1. | DP 1 – SUSTAINABLE ECONOMIC DEVELOPMENT | 23 | NO |
| 2. | DP 3 -VILLAGE AND NC DEVELOPMENT | 29 | NO |
| 3. | DP 4 – HOUSING | 31 | NO |
| 4. | DP 6 – SETTLEMENT HIERARCHY | 35 | NO |
| 5. | DP 20 – SECURING INFRASTRUCTURE | 67 | NOT ANY MORE WITH AGREEMENT ON THE SECTION 106 [CF SOCG 1.19] |
| 6. | DP 21 – TRANSPORT | 69 | NO [SOCG 1.28] |
| 7. | DP 26 – CHARACTER AND DESIGN | 75 | YES [SOCG 1.19 AND GG PARA IX OF PROOF] |
| 8. | DP 27 – DWELLING SPACE STANDARDS | 77 | NO [SOCG 1.33] |
| 9. | DP 28 – ACCESSIBILITY | 78 | NO |
| 10. | DP 29 – NOISE, AIR AND LIGHT POLLUTION | 80 | NO |
| 11. | DP 30 – HOUSING MIX | 82 | NO [GG PARA 4.4] |
| 12. | DP 31 – AFFORDABLE HOUSING | 83 | NOT ANY MORE WITH AGREEMENT ON THE SECTION 106 [CF SOCG 1.19] |
| 13. | DP 37 – TREES, WOODLAND, AND HEDGEROWS | 91 | NO |
| 14. | DP 38 – BIODIVERSITY | 92 | NO |
| 15. | DP 39 – SUSTAINABLE DESIGN AND CONSTRUCTION | 94 | NO |
| 16. | DP 41 – FLOOD RISK AND DRAINAGE | 96 | NO |
| 17. | DP 42 – WATER INFRASTRUCTURE AND ENVIRONMENT | 98 | NO |
| SITE ALLOCATIONS DEVELOPMENT PLAN 2022 | | | |
| 18. | SA 38 AIR QUALITY | 104 | NO |
| 19. | SA 39 – SPECIALIST ACCOMMODATION FOR OLDER PEOPLE | 105 | NO [GG 4.6] – AGREED NOT TO BE RELEVANT. |
| HASSOCKS NEIGHBOURHOOD PLAN 2020 | | | |
| 20. | POLICY 4 – MANAGING SURFACE WATER | 24 | NO |
| 21. | POLICY 5 -ENABLING ZERO CARBON | 25 | NO |
| 22. | POLICY 8 – AIR QUALITY MANAGEMENT | 28 | NO |
| 23. | POLICY 9 – CHARACTER AND DESIGN | 30 | YES [SOCG 1.19] |
| 24. | POLICY 14 – RESIDENTIAL DEVELOPMENT IN AND ADJOINING BUILT UP AREA OF HASSOCKS | 43 | NO |
| 25. | POLICY 17 – AFFORDABLE HOUSING | 48 | NO |
| SUMMARY OF LPA'S POSITION ON THE DEVELOPMENT PLAN – 24 POLICIES ARE RELEVANT FOR THE PURPOSES OF THE DEVELOPMENT PLAN BUT ONLY 2 NOW BREACHED BY THE PROPOSAL ALTHOUGH THE LPA CONCLUDE THE DEVELOPMENT PLAN IS OVERALL BREACHED BY THE PROPOSAL. | | | |

⁶ Planning and Compulsory Purchase Act 2004.

Section 6 – The proposal fully complies with the NPPF.

29. The next stage in the section 38(6) analysis is to determine whether material considerations indicate otherwise. In the present case, it is clear that material considerations further support the grant of planning permission.
30. It is thus necessary to carefully consider the benefits which arise from the scheme, and the harms which are alleged against it. When that exercise is undertaken, there is only one sensible outcome from this appeal.
31. In relation to the benefits, many of these benefits find support in fundamental parts of the NPPF, which in essence tells us what needs to happen on sites such as this. Before turning to the specific benefits of this scheme, it is important to highlight these imperatives in the NPPF.
 - 31.1. Policy imperative 1: sustainable locations should be used for development (section 9 of the NPPF and Policy DP 21).
 - 31.2. Policy imperative 2: brownfield land should be preferred to greenfield sites (paragraph 124(c) of the NPPF) and LPAs should be proactive in this regard (paragraph 125 of the NPPF).
 - 31.3. Policy imperative 3: underutilised land and buildings should be used, especially if this would help to meet identified needs for housing where land supply is constrained, and available sites could be used more effectively (paragraph 124(d) of the NPPF).
 - 31.4. Policy imperative 4: land should be used efficiently and optimised (paragraphs 8(c), 128 and 129(c) of the NPPF).
 - 31.5. Policy imperative 5: appropriate opportunities to promote sustainable transport modes should be taken up (paragraphs 8 and 114(a) of the NPPF). This applies particularly to sites very close to the town centre with sustainable access to an extensive range of shops and services.
 - 31.6. Policy imperative 6: land must come forward to significantly boost the supply of housing (paragraphs 60 of the NPPF).

31.7. Policy imperative 7: provision must be made for specialised accommodation for the elderly (paragraph 60 and 63 of the NPPF). The PPG also identifies that there is a “critical need”.

31.8. Policy imperative 8: LPAs should seek to approve applications for sustainable development where possible. (NPPF paragraph 11).

31.9. Policy imperative 9: Significant weight should be placed on the need to support economic growth and productivity (paragraph 85 of the NPPF).

31.10. Policy imperative 10 – Planning decisions should have aim to achieve healthy, inclusive and safe places(NPPF paragraph 96).

32. With the policy background of the NPPF set out, we can now turn to the specific benefits of this scheme, as were identified by Mr Shellum:

32.1. Benefit 1 - Provision of market housing - the provision of 41 residential dwellings in an area where there is a substantial need for market housing. This carries significant/substantial weight given the LPA’s significant requirement and complies with paragraph 60 of the NPPF. This position was agreed by both planning witnesses.

32.2. Benefit 2 - Meeting identified national and local housing needs for older persons accommodation - This matter was addressed in further detail by Mr Shellum. This is a benefit which has very significant weight and complies with paragraphs 60 and 63 of the NPPF, the strong imperative in the PPG for specialised accommodation. This position was agreed by both planning witnesses.

32.3. Benefit 3 - Redevelopment of previously developed land, which the majority of the site unquestionably is. This has substantial weight, as directed by paragraph 120(c) of the NPPF, and this weighting was agreed by both planning witnesses.

32.4. Benefit 4 - Compliance with the national and development plan strategy for redeveloping in sustainable locations. The site is on an established transport corridor, and close to the local centre of Hassocks. This has significant weight, and again complies with the aims of section 9 of the NPPF. Again, this weighting was agreed by both planning witnesses.

32.5. Benefit 5 - Efficient and effective use of land. There is a limited supply of suitable land for specialised accommodation for older persons. Replacing an underutilised site with 41 retirement dwellings optimises the development potential for the site. This carries significant weight and complies with the policy imperatives of section 11 of the NPPF. Mr Giles agreed that the site is currently underutilised.

32.6. Benefit 6 - Economic benefits. The scheme will house 60 odd residents, each using the shopping and other facilities in the local area. The academic commentary on these ‘silver saviours’ is plentiful and set out for you by Mr Shellum. These economic benefits attract significant weight, in accordance with the direction in paragraph 85 of the NPPF.

32.7. Benefit 7 - Social benefits. It is a specialised, age-friendly environment to meet a specific housing need. As the evidence in Mr Shellum states retirement living housing can actually reduce the burden on health and social services. The residents remain in better physical and mental health – feeling as good as someone 10 years younger when they move into specialised accommodation. It also means essential medical and other practitioners can visit several occupiers at once. This has significant weight.

32.8. Benefit 8 - Environmental benefits. In addition to redeveloping a mostly brownfield site, the scheme would be designed to energy and water efficiency standards, use PV cells for energy generation, and restrict water consumption and provide electricity charging points. This benefit carries limited weight which was the position of both planning witnesses.

32.9. Benefit 9 - The release of under-occupied housing stock. Most residents who move into the development will free up a substantial family home. This development not only builds houses but frees up larger houses further up the chain. The weight of such a benefit is significant and was identified by Mr Shellum particularly in a district where it is estimated in the SHMA that 75% of current housing stock is under-occupied.⁷

33. Cumulatively, as outlined by Mr Shellum, these benefits are weighty and compelling.

34. Mr Giles accepted that overall significant weight should be given to these benefits.

⁷ See Table 3.3 of the SHMA.

35. In summary both parties' position is as follows following their evidence:

| | BENEFIT | SHELLUM WEIGHT | GILES WEIGHT |
|--------------------------|---|--------------------|--------------------|
| 1. | PROVISION OF RESIDENTIAL ACCOMMODATION | SUBSTANTIAL | SUBSTANTIAL |
| 2 | MEETING NATIONAL HOUSING NEEDS | SUBSTANTIAL | SUBSTANTIAL |
| 3 | REDEVELOPMENT OF PDL | SUBSTANTIAL | SUBSTANTIAL |
| 4 | SUSTAINABLE LOCATION | SUBSTANTIAL | SUBSTANTIAL |
| 5 | EFFICIENT USE OF LAND | SUBSTANTIAL | SUBSTANTIAL |
| 6 | ECONOMIC BENEFITS | SUBSTANTIAL | MODERATE |
| 7 | SOCIAL BENEFITS | SUBSTANTIAL | SUBSTANTIAL |
| 8 | ENVIRONMENTAL BENEFITS | LIMITED | LIMITED |
| 9 | RELEASE OF UNDER OCCUPIED HOUSING STOCK | SUBSTANTIAL | LTD / MODERATE |
| CUMULATIVE WEIGHT | | SUBSTANTIAL | SUBSTANTIAL |

36. It is important when considering weighting, that any and all benefits flowing from the scheme must be given weight.

37. It is not a proper or legitimate approach to reduce weight because more benefits could come forward with an alternative scheme.

38. It is not also appropriate to seek to amalgamate them as was the contention of Mr Parker. His approach in XX was completely at odds with his witness. Mr Giles in XX made no attempt to argue they were separate and accepted there were 9 benefits of the scheme in the clearest terms and with the weight identified above. Mr Parker knew this concession blows the LPA's planning balance out the water so sought to ignore completely the XX of his own witness and develop unilaterally an argument which has been repeated in closing that the benefits should be amalgamated.

39. Reject that approach because there is not one appeal decision before us where an Inspector has endorsed the amalgamation approach [none was put to Mr Shellum], secondly this was not the position of Mr Giles and if it had been I would have challenged it as not credible or correct and thirdly you have two clear unchallenged decisions where the Inspectors have considered the benefits as separate in the **Fleet** and **Shaftesbury** decisions and given very substantial/substantial weight by the Inspectors.

40. By contrast, the alleged harms of the scheme are extremely limited. The alleged harms in relation to character and appearance or residential amenity are either not made out on the evidence or attract limited weight.

41. In the present case, the alleged harms at most carry limited weight.
42. These alleged harms come nowhere close to outweighing the substantial weighty benefits.
43. It follows that the NPPF further supports the grant of planning permission.
44. Before departing this matter one must reflect on the credibility of the LPA case as articulated by Mr Giles. He seeks to persuade you that 2 harms which he weighs as moderate and substantial outweigh 9 benefits of which 6 are substantial. To have an outcome when 2 outweighs 9 sounds perverse. To have an outcome when 1 substantial outweighs 6 substantial sounds even more perverse. To have an outcome when the weighting given to harm to residential amenity remains identical, substantial to substantial, notwithstanding the loss of much of the harm with the removal of all the Dale Avenue properties and 11 TM from proof to oral evidence is even more perverse. Finally to have a balancing exercise which remains identical with the removal of the third reason of refusal is perverse.

Section 7 – The proposal overwhelmingly complies with the planning balance.

45. There is a massive problem in this LPA of finding housing sites, and in particular those for older people. Indeed don't listen to me but look at the emerging Local Plan with its supporting text to Policy DPH 4 when it is accepted there are very few sites for specialist accommodation in sustainable locations that have come forward in the call for sites exercise.⁸
46. The policy imperative is to solve this problem now. Not later, but now.
47. This proposal is on a site where the principle of redevelopment by the LPA is supported, it is largely previously developed land, it is currently underutilised, it is sustainable, and complies – we say – with all of the relevant policies in the local plan and the NPPF.
48. The proposal has the potential to transform the lives of those who will live there in a dramatic and life changing way. They can move from over-occupied homes, no longer fit for their purposes, into well designed, safe places, surrounded by others of their demographic particularly at a time of perceived uncertainty and fragility with advancing years.

⁸ Page 141 of the Emerging Plan, second column final paragraph.

49. It will also free up properties further down the chain, helping countless more families find their homes.

50. That is not an advocate's hyperbole, it is the truth.

51. Drawing all these threads together, the evidence is clear. The substantial benefits of the scheme plainly outweigh the harms done.

52. The NPPF supports the grant of permission for this scheme, as does the development plan.

53. For those reasons, we respectfully ask you to grant permission for this much-needed, sustainable proposal.

11 September 2024.

**SASHA WHITE K.C.
LANDMARK CHAMBERS**
