



**PROOF OF EVIDENCE of MATTHEW SHELLUM BA(hons) DIPTP
MRTPI**

68 & 70 Keymer Road, Hassocks, West Sussex, BN6 8QP

**CHURCHILL RETIREMENT LIVING
CHURCHILL HOUSE
PARKSIDE
RINGWOOD
BH24 3SG
August 2024**

TOWN & COUNTRY PLANNING ACT 1990

APPEAL BY CHURCHILL RETIREMENT LIVING LTD AGAINST MID SUSSEX DISTRICT COUNCIL'S FAILURE TO DETERMINE AN APPLICATION FOR REDEVELOPMENT TO FORM 41 RETIREMENT LIVING APARTMENTS FOR OLDER PERSONS WITH ASSOCIATED COMMUNAL FACILITIES, PARKING AND LANDSCAPING.

SITE AT: 68-70 KEYMER ROAD, HASSOCKS, WEST SUSSEX, BN6 8QP

LPA REF: DM/23/3114

PLANNING INSPECTORATE REF: APP/D3830/W/24/3344121

PLANNING INQUIRY DATE: 10th-13th September & 27th-18th September 2024

Contents

1.	Executive Summary	Page 4
2.	Professional Qualifications and Experience	Page 8
3.	Introduction	Page 9
4.	Site History & Planning Process	Page 10
5.	Development Plan Policy	Page 12
6.	Consideration of the Main Issues	Page 24
7.	Third Parties	Page 36
8.	Why Planning Permission Should be Granted?	Page 38
9.	Planning Balance	Page 48
10.	Conclusion	Page 50

APPENDICES

Appendix 1 – Parking Survey of Petlands Lodge, Haywards Heath

Appendix 2 – Officers Report (DM/23/0002) Byanda, Hassocks.

Appendix 3 - 'Silver Saviours of the High Street', Homes for Later Living, (2021)

Appendix 4 - 'Healthier and Happier', Homes for Later Living, (2019)

Appendix 5 - Housing Markets and Independence in Old Age: Expanding the Opportunities",
University of Reading

Appendix 6 - The Planner, 11th April 2023

1.0 Executive Summary

- 1.1 The appeal proposal is for the redevelopment 68 & 70 Keymer Road, Hassocks to form 41 Retirement Living apartments for older persons.
- 1.2 The application subject of this appeal was submitted and validated in December 2023 and the Appellant chose to appeal on the 25th June 2024 following the Council's failure to determine the application within the statutory timeframes on the 10th May 2024.
- 1.3 The Council took the application to the Planning Committee of the 13th June with an officer's report advising that had they been able to determine the application they would have recommended the application be refused for three reasons summarised in the post case management note as;
- (i) The effect of the proposed development on the character and appearance of the area;**
 - (ii) The effect of the proposed development on the living conditions of the occupiers of neighbouring residential properties, with particular regard to privacy, noise and disturbance, and light pollution; and**
 - (iii) Whether the proposed development would make appropriate provision for affordable housing and other infrastructure required in connection with the development.**
- 1.4 I consider having regard to Section 38(6), the appeal proposal is fully in compliance with all the policies of the development plan and all material planning benefits weigh in favour of the grant of planning permission.
- (i) The effect of the proposed development on the character and appearance of the area.**
- 1.5 The Council considered that the proposed scheme is harmful to the character and appearance of the area by virtue of its footprint, scale and massing and allege Policy 26 of the District Plan and Policy 9 of the Neighbourhood Plan as being breached.
- 1.6 Neither Policy 26 of the District Plan nor Policy 9 requires development to copy the existing character rather new development should respect the character and scale of surroundings buildings (Policy 9 of the Neighbourhood Plan). As referenced in previous sections the Parish Council authors of the Neighbourhood Plan policy and the Townscape Appraisal supported the proposed scheme and did not consider it to be contrary to their policy or out of character with their Townscape Appraisal.

1.7 I defer to Mr. Smith's evidence in respect to these matters of design, but I would concur with his comments that the proposal would be a high-quality design that is in keeping with the character and appearance of the area. I consider the proposed scheme complies with Policy 26 of the District Plan and Policy 9 of the Neighbourhood Plan.

(ii) The effect of the proposed development on the living conditions of the occupiers of neighbouring residential properties, with particular regard to privacy, noise and disturbance, and light pollution

1.8 The Council consider that the proposal would be detrimental to the residential amenities of neighbouring properties contrary to Policies DP26 of the District Plan and Policy 9 of the Neighbourhood Plan. As Policy DP26 acknowledges residential amenity is comprised of many different components but here the Council consider that only 3 (privacy, noise and light pollution) are alleged to be breached and only to a small number of adjoining properties. Policy DP26 of the District Plan advises that development should not cause '*significant harm*' to the amenities of neighbouring residents.

1.9 The Council do not allege that the privacy of neighbouring properties is harmed by unacceptable level of overlooking, only that harm is caused to the perception of overlooking. The Appellant submitted a site distance plan (20090HK-PL-010 Rev P3) with the application which shows at its closest point habitable room windows are 18m from the shared boundary with The Minnells. Neither development plan documents nor the Mid Sussex Design Guide SPD provide any guidance on separation distances. A normal rule of thumb between habitable room windows in opposing properties is 21m which would suggest a 10m distance to a shared boundary would be sufficient to avoid impacting privacy on the adjoining garden.

1.10 In addition to the separation distances the eastern boundary of the site is currently well screened by mature trees and vegetation and the proposed landscaping plans includes further proposed planting to augment the boundary.

1.11 I do not consider the proposed scheme would result in a significant level of harm to 72 Keymer Road and the gardens of 9,10 & 11 The Minnells and it complies with Policy DP26 of the District Plan, Policy 9 of the Neighbourhood Plan and the Mid Sussex Design Guide.

1.12 The Council considers that the proposal would be detrimental to the residential amenity of 66a Keymer Road as a result of noise disturbance and light pollution from the use of the car parking and scooter storage contrary to policies DP26 of the District Plan and Policy 9 of the Neighbourhood Plan.

- 1.13 The Council having identifies Policy DP29 as a relevant policy have not considered that the appeal proposal is contrary to the policy and would not therefore result in an 'unacceptable level' of noise and light pollution to the adjoining property. It is difficult therefore to see how the Council have considered that Policy DP26 and Policy 9 are breached when the policies have the same threshold test levels of 'significant harm' and 'unacceptable harm'.
- 1.14 In respect to the refuse store the relationship to No.66a is considered no difference to the refuse storage position of Fitzjohn Court which is directly adjacent to the boundary with No.66a, and in respect to noise the proposal benefits from being within a timber enclosure which can deaden noise.
- 1.15 In respect to parking and movement of vehicles the Appellant carried out surveys of 20 of its developments around the country in 2023 co-ordinated by a highways consultant. These demonstrated that for a 12 hour period running from 8.00am to 8.00pm there was an average of 1.62 vehicle movements per apartment. For the proposed scheme of 41 units that would be 66 vehicle movements equating to 5.5 vehicle movements per hour. For the overnight period vehicle movements are dramatically reduced as would be expected. To illustrate this point the Appellant has carried out an overnight survey of its Petlands Lodge development in Haywards Heath, Mid Sussex which showed no vehicle movements between 7:00pm to 7:00am.
- 1.16 In respect to the proposed scheme it is proposed to retain the existing boundary wall between properties and provide additional tree planting of a native species at an extra heavy standard. Section 8.5 of the Mid Sussex Design Guide SPD noise, air and light pollution advises that noise disturbance and light pollution can be reduced through a series of measures including walls and tree planting.
- 1.17 I consider that the proposed scheme would not result in a significant impact on the residential amenities of No.66a Keymer Road and complies with Policy DP26, DP29 of the Local Plan and Policy 9 of the Neighbourhood Plan. The proposed design has had due regard to the Mid Sussex Design Guide SPD in respect to neighbouring amenity.

(iii) Whether the proposed development would make appropriate provision for affordable housing and other infrastructure required in connection with the development.

- 1.18 The parties have continued to discuss the development viability of the proposed scheme and have resolved the outstanding points of dispute. A viability statement of common ground has been produced which identifies that the parties are agreed that the scheme could viably provide a sum of £114,727 towards affordable housing and other infrastructure contributions.

- 1.19 The S106 agreement provides for a later stage review of development viability and a 'blue pencil' should the Inspector consider the Council's requested obligation(s) does not meet the statutory tests of Reg 122 of the Community Infrastructure Levy Regulations then the equivalent sum would be added to the affordable housing contribution. These matters do not result in a reason for withholding permission.

Planning Balance

- 2.0 The Appellant's case is that the appeal scheme would not cause any material planning harm and would deliver a number of significant planning benefits. It is considered that the appeal proposal is compliant with the development plan when considered as a whole, national planning policy, and provides substantial planning benefits as follows (weight attached in brackets);

- The proposal would bring forward 41 units of C3 dwellings in an authority where there is a presumption in favour of residential development because of an under supply of housing (substantial weight);
- The delivery of 41 units of specialist accommodation for older persons which national planning policy identifies the need for delivery as 'critical', and the development plan acknowledges the key challenges of accommodating an ageing population (substantial weight);
- The proposal would contribute to the delivery of affordable housing within the District (moderate weight)
- Redevelopment of an under-utilised site in a key rural settlement as identified by the development plan (substantial weight);
- The appeal proposal is for the redevelopment of a site in a sustainable location being on public transport corridor close to the local centre with local shops and facilities within walking distance (substantial weight);
- The development would make optimum use of the site (moderate weight);
- There is benefit in releasing under-occupied housing stock in the local area (substantial weight);
- The proposal would provide economic benefits by generating jobs, in the construction phase and by residents spending locally (substantial weight);
- There would be social benefits in older persons accommodation including to the national health service (substantial weight); and
- There would be environmental benefits from the redevelopment of this contaminated site and through the sustainable construction of the proposed development (moderate weight).

- 2.1 I respectfully request that the appeal be allowed.

2.0 Professional Qualifications and Experience

- 2.1 I am Matthew Shellum Bachelors DIPTP MRTPI, Planning Director and Head of Appeals at Planning Issues Ltd. where I have held the post for 5 years. I hold a degree (Bachelor of Arts with Honours) in Geography and Planning Studies and a post graduate diploma in Town Planning both from Oxford Brookes University. I am a member of the Royal Town Planning Institute and have been so for over 15 years.
- 2.2 I previously held the post of Principle Planning Associate for The Planning Bureau Ltd. where I was employed since 2001. The Planning Bureau's primary client was McCarthy & Stone Retirement Lifestyles Ltd. who also specialise in the provision of older persons accommodation. I have over 20 years planning experience working with the retirement housing sector. I have obtained in the region of 200 planning consents for retirement housing schemes around the country via local permissions and planning appeals during that time.
- 2.3 Prior to 2001 I held posts with local planning authorities in Hampshire and Wiltshire.
- 2.4 Planning Issues Ltd. provide planning advice to the Appellant on all its development proposals nationwide and have been involved with this appeal site since August 2023 and acted as agent on behalf of the Appellant in submitting and pursuing the planning application that is now subject to this appeal. In the course of my role I would be reviewing circa 50 sites a year for the Appellant at various stages of land acquisition, pre-application planning submission, planning application and planning appeals.
- 2.5 This proof of evidence relates to an appeal made under Section 78 of the Town and Country Planning Act 1990 against Mid Sussex District Council's failure to determine the application for the redevelopment of the appeal site for 41 Retirement Living apartments for older persons including communal facilities, and associated parking and landscaping.
- 2.6 The evidence which I have prepared and provided for this appeal reference APP/D3830/W/24/3344121 is true and has been prepared in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinion.

3.0 Introduction

- 3.1 The proof of evidence considers the following aspects of the case, and is set out as follows:
- A brief description of the Appeal proposal, site history and planning process;
 - Relevant Development Plan Policy and Material Planning Considerations;
 - Why Planning Permission should be Granted?
 - Planning Balance including the benefits of older persons accommodation; and
 - Conclusion.
- 3.2 This proof is accompanied by a short executive summary setting out the appeal proposal's compliance with the development plan and the material planning benefits of the proposed scheme that weigh in favour of the proposed development.
- 3.3 A Planning Statement, Design and Access Statement, and Affordable Housing and Viability Statement were submitted with the application. To avoid duplication of evidence, reference will be made to these documents where appropriate.
- 3.4 The Appellant's case is supported by a proof of evidence from Mr. Ben Smith, Design Director, Planning Issues Ltd on Design. I rely upon his evidence in reaching a view on the overall planning balance.

4.0 Site History & Planning Process

Appeal Site

- 4.1 The 0.45ha site comprises of two detached residential homes and associated gardens both with accesses on to Keymer Road.
- 4.2 The site is located along Keymer Road, a primary artery to the east of the Hassocks village centre. The surrounding area is predominately residential, and located opposite Adastra Hall which is used as a local community centre and village hall, as well as Adastra Park. The site is located just east of the Hassocks main centre, with a host of services and amenities, as well as the Hassocks railway station.
- 4.3 To the east of the site is The Minnells a cul de sac of detached residential houses. To the west of the site is Fitzjohn Court a flatted development of two storeys with a further floor of accommodation in the roof. To the south of the site there is a small brook and then the gardens and properties of 17-27 Dale Avenue.
- 4.4 Please see the Design and Access Statement submitted with the application for further information on the site and context.

Relevant Planning History

- 4.5 Prior to the submission of the application the subject of this appeal there was no relevant planning history relating to this site.

Planning Application Process

- 4.6 The application was submitted on 4th December 2023 and was validated on the 5th December 2023. The Appellant engaged with the consultation process and attended and presented to the Mid Sussex Design Review Panel Meeting on the 17th January 2024. Following receipt of consultation comments including design review panel response and comments from the Council's urban designer the scheme was amended on the 10th April 2024.
- 4.7 The Appellant chose to appeal against the Council's failure to determine the application within the statutory timeframes on the 10th May 2024.
- 4.8 The Council took the application to the Planning Committee of the 13th June with an officer's report advising that had they been able to determine the application they would have recommended the application be refused for the following reasons;

1. The proposal is considered to be an over development of the site and due to the footprint, scale and mass of the proposed building, it is considered that the development would harm the character and appearance of the area by reason of the

overdevelopment of the site in conflict with the predominate characteristics of the area. The proposal therefore does not comply with Policy DP26 of the District Plan, Policy 9 of the Hassocks Neighbourhood Plan and the design principle DG39 set out in the Design Guide SPD.

2. It is considered that the proximity of the two-storey southern projection of the proposed building, would result in an unneighbourly form of development and give rise to overlooking of the rear gardens of Dale Avenue from the habitable windows on the rear elevation. In addition, it is considered that the location of the parking area and scooter storage in close proximity to the side boundary with 66a Keymer Road would be unneighbourly and likely to lead to noise and disturbance and light pollution from their use and would be to the detrimental of the residential amenity. The proposal therefore would not comply with policy DP26 of the District Plan and policy 9 of the Hassocks Neighbourhood plan.

3. The proposal does not satisfy the requirements of Policy DP20 of the District Plan in respect of infrastructure requirements, including affordable housing to service the development as supplemented by the Council's Supplementary Planning Documents,' Development Infrastructure and Contributions' SPD (2018). The proposal therefore would also not satisfy the requirements of Policy DP31 of the District Plan in respect of the provision of any offsite contribution towards affordable housing

4.9 On publication of the officer's report to committee (6th June 2024) I wrote to the case officer pointing out a factual inaccuracy with the presentation of the scheme to members. The plans and elevations submitted indicated that all fenestration on the southern boundary facing towards Dale Park was obscure glazed. No further additional plans or comments were made to officers.

4.10 Consequently, an Agenda Update Sheet was presented to members of the committee on the 13th June 2024 with amended proposed wording for reasons 1 and 2. The reasons for refusal were amended to the following:

1. The proposal is considered to be an over development of the site and due to the footprint, scale and mass of the proposed building, it is considered that the development would harm the character and appearance of the area by reason of the overdevelopment of the site in conflict with the predominant positive characteristics of the area. The proposal therefore does not comply with Policy DP26 of the District Plan, Policy 9 of the Hassocks Neighbourhood Plan and the design principles set out in the Design Guide SPD.

2. It is considered that the proposed development would result in an unneighbourly form of development and would give rise to a perceived impact on privacy to the rear gardens of adjoining properties from habitable windows. In addition, it is considered that the location of the parking area and scooter storage in close proximity to the rear garden of 66a Keymer Road would be unneighbourly and likely to lead to noise and disturbance, and light pollution, from their use, and would cause unacceptable harm to their residential amenity. The proposal would therefore not comply with Policy DP26 of the District Plan, Policy 9 of the Hassocks Neighbourhood Plan and the residential amenity principles set out in the Design Guide SPD.

4.11 The Agenda Update Sheet acknowledged my comments stating;

'The applicant has, since the report was written, now confirmed that all the habitable windows on the rear elevation facing towards Dale Avenue would be obscure glazed. In view of this, it is considered that a reason for refusal that relates to overlooking from the rear elevation into the rear gardens could not be sustained and therefore it is recommended that the reference to Dale Avenue is removed from the wording for reason for refusal no.2.'

4.12 The Agenda Update Sheet did not provide any further updates to the committee report in relation to the first two reasons for refusal.

4.13 The Planning Committee upheld the officer's revised recommendation for refusal.

4.14 In respect to the third reason for refusal the Council have assessed the Appellant's submitted viability assessment using independent external consultants and the parties have discussed and are agreed on a sum to be paid by financial contribution in lieu of on-site provision of affordable housing and other infrastructure contributions. The agreed figure is of £114,727 as set out in the agreed viability statement of common ground.

4.15 The Council have indicated that the agreed sum of money is to be split proportionately between the following infrastructure contributions:

County Council Contributions

Library	£1,471
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Total Access Demand	£6,998
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District Council Contributions

Local Community Infrastructure	£2,723
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Community Building	£2,179
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Formal Sport £1,471

Affordable Housing £99,812

- 4.16 The Council will set out its justification for these contributions within its CIL compliance Statement. The Appellant has allowed for these contributions within the draft legal agreement although these matters will be discussed at the S106 roundtable session.

5.0 Development Plan Policy

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.2 The development plan for Mid Sussex District Council consists of the Mid-Sussex District Plan 2014-2031 (adopted in 2018), the Site Allocations Development Plan Document (adopted in June 2022), as well as the Hassocks Neighbourhood Plan (adopted in July 2020). No policies of the Site Allocations Development Plan Document were referenced in the reasons for refusal.

Mid Sussex District Plan 2014-2031 (2018) (CD4.1)

- 5.3 Hassocks is identified as a village centre by **Policy DP3**. The policy advises to support village centres development will be permitted where it helps maintain and develop the range of shops and services to enable the village centre to meet local needs; and is appropriate in scale and function to its location including the character and amenities of the surrounding area; and is in accordance with the relevant neighbourhood plan. The Council do not allege that policy DP3 is breached by the proposed scheme. I also consider that the proposal complies with Policy DP3 that it is appropriate in scale and function to its location including the character and amenities of the area. I set out in later sections how retirement living apartments help to maintain local centre shops and services. It should also be noted that the Parish Council the authors of the Hassocks Neighbourhood Plan recommended approval and concluded that the proposal was in accordance with the neighbourhood plan.
- 5.4 **Policy DP4** sets out the District's objectively assessed housing needs with a minimum housing requirement of 16,390 dwellings between 2014-2031. The policy advises that between 2024/25 and 2030/31 there will be an average housing delivery of 1090 dwellings per annum.
- 5.5 The policy identifies Hassocks as a tier 2 category settlement grouped with other similarly sustainable settlements with a minimum requirement of 3,005 dwellings during the plan period with 838 dwellings not yet accounted for.
- 5.6 **Policy DP6** provides a settlement hierarchy for the District which permits development within towns and villages within defined built-up area boundaries. The appeal site is within the built-up area of Hassocks. The policy permits redevelopment providing it demonstrates that it is of an appropriate nature and scale, and not cause harm to the character and function of the settlement. The policy cross references policy 26 on

character and design. The Council again do not allege any breach of Policy DP6 but do reference policy 26 in the first two reasons for refusal.

- 5.7 **Policy DP20** is referenced in the third reason for refusal and relates to infrastructure provision. The policy expects new development to provide or contribute towards the infrastructure and mitigation measures made necessary by their development proposals. The policy cross references the statutory tests set out in Reg 122 of the Community Infrastructure Levy of necessity, directly related to the development, and fairly and reasonably related in scale and kind to the development.
- 5.8 **Policy DP21** in relation to transport advises that development proposals will meet the objectives of the West Sussex Transport Plan 2011-2026. The policy requires development proposals to be determined on whether the scheme is sustainably located to minimise the need to travel; there are appropriate opportunities to facilitate and promote the increased use of alternative means of transport to the private car; the scheme is designed to adoptable standards and provides adequate car parking for the proposed development. There is no objection from the local highway authority to the proposed scheme and the proposal complies with Policy DP21. The policy makes reference to charging plug in facilities for electric vehicles but this requirement has moved into building regulations legislation from last year.
- 5.9 **Policy DP26** is referenced in both the first two reasons for refusal and relates to the character and design of development. The policy requires all development to be well designed and reflect the distinctive character of the appropriate towns and villages. The policy requires development to demonstrate a high quality of design and layout including appropriate landscaping and greenspace. It advises that development should normally be designed with active building frontages facing streets to animate and provide natural surveillance. It seeks new development to create a sense of place while addressing the character and scale of the surrounding buildings and landscape. It requires the incorporation of parking that does not dominate the street environment particularly where high density development is proposed.
- 5.10 In respect to the second reason for refusal it states that development should not cause significant harm to the amenities of existing nearby residents taking account of the impact on privacy, outlook, daylight and sunlight, noise and air and light pollution. The policy sets the test for amenity as '*significant harm*'. The policy does not reference the '*perception*' of overlooking which is cited in the second reason for refusal. Indeed, it is difficult to see how the concept of '*perception*' could ever be considered to cause '*significant harm*'.

- 5.11 **Policy DP27** requires all new dwellings to meet the minimum nationally described space standards which the proposed scheme does. **Policy DP28** on accessibility requires 20% of all new dwellings (including specialised accommodation for older persons) to meet Category 2 accessible and adaptable dwellings under building regulations which the proposed scheme meets.
- 5.12 **Policy DP29** is a policy on noise and light pollution. The policy advises that the quality of people's life will be protected from unacceptable levels of noise and light pollution. The Council have not refused the application against policy DP29 and they consider the policy will not cause unacceptable levels of noise or light pollution. In respect to light pollution the policy seeks to minimise artificial light in terms of intensity and fittings with good designs to restrict emissions.
- 5.13 **Policy DP30** is a policy on housing mix. The supporting text to the policy references the Northwest Sussex Strategic Housing Market Assessment Update (2012) identifying that the majority of household growth will result from increasing single person households within the area with a high proportion of these are existing older households who already have housing. It identifies a significant need for smaller dwelling types over the plan period with the majority of new households forming 70% being for one and two bedroom households *'with a very high proportion of need arising for elderly persons (aged 75 years and over)'*. The policy is worded that housing development will provide a mix of dwelling types and sizes that reflects current and future local housing needs and meet the needs of different groups in the community including older people.
- 5.14 **Policy DP31** is the Council's affordable housing and is referenced in the third reason for refusal. The policy seeks a minimum of 30% provision on-site of affordable housing from residential developments of 11 dwellings or more. The policy recognises that viability can affect a development's ability to meet this target provision level and requires an independent viability assessment to be carried out. The policy advises that the Council's approach to development viability will be set out in a supplementary planning document. The supporting text to the policy recognises that there may in some cases be exceptional circumstances where provision on-site is not feasible.
- 5.15 **Policy DP37** supports the protection and enhancement of trees and encourages new planting. The policy requires new development to incorporate existing trees and hedgerows and prevent damage to root systems and takes account of expected future growth. **Policy DP38** on biodiversity seeks development to protect and enhance biodiversity so there is a net gain in biodiversity. The application was submitted with an ecological assessment and a biodiversity net gain assessment which demonstrated the proposed scheme achieves a net gain.

- 5.16 **Policy DP39** on sustainable design and construction seeks development proposals to improve the sustainability of the development and include measures to minimise energy use, use of renewable sources of energy, maximise efficient use of resources, limit water usage to 110l per person per day, and demonstrate how future climate change has been planned for. The application was submitted with an energy statement identifying the use of photovoltaics, reduction in carbon emissions and reduction in water usage.
- 5.17 **Policy DP41** is a policy on flood risk and drainage. The site is within floodzone 1, so it is the second part of the policy on page 97 that is relevant to the appeal proposal. The policy seeks the inclusion of sustainable drainage systems in all new developments of 10 or more dwellings unless demonstrated to be inappropriate. Sustainable drainage systems should be sensitively designed with the preferred hierarchy of managing surface water drainage adopted. The application was submitted with a flood risk assessment including drainage layout design and was revised providing further information in a response to statutory consultee comments in March 2024. I would defer to that document. **Policy DP42** on water infrastructure includes reference to Building Regulations Part G and the requirement for all new residential units to meet a water consumption standard of 110l per person per day controlled through condition.

Site Allocations DPD (2022) (CD4.2)

- 5.18 The Site Allocations DPD identifies sufficient housing sites to provide a 5 year housing land supply to 2031 and makes sure that there is sufficient land allocated to meet identified employment needs.
- 5.19 There are no policies of the DPD referenced in the Council's deemed reasons for refusal but the document includes some policies of note. **Policy SA38** on air quality requires applicants to demonstrate that there is not an unacceptable impact on air quality. The site is not within or adjacent to an air quality management area. The application was submitted with an air quality assessment which concluded the proposal would not have a significant impact on air quality.
- 5.20 **Policy SA39** is in respect to specialist accommodation for older people and care homes but seems largely to be focussed on such uses that fall within the C2 use class and not C3 forms of specialist older persons accommodation. It does advise that proposals for specialist accommodation for older people will be supported where it is allocated for such use within a development plan document or is part of a strategic allocation or is located within the built-up area boundary of a settlement. It adds that in all cases the site must be accessible by foot or public transport to local shops, services, community facilities and the wider public network.

- 5.21 In the context of this policy and the site allocations within the document it should be noted that it predates the December 2023 revisions to the NPPF which in respect to Paragraph 63 was deliberately amended to read;

‘Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers ; people who rent their homes and people wishing to commission or build their own homes .’ (my emphasis on revised text)

- 5.22 Whilst no criticism of Policy SA39 in respect to its approach with housing for care or care homes it does not specifically address the need for retirement housing. The NPPF requires the need for retirement housing to be assessed and reflected in planning policies. There are no other policies of the development plan addressing retirement housing needs and none of the site allocations included within this DPD include the provision of retirement housing within the allocation. The Council are dependent upon the retirement housing industry identifying windfall opportunity sites to delivery retirement housing accommodation for older people.

Hassocks Neighbourhood Plan 2014-2031 (July 2020) (CD4.3)

- 5.23 The strategic objectives of the neighbourhood plan set out on Page 13 include ensuring all sections of the community have access to key local services and shops and to provide appropriately sized, affordable and sustainable housing in sympathy with the village and its surroundings and encourage economic development.
- 5.24 **Policy 4** on managing surface water seeks to reduce existing run-off rates and the incorporation of sustainable drainage measures. **Policy 5** supports proposals that maximise the inclusion of sustainable design features and make provision for electric vehicle charging. **Policy 8** supports development that would not have an unacceptable adverse effect on air quality within air quality management areas.
- 5.25 **Policy 9** of the Neighbourhood Plan is referenced in the first two reasons for refusal. The policy on character and design supports development proposals that have had regard to the Hassocks Townscape Appraisal and takes account of 10 design principles. The principles include ensuring a high quality of design and layout, that it respects the character and scale of surroundings buildings, does not unacceptable harm to the amenities of existing nearby residents having regard to privacy, outlook, daylight and sunlight, incorporates the use of local materials and responds to local vernacular character defined in the Local Townscape Character Area. The supporting text to the

policy advises that the Townscape Appraisal was undertaken in support of the neighbourhood plan and identifies 14 local townscape character areas. The appeal site is within the Adastra townscape character area. The parish also has a village design statement from 2008.

- 5.26 **Policy 14** of the Neighbourhood plan supports residential development on unidentified sites within the built-up area of Hassocks where they are appropriate in nature and scale and positively respond to the character and function of the area. The Council have not advised that the appeal proposal is contrary to Policy 14 of the Neighbourhood Plan and it is also noteworthy that Hassocks Parish Council is supportive of the appeal proposal.

Summary on Development Plan

- 5.27 The appeal proposal complies with the Council's spatial strategy for the location of development within built up areas of which Hassocks is identified as a village centre. There is policy support for the delivery of residential development within built up areas and for the delivery of older persons accommodation. The policies referenced in the reasons for refusal are considered to be met in the Appellant's evidence and the proposal complies with the development plan taken as a whole.

Material Planning Considerations

National Planning Policy Framework (NPPF) (2023)

- 5.28 In relation to this Appeal, the following sections of the NPPF are particularly material;
- **Para 7** – *“The purpose of the planning system is to contribute to the achievement of sustainable development.”* This statement puts sustainability at the heart of planning and is the thread that runs through the NPPF.
 - **Para 8** - sets out the component parts that constitute ‘sustainable development’, namely economic, social and environmental.
 - **Para 11** – *‘Plans and decisions should apply a presumption in favour of sustainable development.’* For decision making this means approving development proposals that accord with the development plan without delay.
 - **Para 12** - The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not normally be granted.

- **Para 57** sets out that planning obligations must only be sought where all the CIL 122(2) tests are met.
- **Para 60** – sets out the planning objective *‘To support the Government’s objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay’*. This is a recognition of the level of need for new housing across the country against the recent dwindling trend of housing supply.
- **Paras 60 and 61** – state that local housing needs assessments should determine the minimum number of homes needed, unless exceptional circumstances justify an alternative approach. This goes further to state that *“the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities...”*
- **Paras 63** – sets out within the context of establishing need, the size, type and tenure for different groups in the community should be assessed and reflected in planning policies. These groups are listed as including older people and it is noteworthy that the latest revision of the NPPF now specifically references those in need of retirement housing.
- **Para 64** - where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless: off-site provision or an appropriate financial contribution in lieu can be robustly justified; and the agreed approach contributes to the objective of creating mixed and balanced communities.
- **Para 70** - identifies the important role small and medium sized sites can make to meeting the housing requirements of an area. The paragraph identifies that local planning authorities should identify at least 10% of their housing requirement on sites no larger than one hectare. Paragraph 70(d) supports the development of windfall site and states that local planning authorities should ‘give great weight to the benefits of using suitable sites within existing settlements for homes’
- **Para 115** states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- **Para 123** advises that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- **Para 124(c)** gives substantial weight to the value of reusing suitable brownfield land within settlements for homes.
- **Para 124(d)** promotes and supports the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively
- **Para 128** advises that planning decisions should support development that makes efficient use of land, taking into account (amongst other things) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it; and the desirability of maintaining an area's prevailing character and setting including residential gardens, or of promoting regeneration and change.
- **Para 129** - states that where there is an existing shortage of land to meet identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site.
- **Para 131** - The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creating better places to live and work while making development acceptable to communities.
- **Para 135** – seeks to ensure that developments:
 - a) Function well and add to the quality of the area over their lifetime;
 - b) are visually attractive due to good architecture, layout and landscaping;
 - c) are sympathetic to local character and history including the built environment and landscaping, while not preventing or discouraging appropriate innovation or change including increased densities;
 - d) Establish or maintain a strong sense of place to create attractive, distinguished places;
 - e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development;
 - f) Create places that are safe, inclusive and accessible, promoting health and wellbeing, with a high standard of amenity and where crime does not undermine the quality of life.

- **Para 139** - Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

National Planning Policy Guidance

5.29 The National Planning Policy Guidance (NPPG) was published “online” in March 2014, has been subject to subsequent revisions. It is considered that the following sections are of particular relevance to this appeal:

- Housing for Older and Disabled People

5.30 With respect to the section on ‘Housing for Older and Disabled People’, it was introduced into the PPG as a separate section in July 2019. I consider it to be significant that the Government has deemed it necessary, given the extent of need for these forms of accommodation, to have a dedicated section providing advice for plan makers and decision takers to secure delivery of these specialist forms of accommodation. Whilst the whole section is relevant to the appeal proposal, Paragraph 001 identifying the scale of need is worth reiterating:

‘The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking.’ (my emphasis).

5.31 Paragraph 003 advises that for plan-making purposes ‘strategic policy making authorities will need to determine the needs of people who will be approaching or reaching retirement over the plan period, as well as the existing population of older people.’

5.32 Paragraph 013 states that it is up to the plan-making body whether to allocate sites for specialist housing for older people and this might be appropriate where there is an identified unmet need for specialist housing. The paragraph identifies the location of housing as a key consideration for older people, factors to consider include the proximity of sites to good public transport, local amenities, health services and town centres.

- 5.33 Paragraph 016 states *'where there is an identified unmet need for specialist housing, local authorities should take a positive approach to schemes that propose to address this need.'*

Government Consultation - 'Strengthening Planning Policy for Brownfield Development' (February 2024)

- 5.34 The Government has recently (13th February 2024) released a public consultation entitled *'Strengthening Planning Policy for Brownfield Development'* which is capable of being a material consideration. Paragraph 15 of the consultation document states;

'We propose a change to national planning policy to make clear that when considering planning applications, local planning authorities should give significant weight to the benefits of delivering as many homes as possible, especially where this involves land which is previously developed.' (my emphasis)

- 5.35 Paragraph 18 of the consultation document proposes changes to Paragraph 129(c) of the Framework to read:

*'local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework, **especially where this involves land which is previously developed.** In this context, when considering applications for housing authorities should **give significant weight to the planning benefits of delivering as many homes as possible and** take a flexible approach in applying planning policies or guidance relating to daylight and sunlight **and internal layouts of development** where they would otherwise inhibit making **the most** efficient use of a site (as long as the resulting scheme would provide acceptable living standards).'*

Supplementary Planning Documents

- 5.36 In addition to the development plan the Council have a number of supplementary planning documents to support adopted policies. These include the following:
- Affordable Housing SPD (2018)
 - Mid Sussex Design Guide SPD (2020)
 - Development Viability SPD (2018)
 - Development Infrastructure and Contributions SPD (2019)

The last document Development Infrastructure and Contributions SPD was quoted in the last deemed reason for refusal.

District Plan Review 2021-2039 (CD5.1)

- 5.37 The submission draft District Plan 2021-2039 has reached Regulation 19 stage with consultation between January and the end of February 2024. The plan has been submitted for examination on the 8th July 2024. Paragraph 48 of the NPPF advises that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies, and the degree of consistency of the relevant policies in the emerging plan to the NPPF.
- 5.38 None of the emerging policies of the District Plan Review are relied upon or referenced in any of the reasons for refusal.
- 5.39 The District Plan Review strategy on Page 35 includes making effective use of land which it identifies as meaning *'maximising opportunities for reusing brownfield sites and ensuring that the full potential of site is considered when proposals are put forward. It also means that, where greenfield sites are required, development is planned at an appropriate density to make efficient and effective use of the site.'* It continues that *'development that makes effective use of land meets the Plan's Strategic Objectives in supporting sustainable communities by delivering development in, typically, existing urban areas close to existing services and facilities. An increased customer base can help support these services and spark investment.'* It also acknowledges that the district is predominantly rural and only approximately 12% of the District is within a built up area boundary and that the opportunities for utilising brownfield land to meet housing needs are relatively limited.
- 5.40 The concluding statement on Page 36 on effective use of land says;
- 'Ensuring that land within the district is used effectively is an important consideration in the preparation of this District Plan and in achieving its strategic objectives, particularly around creating sustainable communities and reducing pressures on the countryside'***
- It is considered that the Council's strategic objectives to the effective use of land is consistent with national planning policy. It is considered that the proposed scheme does make effective use of land and meet's the emerging Plan's Strategic objectives.
- 5.41 Emerging Policy DPH4 is specific to older persons' housing and specialist accommodation and supports the provision of all types of older persons accommodation with support or care.
- 5.42 The supporting text to the policy on Page 141 states;

‘Whilst more attention may need to be paid towards matters of design, neighbouring land uses and security, proposals for older persons’ housing are considered to usually have a lesser impact on existing communities, for instance through lower vehicle usage levels and reduced parking requirements. For this reason, provided the scheme makes efficient use of land, any site considered appropriate for housing development would be positively considered for such older persons’ accommodation through the decision-making process.’

- 5.43 It identifies a figure of 801 units of private sector retirement living taken from the 2021 Strategic Housing Market Assessment. It also advances that it will seek provision of specialist older persons accommodation from part of 4 allocated housing sites and 2 separate allocations specifically for specialist accommodation for older people. The supporting text to the policy (page 141) identifies that;

‘Very few sites have been submitted to the call for sites for specialist accommodation that are in sustainable locations that deliver the spatial strategy.’

- 5.44 There can be no dispute that the appeal site is in a suitable sustainable location within the built-up area of Hassocks.

Government Consultation – ‘Proposed Reforms to the National Planning Policy Framework and other changes to the planning system’ (30th July 2024) (CD8.11-13)

- 5.45 The new Government published its consultation on proposed reforms to the National Planning Policy Framework and the planning system on the 30th July 2024. The consultation was accompanied by a written ministerial statement along with the outcomes of how changing the method of calculating local housing need would change targets in every local planning authority. Whilst the proposed changes to the NPPF are in a draft form they along with the written ministerial statement show the direction of travel in national planning policy and are capable of being a material planning consideration¹.

- 5.46 The ministerial statement commences by setting out the basis behind the proposed changes to the NPPF and planning system;

‘We are in the middle of the most acute housing crisis, in living memory. Home ownership is out of reach for too many; the shortage of houses drives high rents; and too many are left without access to a safe and secure home.

That is why today I have set out reforms to fix the foundations of housing and planning system – taking the tough choices needed to improve affordability, turbocharge

¹ *Cala Homes v SoS CLG* 2011 [2011] EWCA Civ 639

growth and build the 1.5 million homes we have committed to deliver over the next five years.'

5.47 The proposed changes to the NPPF reverses the December 2023 version and reinstates the mandatory requirement for all local planning authorities to demonstrate a 5 year housing land supply with a 5% additional buffer. The change in the standard method of calculating local housing need means that the 1,090 dwellings per annum being proposed under the District Plan Review would increase to 1,276 dwellings per annum under the new proposed methodology. Using Table 6 under paragraph 5.2 of the Housing Supply and Trajectory Topic Paper (July 2024) which advises of the Council's current 5.04 year supply based on current standard methodology of assessing housing need, the Council's five year housing land supply position would reduce to 4.3 year supply using the proposed methodology of the Government and annual requirement of 1,276 dwellings per annum. Paragraph 11(d) of the NPPF and the tilted balance could apply in the district by the end of the year.

5.48 The ministerial statement advises that the first port of call for new homes should be brownfield land with Para 122(c) (previously 124(c)) being proposed to be amended to;
'give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be regarded as acceptable in principle....'

The ministerial statement expresses this as the default answer to brownfield development should be 'yes'.

5.49 The proposed changes to the NPPF also includes the deletion of Para 130 on uplifts in the average density of residential development. The new draft proposes strengthening expectations that plans should promote an uplift in density in urban areas stating;

'By restricting density, the existing policy is likely to have longer term negative impacts on achieving sustainable patterns of development and on meeting expectations on future housing supply.'

5.50 Both the consultation draft NPPF and the written ministerial statement are capable of being material planning considerations. The weight to be attached to them I considered to be limited but it provides a clear direction of travel for national planning policy. In respect to the Government's pledge to increase housing delivery and getting Britain building again it is highly unlikely that a backward step will be taken with the emerging NPPF in respect to boosting housing numbers.

6.0 Consideration of Compliance with the Development Plan

6.1 Following the Case Management Conference and further discussions between the parties as set out in the Statements of Common Ground it is considered that the main issues in this case are agreed to be as follows;

- (i) **Whether the proposal would be harmful to the character and appearance of the area by virtue of its footprint, scale and mass.**
- (ii) **Whether the proposal would result in significant harm to the residential amenity of 66a Keymer Road and rear gardens of adjoining properties.**
- (iii) **Whether the proposed development makes satisfactory provision for affordable housing and planning infrastructure obligations.**

6.2 Mr. Smith's evidence addresses the first reason for refusal at dispute at this appeal in respect to character and appearance, my evidence considers the development plan and material planning benefits which weigh in favour of the appeal proposal and address the second and third reasons for refusal.

6.3 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that the appeal application must be determined in accordance with the development plan unless material planning considerations indicate otherwise. The Appellant's position is that the proposed development accords with the development plan when considered as a whole and all material planning considerations weigh in favour of the application.

6.4 The Council allege that the proposed scheme is contrary to three policies of the District Plan and one policy of the Hassocks Neighbourhood Plan. The appeal proposal is compliant with all other relevant policies of the development plan, or those policies are neutral in respect to the appeal scheme.

(i) Impact on the Character and Appearance of the Area

6.5 The Council considered that the proposed scheme is harmful to the character and appearance of the area by virtue of its footprint, scale and massing and allege Policy 26 of the District Plan and Policy 9 of the Neighbourhood Plan as being breached. Reference is also made to design principle DG39 from the Design Guide SPD.

6.6 The site is not within or adjacent to a conservation area. There are no other policy designations relating to the character of the site. The Neighbourhood Plan includes a Townscape Appraisal as a supporting document and identifies this site within the Adastra Local Townscape Area. The Townscape Appraisal identifies this character

area as quite varied in spatial terms and the built form having a rich palette of flint, stucco and brick housing.

- 6.7 The officer's report to committee included the urban designer's comments at Paragraph 12.17 which identifies that the amended plans addressed many of his comments but identifies the remaining concerns over the site coverage, elevational designs to two elevations and proximity of the parking area to the adjoining garden whilst accepting its positioning to the rear and side of the building as correct.
- 6.8 Neither Policy 26 of the District Plan nor Policy 9 requires development to copy the existing character rather new development should respect the character and scale of surroundings buildings (Policy 9 of the Neighbourhood Plan). As referenced in previous sections the Parish Council authors of the Neighbourhood Plan policy and the Townscape Appraisal supported the proposed scheme and did not consider it to be contrary to their policy or out of character with their Townscape Appraisal.
- 6.9 I would defer to Mr. Smith's evidence in respect to these matters of design, but I would concur with his comments that the proposal would be a high-quality design that is in keeping with the character and appearance of the area. I consider the proposed scheme complies with Policy 26 of the District Plan and Policy 9 of the Neighbourhood Plan.
- 6.10 In respect to officers' comments in regard to the footprint of the building, reducing the rear leg would result in an insufficient quantum of units to sustain a viable Retirement Living development and would remove the affordable housing provision. Given the critical national and local need for both retirement housing and affordable housing I do not consider the officer's comments on character would justify the loss of the opportunity to deliver retirement living accommodation and contribute towards affordable housing provision.
- 6.11 Furthermore, the appeal proposal needs to be determined in accordance with national planning policy and regard should be had to the emerging development plan policy acknowledging the importance of making effective and efficient use of land. Paragraph 123 of the NPPF advises that planning decisions should promote an effective use of land in meeting the need for homes and making as much use as possible of previously developed land. Paragraph 124 of the NPPF gives substantial weight to the value of using suitable brownfield land within settlements, and supports the development of under-utilised land, which the appeal site is, especially where it would help meet identified needs for housing where land supply is constrained.
- 6.12 It is agreed that there is a current unmet demand for retirement living accommodation within Mid Sussex. The emerging District Plan Review acknowledges that in a

predominantly rural district only 12% of land is within sustainable built-up area boundaries. The District Plan review acknowledges that ***‘Very few sites have been submitted to the call for sites for specialist accommodation that are in sustainable locations that deliver the spatial strategy.’***

6.13 Therefore this is a very rare opportunity to provide specialist accommodation for older persons in a sustainable location within an existing built-up area. This then needs to be considered against Paragraph 128 of the NPPF which advises that decisions should support development that makes efficient use of land taking into account **the identified need for different types of housing and the availability of land suitable for accommodating it.** There is an identified need for specialist accommodation for older persons and there is by the Council’s own admission very few suitable and sustainable sites for its provision.

6.14 Paragraph 129 of the NPPF advises that planning decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. The Council’s allegation of harm to the character and appearance of the area is unfounded and all planning policy both current and emerging emphasise the need to effectively use land, particularly here where the Council’s ability to meet its identified housing needs within existing sustainable built-up areas is constrained. To reduce or remove the extent of the rear leg of the proposed scheme is unjustified and would fly in the face of national and local planning policy which is seeking that such sites are optimised to meet identified local housing needs. I consider that the proposed scheme complies with Policy 26 of the adopted District Plan and Policy 9 of the Hassocks Neighbourhood Plan and national planning policy.

(ii) Impact on neighbouring residential amenity

6.15 The Council consider that the proposal would be detrimental to the residential amenities of neighbouring properties contrary to Policies DP26 of the District Plan and Policy 9 of the Neighbourhood Plan. Policy DP26 of the District Plan advises that development should not cause *‘significant harm’* to the amenities of neighbouring residents. The subsequent Hassocks Neighbourhood Plan Policy 9 advises that development should not cause *‘unacceptable harm’* to the amenities of nearby residents.

6.16 The Council provided an officer’s report to committee and an Agenda Update Sheet to committee which altered the wording of the second reason for refusal. The reason for refusal remained consistent between documents in respect to 66a Keymer Road whose rear garden it was alleged to have been harmed due to noise and light pollution from the adjacent parking area and scooter storage.

6.17 However, the refusal reason changed in respect to the Dale Park properties with the Appellant pointing out that all fenestration on the elevation facing Dale Park was obscured glazed. The Agenda Update Sheet acknowledged the error and accepted that the residential amenities of these properties were not unacceptably affected and removed reference to these in the reason for refusal.

6.18 However, whilst making no change to the text of the officer's report the amended wording for reason 2 now includes the following;

'It is considered that the proposed development would result in an unneighbourly form of development and would give rise to a perceived impact on privacy to the rear gardens of adjoining properties from habitable windows.'

6.19 The officer's report to committee alleges no harm caused by a 'perception' of overlooking so it is unclear how or what resulted in the Council's additional identification of harm from the publication of the committee report on the 6th June and the publication of the Agenda Update Sheet on the 13th June. The reason for refusal does not identify which rear gardens are considered to be affected by '*perceived impact on privacy*' but this has later been qualified in the Council's Statement of Case.

6.20 I will consider the Council's two allegations of residential harm separately.

(i) Perception of impact on Privacy

6.21 The Council did not specify which properties they had concern for in the reason for refusal. The Council's Statement of Case does identify the properties as 72 Keymer Road, 9,10 & 11 The Minnells and the rear gardens of houses in Dale Avenue to the south. The reason for refusal does not allege that the privacy of these properties is harmed by unacceptable level of overlooking, only that it leads to the perception of one.

6.22 Policy 26 of the District Plan is specific that the impact on nearby residents from new development should not be at a level that causes significant harm. The Neighbourhood Plan similarly identifies that the impact on nearby residents should not be at an unacceptable level of harm. Neither policy references the '*perception*' of impact on privacy as having to be taken into account. This I consider to be sensible as the '*perception*' of impact on privacy could never reach the policy test of causing '*significant harm*' or '*unacceptable harm*'.

6.23 The Appellant submitted a site distance plan (20090HK-PL-010 Rev P3) with the application which shows at its closest point habitable room windows are 18m from the shared boundary with The Minnells. Neither development plan documents nor the Mid Sussex Design Guide SPD (CD8.6) provide any guidance on separation distances. A normal rule of thumb between habitable room windows in opposing properties is 21m

which would suggest a 10m distance to a shared boundary would be sufficient to avoid impacting privacy on the adjoining garden.

- 6.24 In addition to the separation distances the eastern boundary of the site is currently well screened by mature trees and vegetation and the proposed landscaping plans includes further proposed planting to augment the boundary.
- 6.25 I do not consider the proposed scheme would result in a significant level of harm to 72 Keymer Road and the gardens of 9,10 & 11 The Minnells and it complies with Policy DP26 of the District Plan, Policy 9 of the Neighbourhood Plan and the Mid Sussex Design Guide.
- 6.26 Having decided to amend the reason for refusal to remove overlooking to the rear gardens of Dale Avenue because it had been pointed out all facing windows are shown as obscured glazed on the plans it is odd to see the Statement of Case suggest that there is a perception of overlooking of these rear gardens in the knowledge that the windows are obscured glazed. In addition, the boundary with Dale Avenue properties is heavily screened by mature trees and domestic sheds. I do not consider the proposed scheme would result in a significant level of harm to the rear gardens of Dale Avenue properties and it complies with Policy DP26 of the District Plan, Policy 9 of the Neighbourhood Plan and the Mid Sussex Design Guide.

(ii) 66a Keymer Road

- 6.27 The Council considers that the proposal would be detrimental to the residential amenity of 66a Keymer Road as a result of noise disturbance and light pollution from the use of the car parking and scooter storage contrary to policies DP26 of the District Plan and Policy 9 of the Neighbourhood Plan. The officer's report to committee at Paragraph 12.42 specifically references 6 parking spaces adjacent to the shared boundary with No.66a Keymer Road and advises it is the parking proximity which is considered unneighbourly. Whilst the scooter store is not referenced to cause harm in the officer's report it is referenced in the deemed reason for refusal.
- 6.28 Policy DP26 of the Local Plan identifies the test of residential amenity is that that development should not cause '*significant harm*' to the amenities of neighbouring residents, the Neighbourhood Plan Policy 9 identifies '*unacceptable harm*'. The officer's report to committee identifies that Policy DP29 on noise and light pollution is a relevant policy (Para 11.4). Policy DP29 advises that '*the quality of people's life will be protected from unacceptable levels of noise, light and air pollution*'. In respect to noise the policy advises that development should be designed, located and controlled to minimise the impact of noise on health and quality of life of neighbouring properties. In respect to light it seeks to minimise lighting in terms of number and intensity.

- 6.29 The Council having identified Policy DP29 as a relevant policy have not considered that the appeal proposal is contrary to the policy and would not therefore result in an *'unacceptable level'* of noise and light pollution to the adjoining property. It is difficult therefore to see how the Council have considered that Policy DP26 and Policy 9 are breached when the policies have the same threshold test levels of *'significant harm'* and *'unacceptable harm'*.
- 6.30 Notwithstanding the above I will address the Council's concerns expressed in the refusal reason.
- 6.31 The scooter and refuse store is a covered timber enclosure open on the inward facing elevation for access. It has been sited against the flank elevation of 66a Keymer Road but its exact siting could be controlled further by condition. The store is shown capable of accommodating 6 mobility scooter buggies if required. The buggies are limited in speed and are electric and like many forms of electric vehicles they are silent. The Appellant through highways consultants Paul Basham Associates carried out parking demand and trip generation assessments of 20 of the Appellant's lodges around the country. The survey work included surveying use of mobility scooters and found on average that there are 0.05 scooter arrivals and departures per unit, resulting in a trip rate of 0.1 scooter movements per unit per day. For a scheme of 41 units we would expect to see 4 scooter movements per day. I do not consider that the position or the limited use of the mobility scooters would lead to a level of unacceptable harm to the residential amenities of the adjoining property given their nature and likely usage.
- 6.32 In respect to the refuse store the relationship to No.66a is considered no difference to the refuse storage position of Fitzjohn Court which is directly adjacent to the boundary with No.66a, and in respect to noise the proposal benefits from being within a timber enclosure which can deaden noise. The refuse collection at Fitzjohn Court and its relationship to No.66a can be seen in Figure 1 on page 28. Local refuse and recycling collection takes place on a fortnightly cycle.
- 6.33 In respect to parking and movement of vehicles the Appellant carried out surveys of 20 of its developments around the country in 2023 co-ordinated by a highways consultant. These demonstrated that for a 12 hour period running from 8.00am to 8.00pm there was an average of 1.62 vehicle movements per apartment. For the proposed scheme of 41 units that would be 66 vehicle movements equating to 5.5 vehicle movements per hour. For the overnight period vehicle movements are dramatically reduced as would be expected. To illustrate this point the Appellant has carried out an overnight survey of its Petlands Lodge development in Haywards Heath, Mid Sussex (Appendix 1). Petlands Lodge is a development of 43 Retirement Living

apartments which was constructed in 2016. At the time of the survey 42 of the apartments were occupied.



Figure 1 – Refuse storage at Fitzjohn Court adjacent to 66a Keymer Road.

6.34 An overnight parking survey was carried out on Tuesday 16th July (19.00) until Wednesday 17th July (07.00) and registered nil vehicle movements in or out of the development during the 12-hour period. The proposed type of residential accommodation is a very low traffic generator with negligible vehicle movements at times when headlights would be on.

6.35 In respect to the proposed scheme it is proposed to retain the existing boundary wall between properties and provide additional tree planting of a native species at an extra heavy standard. Section 8.5 of the Mid Sussex Design Guide SPD (CD8.6) noise, air and light pollution advises that noise disturbance and light pollution can be reduced through a series of measures including:

‘Constructing barriers such as garages or walls between the source of the pollution and dwellings.

Using landscaping features including trees and earth mounding to absorb noise/air pollution and deflect light.’

6.36 The proposed design utilises both walls and landscaping as advised in the design guide. Section 8.5 of the design guide advises avoiding parking where it will create noise and headlight nuisance from vehicle movements. In this case the Council's urban designer has indicated that the parking being to the side and rear is in the correct place. The level of vehicle movements is very low particularly at times when headlights may be in use. Accordingly, I consider that the proposed scheme would not result in an unacceptable impact on the residential amenities of No.66a Keymer Road and complies with Policy DP26, DP29 of the Local Plan and Policy 9 of the Neighbourhood Plan. The proposed design has had due regard to the Mid Sussex Design Guide SPD in respect to neighbouring amenity.

6.37 The extent and nature of the Council's allegation of harm to residential amenity does also need to be considered against national planning policies to boost the supply of housebuilding in this country. In that context I would suggest that an allegation of harm through a '*perception*' of overlooking is rarely going to be justifiable.

(ii) Provision of affordable housing and planning obligations

6.38 The parties have continued to discuss the development viability of the proposed scheme and have resolved the outstanding points of dispute. A viability statement of common ground has been produced which identifies that the parties are agreed that the scheme could viably provide a sum of £114,727 towards affordable housing and other infrastructure contributions.

6.39 The Council have indicated that the agreed sum of money is to be split proportionately between the following infrastructure contributions:

County Council Contributions

Library	£1,471
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Total Access Demand	£6,998
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District Council Contributions

Local Community Infrastructure	£2,723
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Community Building	£2,179
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Formal Sport	£1,471
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Affordable Housing	£99,812
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6.40 Accordingly, no further evidence is provided on this reason for refusal.

7.0 Why Planning Permission should be Granted

- 7.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that the appeal application has to be determined in accordance with the development plan unless material planning considerations indicate otherwise.

Material considerations

- 7.2 In my view, the following are material considerations in the determination of this appeal:
- i. Provision of residential accommodation;
 - ii. Meeting identified national and local housing needs;
 - iii. Redevelopment of previously developed land;
 - iv. Compliance with spatial strategy for redeveloping in sustainable locations;
 - v. Efficient and effective use of land;
 - vi. Economic Benefits of the proposed scheme;
 - vii. Social Benefits of the proposed scheme;
 - viii. Environmental Benefits of the proposed scheme including benefits to the adjacent Conservation Area; and,
 - ix. Release of under occupied housing stock.

Provision of Residential Accommodation

- 7.3 The proposed development provides 41 units of residential accommodation complying with the development plan's aims and objectives of providing housing during the plan period. The proposal would comply with development plan policies DP4, DSP6 of the District Plan. It would also comply with national planning policy objectives to significantly boost the supply of homes (Para 60, NPPF). The Council are currently advising of a housing land supply of 5.04 years which is a surplus of just 47 dwellings. This is based on annual requirement of 1,090 dwellings per annum using the current standard methodology set out in the December 2023 version of the NPPF. This figure of annual requirement has been adopted in the emerging Mid Sussex District Plan submitted for examination.
- 7.4 The consultation draft NPPF (30th July 2024) proposes a new methodology which would see the Council's annual requirement to increase to 1,276 dwellings per annum. This in combination with the proposed requirements for local planning authorities to demonstrate a mandatory 5 year supply (+5% buffer) will have implications for the District in terms of housing delivery. Accordingly, given the Government's identification of a housing crisis and Paragraph 60 of the NPPF's requirement to significantly boost housing delivery I place substantial weight on the proposed delivery of new homes that

accords with development plan, national planning policy and the Government's emerging policy and aspirations for housing delivery.

Meeting identified National and Local Housing Needs for Older Persons Accommodation

- 7.5 The proposed development would contribute towards the delivery of specialised older persons accommodation for which there is a need for both nationally and locally. The NPPG introduced a section entitled 'Housing for Older and Disabled People' in 2019. I consider it to be significant that the Government has deemed it necessary given the extent of need and levels of historic and current delivery for these forms of accommodation that it has warranted its own explicit section providing advice for plan makers and decision takers to secure delivery of these specialist forms of accommodation. Its use of the word '*critical*' is telling in the extent of need to secure specialist accommodation for older persons. There is nowhere else in national planning policy where the delivery of a specific housing type is described in such terms.
- 7.6 It should be noted also that the Government saw it fit to make revisions to Paragraph 63 of the NPPF (December 2023) to now specifically require local planning authorities to assess their housing need for '*retirement housing*' and reflect that in planning policies. I consider this to be an intended change so that local planning authorities plan for and deliver more retirement housing in light of the identified '*critical*' need.
- 7.7 Paragraph 016 of the PPG states '*where there is an identified unmet need for specialist housing, local authorities should take a positive approach to schemes that propose to address this need.*'

Need for Specialist Accommodation for Older Persons in Mid Sussex

- 7.8 The 2018 Sub-National Household Projections also show that there has been a significant increase in persons aged 65 years and over in Mid-Sussex. In 2018, there were 30,496 persons aged 65 and over which is estimated to increase to 45,023 by 2043. This shows an increase of 67.7% of people over the age of 65 between 2018 and 2043.
- 7.9 As recorded in 2021 Census, there are more people than ever aged 65 years and over in England. Subsequently, more than one in six people were aged 65 years and over on Census Day in 2021. In Mid-Sussex this is no different, there has been an increase of 24.5% in people aged 65 years and over between 2011 and 2021. Most notably, people aged between 70 to 74 has more than doubled during the time period, showing an exponential increase in older persons.

Population change (%) by age group in Mid Sussex, 2011 to 2021

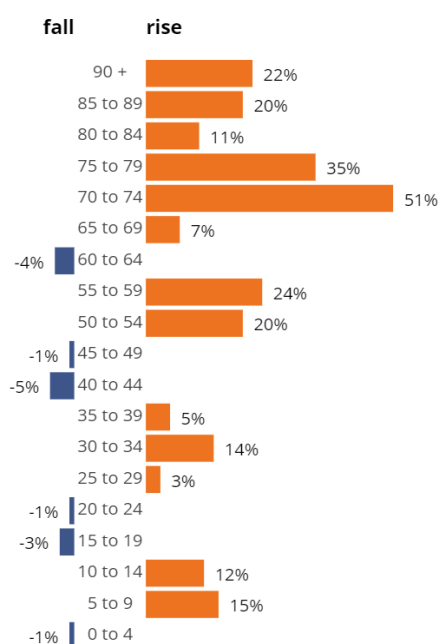


Figure 1: Population Change (%) by age group in Mid-Sussex, 2011 to 2021

		Housing Demand per 1,000 (75+)	Current Supply	Current Demand	Current Shortfall/ Surplus	Additional Demand to 2038	Shortfall/ Surplus to 2038
Housing with Support	Market	69	874	1,087	213	588	801
	Affordable	35	844	557	-287	302	15
Total (Housing with Support)		104	1,718	1,644	-74	890	816

Figure 2: Specialist Housing Need 2021-38 taken from SHMA (October 2021)

- 7.10 Based on the increasing ageing population, the Mid Sussex District Council SHMA (2021) goes on to identify the future projected need for suitable older persons housing. This has been calculated and identifies for housing with support (sheltered housing), there is a shortfall of 816 units up to 2038, 801 of these units are required in the private market sector.
- 7.11 I have reviewed the Elderly Accommodation Counsel's Housing Care website (www.housingcare.org) which provides a database through the UK for all forms of specialist accommodation for older persons. The database allows search facilities by type of accommodation and by local authority. A review of the Mid-Sussex authority's

identifies that there have been no retirement living developments constructed since the publication of the Council's Strategic Housing Market Assessment in 2021. The last scheme delivered was the Appellant's development at McIndoe Lodge, Garland Road, East Grinstead for 49 apartments in 2018.

- 7.12 McCarthy & Stone have obtained planning permission in July 2023 for 50 retirement living apartments at 41-43 Boltro Road, Haywards Heath. At the time of writing this development has not yet been commenced.
- 7.13 The Council's SHMA at Paragraph 8.41 puts forward a list of specialist accommodation for older persons schemes in the pipeline. The majority of these are housing with care schemes. The two schemes referred to which would be housing with support are East Grinstead (DM/18/1762) for 10 sheltered housing units. This scheme, Dennison Court has been completed by Moat Homes Ltd who are a registered social housing provider and the units are not market for sale so don't address the 801 units of market need identified by the SHMA. The other consent Haywards Heath (DM18/1274) for 15 sheltered housing units for purchase has lapsed and planning permission was granted in December 2021 for the erection of a 67 bed residential care home on the site
- 7.14 The Council in their statement of case suggest that the weight that should be afforded to the proposed scheme meeting retirement living housing needs should be diminished because of an emerging policy (DPH4) and four allocated sites. Firstly, the policy is only at a Regulation 19 stage and has not been subject to public examination. The policies and the four allocations are all subject of comments and objections such that the weight that can be afforded to the Council's emerging policy and four allocations is very limited.
- 7.15 The four allocations in question (DPSC1, DPSC2, DPSC3 and DPA9) are greenfield housing allocations and/or proposals for new garden villages. Unlike other forms of specialist housing accommodation with care (care homes & extra care housing developments & villages) retirement living accommodation needs to be in close proximity to existing shops and services from the point of its construction. Specialist older person's accommodation with care serves a different market and is inward looking with residents being unable to regularly use local facilities. The emerging policy the Council reserves the amount of land and scale of development at these sites for such uses. Only one of the four sites (DPA9 – Land west of Crawley Down) makes any reference to retirement living accommodation by the promoters. Even if these four sites were to make it through the local plan examination and were to include an element of retirement living accommodation the local centres and infrastructure would need to be developed first before being suitable for retirement living accommodation. These allocations if they were to provide any retirement living accommodation would not

address short or medium-term retirement living housing need in the District considering likely phasing requirements for large greenfield sites.

- 7.16 Retirement Living accommodation are typically schemes of 40-50 units. The SHMA's identification in 2018 of a need for 801 market units of retirement living would require circa 20 developments during the course of the plan period. Private retirement living developers would look for provision spread within the built-up areas of the District rather than an over saturation on 3 or 4 specific locations or sites.
- 7.17 The emerging policy also includes two allocated sites specifically for older persons accommodation. DPA18; land at Byanda, Hassocks benefits from a planning consent from September 2023 (DM/23/0002) for Frontier Estates for the erection of 60 bed care home (C2 use). Interestingly, officers in determining the application identified that the site was in the countryside and that the proposed scheme did not comply with certain aspects of the development plan but the public benefits of the proposed scheme should be afforded significant weight and were considered to outweigh the harm identified (Appendix 2). The other site DPA19: land at Hyde Lodge, Handcross is located outside a village with not sufficient services to sustain a retirement living development and again most likely if allocated to be constructed for a C2 care institution given lack of daily facilities.
- 7.18 I consider that the Council have an identified unmet need for retirement living accommodation. The Council's emerging district local plan review policy and site allocations can be afforded very limited weigh, provide no guarantees on delivery of retirement living accommodation and are unsuitable locations for such use in the short to medium term. There has been limited delivery of specialist retirement living accommodation during the plan period and since the Council's most recent identification of older persons housing need. Accordingly, the proposal complies with Policy DP30 of the District Plan and I place substantial weight on the appeal proposal's delivery of specialist retirement living accommodation.

Provision of Affordable Housing

- 7.19 The appeal proposal complies with Policy DP31 of the Local Plan and provides a contribution towards the provision of affordable housing within the district. The extent of affordable housing need in the district is not questioned and any residential scheme that contributes towards might be considered to be afforded substantial weight. However, it is acknowledged that the extent of affordable housing provision in this case is tempered by viability considerations such that the reduced contribution is afforded moderate weight.

Redevelopment of Previously Developed Land

- 7.20 The proposed development will see the reuse of a partial previously developed site within the existing built-up area of Hassocks. Both national and development plan policies promote the redevelopment of previously developed land. Paragraph 124(c) of the NPPF states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements. It should also be noted that the December 2023 revision to the NPPF reaffirmed that commitment to reusing previously developed land. The consultation draft NPPF proposes to strengthen use of brownfield land with proposals for its reuse to be regarded as acceptable in principle. I place substantial weight to the policies compliance with policies SD1, DS1 and DS2 and the NPPF.

Redeveloping in Sustainable Locations

- 7.21 The proposal is for the development of a highly sustainable site within one of the built-up areas of the District. The site is within a short walk of the local centre of Hassocks with good access to public transport which is an important locational requirement for specialist accommodation for older persons. The Council have identified that just 12% of land in the district is within existing built-up areas of settlements. I place substantial weight on the proposals compliance with policies DP4, DP6 and DP30 of the District Plan and the NPPF.

Effective and Efficient Use of Land

- 7.22 Sustainable land is a finite resource and Paragraph 124 of the NPPF encourages the effective and efficient use of land commensurate with maintaining the character of the area. Paragraph 123 of the NPPF advises that strategic policies *should make as much use as possible of previously developed land* and Paragraph 135 advises that decisions should ensure that development optimises the potential of a site. I consider that the redevelopment of the site for 41 retirement living dwellings optimises the development potential for the site whilst producing a good quality building which is compatible with the area. Indeed, other forms of residential development of the site are unlikely to provide the same yield of dwellings.
- 7.23 Paragraph 128(a) of the NPPF also advises *that decision makers should have regard to the identified needs of different types of housing and the land available to accommodate it*. Land which is suitable for retirement living apartments for older persons is limited because of its locational requirements and size of site to accommodate a successful form of development. The consultation draft NPPF proposes also to remove Para 130 of the NPPF on density stating that *'By restricting density, the existing policy is likely to have longer term negative impacts on achieving*

sustainable patterns of development and on meeting expectations on future housing supply.'

7.24 Furthermore, the Council's District Plan Review has acknowledged that there are very few sites in suitable sustainable locations for specialist accommodation for older persons. The effective use of land is set out as a key strategic planning objective of the emerging District Plan Review and within national planning policy (section 11).

7.25 I place substantial weight on the appeal proposals effective and efficient use of the site.

Economic Benefits

7.26 The NPPF places at its heart the presumption in favour of sustainable development. Sustainable development is identified by the NPPF as having three component parts (economic, social and environmental) that need to be read as a whole.

7.27 The NPPF identifies the planning system as having a key role in building a strong and competitive economy. The provision of specialised accommodation for the elderly would also provide other benefits to the community and local economy as a whole. A significant benefit to the area from the scheme would however be the intended elderly residents themselves. If approved, the development once fully occupied, is likely to accommodate some 70 - 75 residents who, given their age, are likely to use the shopping and other facilities of the nearby local shops on a regular basis.

7.28 Research undertaken by ORB in respect of private sector sheltered housing confirms the above. In their document "A Better Life" published in October 2003, detailed consideration was given to the benefit of developments for the elderly upon local amenities. Chapter 4 of the Report on page 27 identifies the following: -

"Private sheltered housing schemes play a vital part in the life of local communities. The propensity of older people to spend locally is high, assuming there is access to local shops which ordinary housing cannot guarantee."

7.29 The Report also undertook a number of case studies with local traders and on page 27 the owner of a local pharmacy commented:

"Since the retirement housing scheme opened three years ago, business has definitely increased by ten to twenty percent. Businesses locally do well because elderly people tend to shop locally".

7.30 More recently in 2021 the Homes and Later Living group have published the report 'Silver Saviours for the High Street' (Appendix 3), which identified;

- *Retirement properties create more local economic value and more local jobs than any other type of residential development.*
- *People living in each retirement development of 45 units generate approximately £550,000 of spending per year, £347,000 of which is spent on the local high street. Some £225,000 of this is new spending in the local authority, directly contributing to keeping local shops open.*
- *For just one retirement development, a local authority could expect to see benefits of 85 construction jobs for the duration of the build, as well as six permanent jobs.*

7.31 It is to be remembered that the figures appear in a 2021 report and would have to be increased to take account of inflation. Accordingly, I attach substantial weight to the economic benefits of the proposal.

Social Benefits

7.32 Retirement housing gives rise to many social benefits by providing a specialised age friendly environment to meet a specific housing need. The UK has the oldest housing stock in the EU with 38% of our homes dating before 1946 and 21% before 1919. Older homes are in a poorer state of repair, are often colder, damper, have more risk of fire and fall hazards. They lack in adaptations such as handrails, wider internal doors, stair lifts and walk in showers. Without these simple features everyday tasks can become harder and harder. Specifically designed housing for older people offers significant opportunities to enable residents to be as independent as possible in a safe and warm environment. It also helps to reduce anxieties and worries experienced by many older people living in housing which does not best suit their needs in retirement by providing safety, security and reducing management and maintenance concerns.

7.33 Specialist Retirement Living housing offers significant benefits which can help to reduce the demands exerted on Health and Social Services and other care facilities – not only in terms of the fact that many of the residents remain in better health, both physically and mentally, but also doctors, physiotherapists, community nurses, hairdressers and other essential practitioners can all attend to visit several occupiers at once. A recent report 'Happier and Healthier' by Homes for Later Living (2019) (**Appendix 4**) has found that:

- *Each person living in a home for later living enjoys a reduced risk of health challenges, contributing fiscal savings to the NHS and social care services of approximately £3,500 per year.*
- *Building 30,000 more retirement dwellings every year for the next 10 years would generate fiscal savings across the NHS and social services of £2.1bn per year.*
(Homes for Later Living September 2019)

- 7.34 The table over page breaks down health and social care costs, comparing housing for later living with mainstream housing:
- 7.35 There are huge benefits from newfound friends and companions. Around 3.8 million individuals over the age of 65 live alone in the UK, with increasing sense of loneliness and vulnerability. Research has suggested that the impact of loneliness and isolation on mortality is equivalent to smoking 15 cigarettes a day. These people are also much more likely to suffer from depression and to develop dementia.

Table below: The fiscal impacts of mainstream vs homes for later living housing, by outcome and efficiency

	Mainstream housing, pp >80yrs	Homes for Later Living housing, pp >80yrs	Difference
Adverse health outcomes / cause:	Cost (£)	Cost (£)	Saving (£)
Fracture or serious injury / falls	811	300	(510)
Dementia / loneliness	2,119	1,874	(244)
Stroke incapacitation / delayed action	477	343	(134)
Pneumonia, heart attacks, arthritis / cold homes*	205	nil	(205)
Visits to GP and A&E attendance / (various)	267	195	(72)
Subtotal (prevention)	3,878	2712	(1,166)
Efficiencies:			
Utilisation of public-funded institutional care**	1812	nil	(1,812)
Use of public-funded home care services	984	820	(164)
Use of disabled facilities grant money***	349	nil	(349)
Subtotal (efficiencies)	3,144	820	(2,324)
Total	7,022	3,512	(3,490)

- 7.36 The recent Housing for Later Living Report (2019) shows that on a selection of wellbeing criteria such as happiness and life satisfaction, an average person aged 80 feels as good as someone 10 years younger after moving from mainstream housing into housing specifically designed for later living.

7.37 I attach substantial weight to the social benefits of the proposal.

Environmental Benefits

7.38 The proposal will see the redevelopment of an under-utilised partly developed site in a sustainable location. The scheme would also be designed to energy and water efficiency standards utilising photovoltaic panels for energy generation and restricting water consumption as a resource. The proposal will also include the provision of electric vehicle charging points.

7.39 The proposed redevelopment of the site would enhance the townscape of the area by removal of existing redundant buildings and replacement with a high-quality residential development that respects the residential character of the area.

Release of Under Occupied Housing Stock

7.40 The Government has recently acknowledged that downsizing is key to tackling the national housing crisis. Older persons are more likely than average to under-occupy their property and have multiple spare bedrooms. The English Housing Survey Findings 2020-2021 show under-occupation in England is 38% with around 9.1 million households living in under-occupied homes (i.e. with 2 or more spare bedrooms). Many older households remain under-occupying large family houses due to the lack of choice in the housing market. A report 'Chain Reaction' (August 2020) finds there are around 3 million older people in the UK aged 65+ that want to downsize but there is no suitable housing.

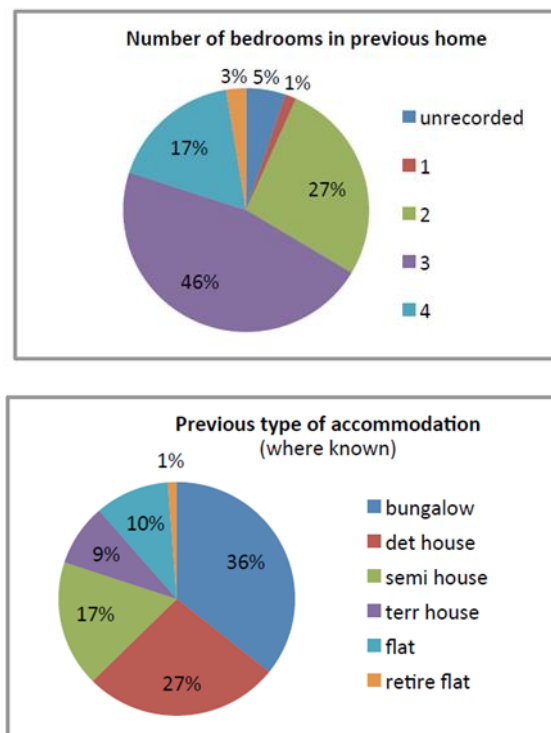
7.41 A research project undertaken by Professor Michael Ball from the University of Reading in May 2011 entitled "Housing Markets and Independence in Old Age: Expanding the Opportunities" (**Appendix 5**) reinforces the benefits set out above. The report reaffirms the position that Owner Occupied Retirement Housing (OORH) has a positive impact on local housing markets. Upon moving, most residents free up a substantial family home, with two thirds moving from houses with three or more bedrooms.

7.42 The report identifies the following benefits of specialist housing provision based on an analysis of 5,000 sales records of older people who bought retirement housing properties between 2007 and 2010. They show how specialist housing frees up under-utilised family-sized housing in the local area.

- *For every 5,000 owner-occupied retirement homes sold, family housing to the value of £1.1 billion is released back onto local housing markets.*
- *For an individual retirement housing scheme of 40 dwellings, this equates to the release of 40 family-sized homes the majority of which are in the local area worth nearly £9 million.*

- The average value of the individual dwellings released is just under £220,000. Two thirds had three or more bedrooms.
- Property vacated is then usually bought by younger people and often used to raise families. In this way, local housing stock is recycled through the generations.
- Provision of specialist retirement housing has a multiplier effect through the housing chain. For each individual specialist dwelling built, housing for six people is provided; the 'classic' family of four in the vacated property, and the couple downsizing into specialist accommodation.
- A wider chain of moves is also triggered. As the initial property vacated is likely to be quite substantial, additional moves further down the chain occur. On many occasions, six or more moves can be stimulated.
- First time buyers also benefit. It is estimated that within six moves, a first-time buyer is able to enter the housing market.

Figure 5.6: Characteristics of previous homes



7.43 At the launch of the recent task force launched to enhance older people's housing sector, Richard Morton, Chair of the Retirement Housing Group UK said:

"The Retirement Housing Group UK has worked hard to develop constructive proposals that can increase housing supply in this very important but neglected sector of the housing market. We welcome the creation of the Task Force on Older People's Housing and are committed to working with the task force and with Professor Julianne Meyer to develop policies that will increase housing choice for older people. With an ageing population it is essential we increase the supply of

suitable and attractive homes for this key section of society, and in turn, then release desperately needed housing for other age groups.” (Source: The Planner, 11th April 2023, Appendix 6)

Relevant Appeal Decisions

7.44 The weight that should be afforded to these significant benefits has recently been considered in an appeal decision for the Appellant at a site in Fleet, Hampshire (APP/N1730/W/20/3261194) (CD6.1). At Paragraphs 69-71 the Inspector in considering the planning balance and weight to be attached to the benefits of the proposed scheme states;

69. *'Moreover, there would be a number of benefits of the appeal scheme which were put forward by the Appellant. These benefits were not undermined to any degree during the Inquiry. I deal with each of these below explaining the weight that I attribute to each shown in the brackets.*

70. *The following benefits would arise: (i) much needed housing for older people. The Council suggests that the weight to this benefit should be tempered because the residents of the scheme would not be restricted to being aged 85 or over. However, given the needs identified in the SHMA and the average age of residents of the Appellant's development being 79-80, the scheme meets the needs of the Council and significant weight should be given to this benefit. (ii) the development is of previously developed land (substantial weight); (iii) the development would be in a sustainable location (substantial weight); (iv) the development would make optimum use of the site (moderate weight); (v) the development would provide 31 market dwellings and is a clear benefit (substantial weight); (vi) the provision of the Appellant's payment of £500,000 to the delivery of affordable housing would be a significant benefit (substantial weight); (vii) there is a benefit releasing under-occupied housing stock (substantial weight); (viii) the site would provide economic benefits by generating jobs, in the construction and operational phases of the development and by residents spending locally (substantial weight); (ix) there would be social benefits in specialised age friendly housing (substantial weight); (x) the environmental benefits of the scheme are a clear benefit (moderate weight). Cumulatively, these 10 benefits weigh heavily in favour of the appeal scheme especially given the critical need for housing for older people as identified at national level in the NPPF and NPPG and at a local level in HLP32.*

71. ***Therefore, even if I had reached a contrary conclusion in terms of this appeal and found that there was a conflict with the development plan, any harm which might be identified as arising from the appeal proposal comes nowhere near significantly***

and demonstrably outweighing the many and varied benefits of the appeal proposal. There is no reason to withhold planning permission in this case and I conclude that the appeal should be allowed (my emphasis).

- 7.45 I would argue that the same attribution of weight applies here and that the cumulative benefits of the proposed scheme weigh heavily in favour of the appeal being allowed especially given the critical need for housing for older people as identified at national level in the NPPF and NPPG.
- 7.46 A similar attribution of weight to the planning benefits of a Retirement Living scheme by the Appellant was given by Inspector to its proposed development at The Village, Wigginton (APP/C2741/W/23/331433) (CD6.2) from July 2023 (Paragraphs 112-119) and by an Inspector recently at Land adjacent to Lidl, Shaftesbury (APP/D1265/W/24/3337301) (CD6.3).

8.0 Planning Balance

- 8.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that the appeal application must be determined in accordance with the development plan unless material planning considerations indicate otherwise. The Appellant's position is that the proposed development accords with the development plan when considered as a whole and all material planning considerations weigh in favour of the application.
- 8.2 The Appellant considers the following planning benefits are to be weighed in favour of the proposed scheme and would outweigh any identified harm.

Planning Benefits	Policy	Weight
Provision of 41 residential dwellings	DP4, DP5 Para 60 NPPF	Substantial
Redevelopment of a Partially Previously Developed Site	Para 124 NPPF	Substantial
Redeveloping a Sustainable Site	DP3, Policy 14 Para 8 & 70 NPPF	Substantial
Effective and Efficient use of Land	Para 129 NPPF	Moderate
Meeting local housing need for older persons	DP30, Para 63 NPPF	Substantial
Meeting local housing need for affordable housing through off site contribution	DP31, Policy 17	Moderate
Freeing up under occupied local housing stock	-	Substantial
Economic Benefits of the Proposed Scheme	DP3, Para 8 NPPF	Substantial
Social Benefits of the Proposed Scheme	Para 8 NPPF	Substantial
Environmental Benefits of the Proposed Scheme	DP39, Para 8 NPPF	Moderate
Cumulative Weight		Substantial

- 8.3 In light of the agreement on third reason for refusal between the parties there are only two areas where the Council allege harm – design and impact on the character and appearance of the area and residential amenity. As set out in Mr. Smith's evidence I do not consider the proposed scheme is a poor-quality design that is detrimental to the character and appearance of the area. I also do not consider that the proposed scheme results in significant harm to the residential amenities of adjoining residential properties.

- 8.4 Overall the scheme is considered to meet the requirements of the development plan when read as a whole. Paragraph 11c of the NPPF provides that proposals which accord with the development plan should be approved without delay. There are numerous and significant benefits associated with the application which should be cumulatively afforded substantial weight in its determination.

9.0 Conclusion

9.1 The proposed development has been considered in the light of Section 38(6) of the 2004 Act. I have considered the proposal against the policies of the development plan and consider the proposal complies with the development plan when considered as a whole. Applying s.38(6) of the 2004 Act, the appeal should therefore be allowed unless material considerations indicate otherwise. In this case the Appellant's position is that all material considerations weigh in favour of the grant of permission.

9.2 The proposed scheme has been carefully designed having regard to the local context, and neighbouring land uses. The Appellant's case is that the appeal scheme would not cause any material planning harm and would deliver a number of significant planning benefits. It is considered that the appeal proposal is compliant with the development plan when considered as a whole, national planning policy, and provides substantial planning benefits as follows (weight attached in brackets);

- The proposal would bring forward 41 units of C3 dwellings contributing towards overall housing needs in the district (substantial weight);
- The delivery of 41 units of specialist accommodation for older persons which national planning policy identifies the need for delivery as 'critical', and the development plan acknowledges the key challenges of accommodating an ageing population (substantial weight);
- The proposal would contribute to the provision of affordable housing in the District (moderate weight);
- Redevelopment of a previously developed site in a key settlement as identified by the development plan (substantial weight);
- The appeal proposal is for the redevelopment of a previously developed site in a sustainable location being on public transport corridor to the village centre with local shops and facilities within walking distance (substantial weight);
- The development would make optimum use of the site (moderate weight);
- There is benefit in releasing under-occupied housing stock in the local area (substantial weight);
- The proposal would provide economic benefits by generating jobs, in the construction phase and by residents spending locally (substantial weight);
- There would be social benefits in older persons accommodation including to the national health service (substantial weight).

9.3 I respectfully request that the appeal be allowed.