



PROOF OF EVIDENCE
for
GARETH GILES FRTPI

For Appeal APP/D3830/W/24/3344121
At 68 and 70 Keymer Road, Hassocks,
West Sussex, BN6 8QP

Following the appeal for non-determination of planning application
DM/23/3114 on 10/05/2024 under Section 78 of the Town and Country
Planning Act 1990

Date: 20th August 2024

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Executive Summary

- i. The appellant in this case appealed against the ‘non-determination’ of planning application DM/23/3114 at 68 & 70 Keymer Road, Hassocks, West Sussex, BN6 8QP. As set out in the council's Statement of Case (see Core Document List **CD7.5**), the local planning authority presented the application to its Planning Committee on 13th June 2024, with a recommendation to adopt three putative reasons for refusal (see Agenda Update Sheet at **CD3.2**) which were approved as the council's position, had it had the opportunity to determine the application.
- ii. The Inspector's Case Management Conference Summary (**CD7.6**) identified the three likely main issues for the appeal. It was agreed that the two issues of character and appearance, and living conditions of neighbouring occupiers, would be tested in topic specific round table sessions led by the Inspector. Evidence relating to these issues is provided in my Proof of Evidence below. At the time of writing, it was expected that the third issue relating to affordable housing and infrastructure contributions would be agreed between the parties prior to the Inquiry, so is not addressed in detail here although the council reserves the right to present evidence at the Inquiry in respect of this issue if the circulating draft S106 Agreement cannot be agreed beforehand.
- iii. I have endeavoured not to repeat material from the Statement of Common Ground or Core Documents List except to address issues that remain in disagreement at the time of writing.
- iv. My Proof of Evidence begins with an *Introduction* setting out my relevant experience and how I came to give evidence to the Inquiry on behalf of the local planning authority.
- v. A *Scope of Evidence* summarises the main issues agreed at the Case Management Conference and how evidence will be tested at the inquiry. It sets out the structure of this document as follows:
 - The Appeal Site and Surroundings
 - Legislation, policy and guidance
 - Consideration of main issues
 - Planning balance
 - Conclusion
- vi. The *Appeal Site and Surroundings* section includes observations relevant to the scope of my evidence, but does not repeat material included elsewhere.
- vii. Pertinent *legislation, policy and guidance* is expanded in section 4 and includes commentary on the Submission Draft District Plan which was submitted for Examination on 8th July 2024 after the council's Statement of Case was issued. The council anticipates Examination in late 2024 with adoption in 2025 when it will replace the current District Plan (2014-2031).
- viii. *Consideration of the main issues* follows where I set out my evidence and reasoning in the same order as the Case Management Conference summary note, finding that the footprint, scale and mass of the building would result in an overdevelopment of the plot and would have consequential impacts on local character and neighbouring amenity. I conclude that the design of the appeal scheme conflicts with Policy DP26 of the District Plan and Policy 9 of the Neighbourhood Plan insofar as it falls short of a high quality design and

does not appropriately address the character and scale of surrounding buildings and landscape. It also fails to accord with Principle DG39 of the Design Guide SPD.

- ix. Due to the proposed location of the car park, and the large number of new windows introduced across the site up to three storeys in height, I find that the appeal scheme would significantly harm residential amenity by virtue of noise, disturbance, light pollution and a harmful perception of overlooking to surrounding neighbours. As such, the proposed development is contrary to Policy DP26, Policy 9, and fails to accord with relevant Design Guide SPD principles.
- x. I weigh the material considerations of the appeal under *Planning Balance* at section 6, discussing the social, environmental and economic benefits of the proposal - as well as the implications of not proceeding with the scheme should the appeal be dismissed - and weigh these against the findings of my earlier evidence.
- xi. In *Conclusion* I summarise that the harm arising from the appeal scheme is significant and contrary to the Development Plan as a whole, and the benefits in favour of the scheme are insufficient to outweigh the harm. As such the appeal should be dismissed.

I. Introduction

- 1.1 My name is Gareth Giles FRTPI. I am a Chartered Fellow of the Royal Town Planning Institute, educated at the University of Sheffield Planning & Architecture school with a BA (Hons) in Urban Studies and Planning and a Post-Graduate Diploma in Town and Regional Planning also at University of Sheffield.
- 1.2 I have 17 years post-qualification experience in the public and private sector of the planning industry. I currently practice in the private sector and hold the position of Director at Whaleback Ltd, a planning consultancy based in Sussex. Through my consultancy work I serve a wide range of clients including local planning authorities, as is the case with this appeal.
- 1.3 My professional career began at Mid Sussex District Council working as a planning officer for 5 years in both the Development Management and Planning Policy teams. I then worked as a planning officer for the South Downs National Park Authority, followed by a planning team leader role at Brighton and Hove City Council. I joined Whaleback in 2018 as a planning consultant. I have also held voluntary roles with the Royal Town Planning Institute since 2010, including Chair, Vice-Chair and Secretary of the Regional Management Board; member of the General Assembly; and judging roles on the national and regional awards panels.
- 1.4 I have broad experience of the development management process, having determined planning applications and defended appeals on behalf of local planning authorities as well as submitted planning applications and appeals on behalf of applicants. I have a working knowledge of the relevant legislation and guidance.
- 1.5 I know the village of Hassocks from my professional work as a planning officer in Mid Sussex for five years and having lived in nearby Haywards Heath for four of those years.
- 1.6 I was asked by the council whether I would be willing to provide expert evidence on behalf of the local planning authority in respect of this appeal on 5th June 2024. I then considered the Planning Committee Report (see **Core Documents List CD3.1**), discussed the case with planning officers, reviewed the application files (**CD1** and **CD2**) on the council's planning register, the Agenda Update Sheet to Planning Committee (**CD3.2**) and observed the Planning Committee meeting via the council's online webcast. Once I had satisfied myself that I agreed with the position taken by the council in the officer's report and the putative reasons for refusal approved by Planning Committee, I agreed in writing to provide evidence for the council on 14th June 2024.
- 1.7 I visited the appeal site on Friday 26th July 2024, walking the land of both 68 and 70 Keymer Road and also two neighbouring properties: 72 Keymer Road and 9 The Minnells.
- 1.8 The evidence which I have prepared and provide for this appeal is true and has been prepared and given in accordance with the guidance of the Royal Town Planning Institute and I confirm that the opinions expressed are my true and professional opinions.

2. Scope of Evidence

- 2.1 My Proof of Evidence addresses the main issues identified in the Inspector's Case Management Conference Summary (**CD7.6**) which confirms that the evidence will be heard on a topic by topic basis following the putative reasons for refusal (**CD3.2**) approved by the council's Planning Committee on 13th June 2024.
- 2.2 The likely main issues were agreed at the Case Management Conference to be:
- The effect of the proposed development on the character and appearance of the area;
 - 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
 - Whether the proposed development would make appropriate provision for affordable housing and other infrastructure required in connection with the development.
- 2.3 The third issue is likely to be resolved before the Inquiry and so evidence on the remaining two issues of character and appearance, and living conditions of neighbouring occupiers, will be tested in topic specific round table sessions led by the Inspector. Any other planning matters and the overall planning balance will be dealt with through formal presentation of evidence in chief and cross-examination.
- 2.4 My evidence will therefore consider the following:
- The Appeal Site and Surroundings
 - Legislation, policy and guidance
 - Consideration of main issues
 - Planning balance
 - Conclusion
- 2.5 I have endeavoured not to repeat material from the Statement of Common Ground or Core Documents List except to address issues that remain in disagreement at the time of writing.

3. Appeal Site and Surroundings

- 3.1 The Statement of Common Ground (**CD7.2**) provides an overview of the appeal site and its immediate surroundings which is not repeated here, where observations relevant to the scope of evidence are made only.
- 3.2 The site is located within Hassocks, which is a relatively substantial settlement within Mid Sussex district and a sustainable location for new residential development, being a Category 2 settlement in District Plan Policy DP4 (**CD4.1**). It contains two detached houses, with number 70 Keymer Road currently unoccupied, but I disagree with the appellant's description of "vacant previously development land" in their Statement of Case because the existing house is present and appears to be habitable.
- 3.3 The appeal site falls within Hassocks Townscape Appraisal (**CD8.9**) Area 10 'Adastra' which describes that many large Victorian villas and mansions surrounded by their grounds along Keymer Road have been replaced over the decades by small, secluded housing developments, and individual detached houses. It describes a spatial quality of quite varied development and the built form as having a restricted colour

palette of browns and reds. Dale Avenue, within the immediate surroundings of the appeal site, falls within Area 8 'Dale' built in the 1950s with soft brown, red and golden brick materials mentioned. Orion Parade, nearby to the west of the appeal site, is within Area 14 'Village Centre / East Village Centre' and this three-storey block of shops and flats is said to "not positively contribute to local character, either in form or materials, but they present good massing to the roads...".

- 3.4 The two existing dwellings forming the appeal site are larger than most surrounding houses and have particularly generous gardens. Two notable larger buildings within the vicinity are The Villa Adastra care home to the east of the appeal site on the north side of Keymer Road and Orion Parade to the west of the appeal site on the corner of Keymer Road and Dale Terrace. These are described further in my evidence below in *Consideration of the main issues* section 5.
- 3.5 Overall, the area surrounding the appeal site is characterised by a predominantly traditional vernacular across newer and older buildings, with mature trees and gardens as a pleasant and prominent feature. Buildings are typically formed of restricted, often darker coloured facing materials and almost universally pitched tile roofs. There are many detached houses set within relatively large plots, and also a number of terraced houses. For most of the houses in the surrounding area, their footprints are positioned to address their respective roads within generous gardens proportionate in size to the scale of the houses. This has the effect of buildings appearing to sit comfortably within their plots with space both in front and behind. The predominantly positive characteristics of the appeal site and its surroundings is therefore summarised as a generally traditional vernacular with use of darker tones and pitched tile roofs, with generous gardens and mature trees, and building frontages positioned to address their respective roads within proportionate gardens.
- 3.6 During my site visit, I walked the land of both number 68 and 70 Keymer Road to inspect the boundary condition and intervisibility with surrounding land. The western boundary of the site alongside the rear garden of 66A Keymer Road had some vegetation along its northern part formed of shrubs and small trees with the southern part of this side very open with a low fence and no screening. Beyond the southwestern corner of the appeal site is the Orion Public Car Park, from which the roofs and upper parts of number 68 and 70 Keymer Road can be seen above the relatively small trees within the appeal site itself (that are proposed to be felled) and minimal other intervening screening. This demonstrates that the appeal scheme would be visible from this land also, in particular its southern projection.
- 3.7 The southern boundary along the rear gardens of Dale Avenue has a mix of larger and smaller trees of both evergreen and deciduous type providing a reasonable screen although more open in places. Some views of the existing houses at 68 and 70 Keymer Road are possible between the houses in Dale Avenue indicating glimpsed visibility of the appeal scheme from this road.
- 3.8 The eastern boundary adjoins 9, 10 and 11 The Minnells and 72 Keymer Road (moving from south to north). Numbers 9 and 10 The Minnells are clearly visible from the southern part of the appeal site with number 9 in particular exposed without any substantial boundary screening. There is a copper beach tree with a high crown that provides no visual obstruction. Number 10 The Minnells faces directly onto an overgrown hedge within the appeal site (that is proposed to be cleared) and two trees that will be retained but has similarly unobstructed intervisibility with the southern extent of the proposed scheme albeit at an angle. Moving north the boundary vegetation becomes more substantial and mature, limiting intervisibility for 11 The Minnells before thinning at the mutual boundary with 72 Keymer Road.

4. Legislation, policy and guidance

- 4.1 The Statement of Common Ground (CD7.2) identifies the adopted development plan policies in contention, being District Plan policies DP20 *Securing Infrastructure*, DP26 *Character and Design* and DP31 *Affordable Housing*, and Neighbourhood Plan Policy 9 *Character and Design* (CD4.1).
- 4.2 It is understood that matters relating to infrastructure and affordable housing will be resolved before the inquiry and so compliance with policies DP20 and DP31 will no longer be in dispute.

DEVELOPMENT PLAN

- 4.3 **District Plan Policy DP26** is relevant to both main issues in this appeal. Its supporting text notes the requirement for new development to deliver high quality design that contributes positively to the private and public realm and to protect valued townscapes. Its objectives are stated to include protection of valued characteristics of the built environment for their visual qualities, and to promote well designed development that reflects the District's distinctive towns and villages. It requires applicants to demonstrate compliance with eleven tests, including of particular relevance:
- is of high quality design and layout and includes appropriate landscaping and greenspace;
 - creates a sense of place while addressing the character and scale of the surrounding buildings and landscape;
 - does not cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution (see Policy DP29);
 - incorporates well integrated parking that does not dominate the street environment, particularly where high density housing is proposed.
- 4.4 **District Plan Policy DP30** is relevant insofar as it addresses the housing need for older people in the district for both use class C3 market houses and more specialist accommodation and care homes within use class C2. The supporting text to this policy refers to "a very high proportion of need arising for elderly persons" as part of the overall need to deliver a mixed housing stock, going on to confirm that the council "supports the provision of flexible general market housing and specialist accommodation or care appropriate for older persons through both public and private sector provision. Providing suitable and alternative housing for older people can free up houses that are otherwise under occupied". At the adopted of the District Plan, it included a number of strategic site allocations that included provision for older people, such as DP7: 'General Principles for Strategic Development at Burgess Hill'.
- 4.5 **Hassocks Neighbourhood Plan (CD4.3) Policy 9** is also relevant to both main issues in this appeal. It includes 10 tests which are broadly similar to those in DP9.
- 4.6 The **Site Allocation Development Plan Document (CD4.2)** is an adopted part of the Development Plan. **Policy SA39** 'Specialist Accommodation for Older People and Care Homes' is identified as relevant within the Appellant's statement but was omitted from the Statement of Common Ground after discussion between the parties. Policy SA39 is not relevant as it explicitly refers to housing within the C2 use class whereas the appeal scheme is for C3 market housing with an age restriction; older persons housing within the C3 use class is addressed by adopted District Plan **Policy DP30** (as well as a number of strategic site allocation

policies such as DP7) and the Submission Draft District Plan Policy DPH4 (again with a number of draft strategic site allocation policies expanded below under 'Other Documents of Relevance').

NATIONAL PLANNING POLICY FRAMEWORK AND GUIDANCE

- 4.7 The Statement of Common Ground identifies relevant sections of the National Planning Policy Framework (NPPF, December 2023) and Planning Practice Guidance (PPG).
- 4.8 At the date of writing this Proof, the Government had launched a consultation on proposed reforms to the NPPF beginning on 30th July 2024 and closing on 24th September 2024. Although the proposed changes are set out, it is unknown what the outcome will be and given the duration of the consultation a new NPPF will not be published before the Inquiry.

OTHER DOCUMENTS OF RELEVANCE

- 4.9 The **Mid Sussex Design Guide Supplementary Planning Document (CD8.6)** is a material consideration and seeks to inform and guide the quality of design for new development. It sets out a number of design principles to deliver high quality new development that responds appropriately to its context and is inclusive and sustainable. Principle DG39 refers to appropriately scaled buildings that should relate to their context. Principle DG45 addresses residential amenity and sets out elements that can have an impact on privacy against which to test applications, including the relationship of buildings to each other, the relative height of adjacent buildings, the positioning of windows and the relationship of parking areas to adjacent buildings. Principle DG48 seeks to minimise noise disturbance and light pollution through good design, including measures such as constructing barriers and using landscape features to mitigate impacts, and avoiding parking where it will create noise and headlight nuisance from vehicle movements.
- 4.10 The emerging **draft District Plan (2021-2039) (Regulation 19) (CD5.1)** was published for public consultation on 12th January 2024 for six weeks and was submitted for Examination on 8th July 2024. The council anticipates Examination in late 2024 with adoption in 2025. Upon adoption, it will replace the current District Plan (2014-2031).
- 4.11 **Draft District Plan (Regulation 19) Policy DPH4: Older Persons' Housing and Specialist Accommodation (CD5.1 page 141)** is not yet adopted and does not attract full weight, but is a material consideration in this appeal because it provides useful context to show how the council intends to address the need for 801 market homes for older persons identified in the 2021 Mid Sussex Strategic Housing Market Assessment. The policy states: *"To ensure that enough older persons' housing and specialist accommodation is delivered to meet identified needs, the Council makes provision for older persons' accommodation as part of the following site allocations:*
DPSC1: Land to west of Burgess Hill/ North of Hurstpierpoint (CD8.1 as within CD5.1);
DPSC2: Land at Crabbet Park, Cophorne (CD8.2 as within CD5.1);
DPSC3: Land to the south of Reeds Lane, Sayers Common (CD8.3 as within CD5.1);
DPA9: Land to west of Turners Hill Road, Crawley Down (CD8.4 as within CD5.1).
- 4.12 Two additional sites are allocated in this draft policy specifically for older persons' specialist accommodation: *DPA18: Land at Byanda, Hassocks (CD5.1 page 217);* and *DPA19 Land at Hyde Lodge, London Road, Handcross (CD5.1 page 218).*

- 4.13 The yield and specific accommodation type will be determined following further work with site promoters/landowners and each of the draft allocations is not specific about quantum although notes that older persons accommodation can be provided at higher densities and the intention of the policy is stated to meet the identified need.
- 4.14 It is noteworthy that the site allocated by Draft Policy DPA18 (land at Byanda) has already come forward and a 60 bedroom residential care facility was granted planning permission by the council on 12/09/2023 (ref: DM/23/0002).

5. Consideration of main issues

- 5.1 I consider the three main issues for this appeal, as identified by the Inspector, in turn below.

THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE CHARACTER AND APPEARANCE OF THE AREA

- 5.2 The footprint, scale and mass of the building would result in an overdevelopment of the plot and would have consequential impacts on local character and neighbouring amenity.
- 5.3 The appeal scheme does not successfully address the character and scale of the surrounding buildings or townscape. The footprint of the proposed building is uncharacteristically large within the area, and significantly larger than its neighbours, appearing incongruous amongst these houses. The scale of the southern projection, as shown on the west and east elevation drawings (**CD2.7** and **CD.28** respectively), is the primary concern due to its length (approximately 55m on east elevation and 50m on west elevation) and three-storey height along these sides. This massing would be visible from either side of the front elevation facing Keymer Road, from the Orion Public Car Park to the west, from surrounding private properties, and in glimpsed views between the houses on Dale Avenue. Public views from the east within The Minnells would be very limited due to intervening trees and the houses to the west side of the cul-de-sac.
- 5.4 The significant depth of this southern projection also results in the building as a whole being positioned closer to the rear boundary of the site than the front boundary.
- 5.5 In summary, the proposed southern projection substantially adds to the visible mass of the building as a whole resulting in an incongruously large structure relative to its immediate neighbours which are all two storey houses, and would result in an overdeveloped appearance extending deep into the site which does not reflect the distinctive character of the area typified by comparatively smaller properties positioned to the front of their plots with open garden land behind.
- 5.6 Comparisons can be drawn between the scale of the appeal scheme and two notable larger buildings in the area, the Villa Adastra care home and Orion Parade. Villa Adastra has a comparable footprint to the appeal scheme but is two storeys in height and set back some 30m from the road on a private drive. It is visually unimposing and sympathetic to the scale of its surroundings and sits comfortably within its plot as viewed from the surrounding area. By comparison, the appeal scheme is more visually prominent being close to the road and at three storey height across its whole footprint.

- 5.7 Orion Parade contrastingly is a shopping precinct with flats above and a more visually prominent example being close to the road with three storey massing to Keymer Road and a two storey part facing Dale Terrace. The Hassocks Townscape Appraisal (CD8.9) notes that it detracts from local character in part because of its form, but accepts that it presents good massing to the roads. Orion Parade reads as a building with two distinct frontages (rather than a rear projection) because its northern elevation addresses Keymer Road with a parade of shops at ground floor, and its two storey west elevation addresses Dale Terrace with a further parade of shops. It is not out of place as a village centre building, but equally does not contribute to the positive built character of the surrounding area. This comparison illustrates that a building of a similar footprint and scale to the appeal scheme may be present in a village centre location but is not a positive precedent as noted in the Townscape Appraisal.
- 5.8 The architectural detail of the appeal scheme, including its materials, maintains the predominant character of the surrounding area by using a traditional vernacular, restricted palette of facing materials and a tile pitched roof. The scale of the northern section facing Keymer Road is also appropriate in its setting. But the depth of the footprint to the south, combined with its three-storey height, creates an overall bulk and mass that is out of character with the surrounding area and fails to address the scale of surrounding buildings.
- 5.9 As such, the design of the appeal scheme conflicts with Policy DP26 of the District Plan and Policy 9 of the Neighbourhood Plan insofar as it falls short of a high quality design and does not appropriately address the character and scale of surrounding buildings and landscape. It also fails to accord with Principle DG39 of the Design Guide SPD (CD8.6).

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

- 5.10 The council's putative reason for refusal (CD3.2) identified 66A Keymer Road as being subject to unneighbourly noise and disturbance, and light pollution. During my site visit, I observed the rear garden area of number 68 (the western part of the appeal site) along the boundary with number 66A to be quiet, tranquil and relatively unaffected by vehicle noise from Keymer Road. The proposed site plan shows 16 vehicle parking spaces in this area of land immediately behind the house of number 66A and extending along most of the mutual boundary towards the end of their garden, as well as the access roadway and scooter store alongside and to the front of the house.
- 5.11 The appeal scheme would significantly change the nature of this area and cause harmful noise and disturbance to its immediate neighbour from the comings and goings of residents and visitors, and vehicle engines manoeuvring in and out of the site and parking spaces. This would create regular disturbance with noise pollution likely to negatively impact the garden of number 66A, the conservatory to its rear elevation, and any open windows to the rear of the house, harming the quiet enjoyment of the occupant's property.
- 5.12 The headlights of manoeuvring vehicles would also introduce bright new lighting nuisance into this area, likely to affect the upper rear windows of number 66A in particular, causing unneighbourly light pollution.

- 5.13 The Design Guide SPD Principle DG48 recommends design methods to minimise noise disturbance and light pollution such as physical barriers and avoiding parking in locations where it will create noise and headlight nuisance. It is not considered that these design principles have been followed successfully in the appeal scheme.
- 5.14 There is currently some intervening vegetation along the northern part of the mutual boundary nearest to the house being predominantly shrubs and small trees, while the southern part is very open with a low fence and no other screening. The Boundary Treatment Plan (**CD2.14**) proposes a 1.8m close-boarded fence and “additional planting” here, although no further details are given. The only space available for additional planting between the parking spaces and the mutual boundary is a narrow strip of land at approximately 2.5m wide and I consider it unlikely that sufficient planting or other mitigation will be feasible to prevent noise, disturbance and light pollution from harming the amenity of number 66A.
- 5.15 It is also noted that, outside of the application site, the Orion Car Park is positioned close to the southwest corner of number 66A already, so the appeal scheme would cumulatively add to any existing impacts from the other side of the garden.
- 5.16 The appeal scheme would also harm the privacy of adjoining properties through the introduction of a large number of windows across the southern projection of the building up to three storeys in height.
- 5.17 The northeastern flank of the appeal scheme (see Elevation D-D2 at **CD2.8**) would stand 10m from the rear garden boundary of 72 Keymer Road (see measurements at **CD2.9**) and at three storeys in height. Obscure glazing is proposed which would prevent direct overlooking, but this elevation would appear imposing to those using the currently private rear and side garden of number 72 and cause an oppressive perception of being overlooked from an elevated position close to the boundary. The existing trees on the appeal site in this location provide a patchy screen in summer months, and being mixed deciduous and evergreen would provide less screening in winter which would insufficiently mitigate the harm.
- 5.18 The main southern projection of the appeal scheme stands further from the boundary with 9, 10 and 11 The Minnells at around 18m and proposes clear, openable windows serving habitable rooms. The boundary with 11 The Minnells contains several very large mature trees forming a relatively dense screen. Moving further south, there is partial screening to the mutual boundary with Number 10 having some trees but with clear intervisibility to the southernmost part of the appeal scheme including some of the elevated windows. Number 9 however has unobstructed intervisibility with the southern part of the appeal scheme with no substantive boundary screening. There is a single copper beach tree at the mutual boundary with a high crown that would reveal clear views into and out of the appeal site all year round.
- 5.19 The main outdoor amenity space for the occupants of number 9 is a patio area positioned against the western side of the house which currently enjoys a private western aspect and a private rear garden up to the boundary. The appeal scheme would create a three-storey flank elevation of clear-glazed windows at 18m from the boundary, across three storeys, transforming the experience of this private garden and patio and causing a harmful sense of overlooking. The front-to-back distance of the appeal scheme to the windows of number 9 is approximately 33m which, notwithstanding the lack of boundary screening, is likely to be a sufficient distance to prevent harmful direct overlooking or loss of privacy from inside the house, but the amenity of the garden and patio areas will be significantly and harmfully impacted.

- 5.20 The southern elevation of the appeal scheme is essentially two-storeys with obscure glazing to windows. The nearest properties to the south of this elevation are 19, 21 and 23 Dale Avenue at a distance of 9m to 10m from the rear boundary. The tree screen in this location is mixed deciduous and evergreen so, similarly to 72 Keymer Road, will provide a patchy screen at different times of the year and the introduction of new windows relatively close to the rear garden boundaries of these houses will increase the perception of overlooking compared to their existing level of privacy.
- 5.21 The appellant's Statement of Case at paragraph 5.13 relies on front-to-back distances and "*mature and extensive tree planting on both the eastern and western boundaries of the site*" to mitigate impacts on neighbouring amenity. I have set out above that the tree planting to the western boundary is neither mature nor extensive, and eastern boundary has inconsistent coverage. It is not sufficient to rely on rules of thumb relating to distances between buildings to sufficiently protect residential amenity, and I have set out above the impacts upon privacy arising as a consequence of both relative distances but also the height of three storey windows.
- 5.22 Policy DP26 requires that proposals do not "cause significant harm to the amenities of existing nearby residents and future occupants of new dwellings, including taking account of the impact on privacy, outlook, daylight and sunlight, and noise, air and light pollution". Policy 9 of Neighbourhood Plan similarly protects the amenity of nearby residents from unacceptable harm including from impacts on privacy. The Design Guide SPD builds on Policy DP26 and Principles DG39, DG45 and DG48 recommend methods to minimise impacts on character and neighbouring amenity as described above. In my view the appeal scheme will significantly harm neighbouring amenity by virtue of noise, disturbance, light pollution and a harmful perception of overlooking to surrounding neighbours. As such, the proposed development is contrary to Policy DP26, Policy 9, and fails to accord with the Design Guide SPD principles listed.

WHETHER THE PROPOSED DEVELOPMENT WOULD MAKE APPROPRIATE PROVISION FOR AFFORDABLE HOUSING AND OTHER INFRASTRUCTURE REQUIRED IN CONNECTION WITH THE DEVELOPMENT

- 5.23 The parties have agreed that, subject to the agreement of an appropriately worded Section 106 Agreement, this issue is no longer in dispute. I therefore do not address this issue further in my evidence here, but reserve the right to present evidence at the Inquiry in respect of this issue if the S106 Agreement cannot be agreed.
- 5.24 The parties signed a Viability Statement of Common Ground in July, shortly after the Inspector's Case Management Conference.
- 5.25 At the time of writing, a Draft copy of a Section 106 Agreement had been sent from the council's solicitor to the appellants for comment on 12th August 2024.

6. Planning Balance

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decision makers to determine proposals in accordance with the development plan, unless other material considerations indicate otherwise.
- 6.2 The appeal scheme fails to comply with District Plan Policy DP26 and Neighbourhood Plan Policy 9 and, in my view, is contrary to the Development Plan taken as a whole. I must therefore assess whether there are any material considerations which weigh in favour of granting permission for the scheme, and consider the weight that each should be attributed in order to conclude whether or not they are sufficient to outweigh the conflict with the Development Plan.

SOCIAL BENEFITS OF THE SCHEME

- 6.3 NPPF paragraph 63 directs planning authorities to establish the housing need of different groups including older people and reflect this in planning policies. The Statement of Common Ground refers to relevant Planning Practice Guidance including paragraph 016 of the Guidance referring to a positive approach by local authorities to schemes that address identified unmet need.
- 6.4 In my view, the council has taken a positive approach to the principle of specialist housing at the appeal site and has raised no objection to redeveloping the site nor the nature of the proposed use. The scheme makes a contribution towards an identified need for older persons housing and the weight to be attributed to that contribution should be proportionate to its scale and taken in the context of the adopted and emerging development plan.
- 6.5 District Plan Policy DP30 makes provision for older persons accommodation but supply is now in deficit as found by the 2021 Mid Sussex Strategic Housing Market Assessment (SHMA) (**CD8.11**). The council's Statement of Case (**CD7.5**) accepts there is a shortfall of 801 open market units for *Housing with Support* to 2038. The emerging Submission Draft District Plan Policy DPH4 (**CD5.1 page 141**) seeks to address the residual need for older persons housing in full "*to ensure that enough older persons' housing and specialist accommodation is delivered to meet identified needs*". Policy DPH4 seeks to deliver this specialist accommodation as part of four strategic site allocations and two further sites specifically allocated for older persons' specialist accommodation only. Policy DPH4 and the associated site allocations are not yet adopted and so have little weight in their own right, but at Submission Stage it is clear the council has taken appropriate action through the policy-making process to address the identified need, and indeed one site allocated by draft Policy DPA18 at Byanda, Hassocks¹ was recently granted planning permission as a clear signal that the council is proactively supporting specialist housing where schemes are acceptable in planning terms.

¹ 60 bedroom residential care facility (C2) was approved on 12/09/2023 ref: DM/23/0002

- 6.6 The appeal scheme proposes 41 open market apartments for older persons which is a relatively small contribution towards a need of 801 such units across the district. Referring to PPG paragraph 016, the council has taken a positive approach to the appeal site, supports the principle of redevelopment and intensification of the existing site for older persons accommodation, and sought amendments during the course of the application (rejected by the applicant at the time) to reduce the scale of the design and render it acceptable in planning terms. However, a *positive approach* must be balanced against harm which I address later in evidence.
- 6.7 The appellant also notes the release of under-occupied housing stock as a benefit. The supporting text to policy DP30 acknowledges the provision of suitable and alternative housing for older people can free up houses that are otherwise under occupied. The appeal scheme would indeed provide alternative housing for older people who may currently live in under-occupied accommodation but this is not guaranteed. Nor is it certain that upon release, any currently under-occupied houses would be more fully occupied. On balance, it is likely that at least some under-occupied housing would be returned to the market and go on to accommodate a greater number of people, thus contributing to general housing land supply and is therefore a material benefit.

ENVIRONMENTAL BENEFITS OF THE SCHEME

- 6.8 The appellant's Statement of Case lists development of land in a sustainable location as a material benefit of the scheme. The council has accepted that the site is in a sustainable location being within the adopted built up area boundary of Hassocks for planning purposes where District Plan Policy DP6 *Settlement Hierarchy* confirms the principle of new residential development is supported. However, the sustainable location within a settlement boundary is not in and of itself a benefit of the appeal scheme, as all residential development is directed to be within settlement boundaries by Policy DP6.
- 6.9 I disagree with the appellant's description of developing "vacant" previously developed land as a benefit in their Statement of Case, because the existing house at 70 Keymer Road is present and appears to be habitable, it is simply unoccupied at present.
- 6.10 Chapter 11 of the NPPF promotes the effective use of land, with examples given including the development of under-utilised land and buildings to meet identified needs. Of relevance to the appeal scheme is paragraph 128 '*achieving appropriate densities*' which directs decision makers to support the efficient use of land taking account of several criteria. The appeal scheme contributes towards an identified need of housing in compliance with the first part of NPPF paragraph 128 (a) although the second part refers to the availability of suitable land which is currently in deficit but will be made available upon adoption of Draft Policy DPH4 (referring back to my point in the sub-section above). I consider that paragraph 128(b) and (c) are met, but criteria (d) and (e) are not met given the proposed design fails to maintain the area's prevailing character and the impact on neighbouring amenity falls short of being well-designed. Similarly, the eleventh test of Policy DP26 is to "optimise the potential" of the site to accommodate development, which is not the same as 'maximising the potential'. Optimisation implies a balance of other considerations most notably by addressing the character and scale of the surrounding buildings and landscape as required by the third test of that policy.
- 6.11 Given the particularly generous plot sizes and proportions of the two houses that form the appeal site, it is very likely that an efficient redevelopment scheme that increases the density of the existing site could be

supported. Indeed the council sought amendments during the course of the application in pursuit of this and a somewhat reduced scheme could realise the environmental benefit of intensification with fewer harmful impacts. However, the appeal scheme as currently proposed is an overdevelopment.

ECONOMIC BENEFITS OF THE SCHEME

6.12 Construction jobs arising from the building programme, local spending from residents and some related employment from ongoing operation of the appeal scheme represent economic benefits. These types of economic benefit would be generated by any form of residential development at the site and are not unique to the appeal scheme. Their degree is proportionate to higher occupation and a larger building so although they represent a material benefit, similarly proportionate benefits could instead be achieved with a somewhat smaller scheme that causes fewer other harmful impacts, with weight to be attributed accordingly.

IMPLICATIONS OF NOT PROCEEDING WITH THE SCHEME

6.13 The implication of not proceeding with this scheme is two-fold. Firstly, an alternative scheme could be pursued that avoided the harms identified above, and secondly, the shortfall in market housing for older people would be addressed through the emerging Development Plan and other windfall sites that may come forward.

6.14 An alternative scheme, for example with a reduced scale and mass particularly to the southern part of the site, could be acceptable in planning terms. The council sought amendments to the design (which was rejected by the applicant at the time) during the course of the application to reduce the scale and mass of the southern projection, and the council's Statement of Case is clear that the principle of redeveloping the appeal site for older persons housing is acceptable. This outcome may result in fewer units of accommodation overall but could be a well-balanced scheme that appropriately addresses the character and scale of its surroundings and minimises impacts on neighbouring amenity.

6.15 If, on the other hand, the appellants were to not proceed with any scheme at this site, the contribution of 41 units towards the shortfall of market housing for older people would not occur here. However, this need would be addressed elsewhere both by the emerging Submission District Plan Policy DPH4 upon adoption in 2025 and associated strategic site allocations, and by any windfall sites within built up area boundaries that were brought forward in due course and were acceptable in planning terms. The recent planning permission for a care home at Byanda also in Hassocks demonstrates that the council will grant permission for specialist older persons accommodation when it complies with the Development Plan.

6.16 I do not consider that the implications of not proceeding with this scheme are significant enough to gain additional weight in the planning balance, when an alternative scheme could be approved, and provision is being made elsewhere through the Submission District Plan.

WEIGHING THE PLANNING BALANCE

6.17 The council can demonstrate a 5-year housing land supply based on the most up to date available evidence being an appeal decision in October 2023 (APP/D3830/W/23/3319542) (CD6), that confirmed a supply of 5.04 years against a 4-year requirement in the NPPF.

- 6.18 As noted in the Statement of Common Ground, the council has submitted further housing land supply evidence to the District Plan Examination (**CD8.10**) to outline how the housing requirement identified in the Submission draft District Plan is proposed to be delivered over the Plan period. Noting that **CD8.10** was prepared for plan-making rather than decision-making purposes it does provide some additional evidence to the inquiry should it be necessary, with a more recent base date of 1st April 2024. It encloses a detailed housing trajectory within its appendix, as well as the approach and assumptions made in producing the housing trajectory. Section 5 of the document provides several housing land supply calculations for different anticipated scenarios, all of which exceed the necessary 5.0 year supply.
- 6.19 The Mid Sussex District Plan (2018) and Hassocks Neighbourhood Plan (2020) are consistent with the NPPF, and the policies that are most important for determining this appeal are up to date and continue to have full weight. The District Plan was adopted more than 5 years ago and so is under review in accordance with national guidance and the emerging Draft District Plan is at the advanced Submission stage. The tilted balance of NPPF paragraph 11 is therefore not engaged.
- 6.20 Drawing together my assessments of the appeal scheme's compliance with the Development Plan and other material considerations above, I consider the main points of relevance to this evidence and attribute relative weight as follows:
- The adopted Development Plan and the policies relevant to the determination of this appeal are consistent with the NPPF and considered up to date.
 - The council can demonstrate a five year supply of housing land as required by the NPPF, albeit there is an identified need for specialist housing for older persons.
 - The design of the appeal scheme is harmful to the character and appearance of the area and is contrary to District Plan Policy DP26 and Neighbourhood Plan Policy 9. In particular, visual harm would be caused by the uncharacteristically large footprint of the building and the scale of the southern projection which would appear as an overdevelopment of the site. This would appear in views from the surrounding area but mitigated by limited public views from the south and very limited public views from the east, and so I would attribute this consideration **moderate weight** in the planning balance.
 - The proposed development would cause significant and unacceptable harm to the residential amenity of neighbouring property, contrary to District Plan Policy DP26 and Neighbourhood Plan Policy 9. I consider that the nature and degree of amenity harm discussed in my evidence, particularly due to the acute impacts on certain properties, should be given **significant weight** in the planning balance.
- 6.21 Having established that the appeal scheme fails to comply with District Plan Policy DP26 and Neighbourhood Plan Policy 9 and, in my view, is contrary to the Development Plan taken as a whole, I have assessed the other material considerations that weigh in favour of granting permission for the scheme and attribute weight accordingly.
- The social benefits of the scheme, namely the provision of older persons accommodation to meet an identified need, weighs in favour of the appeal. There is a shortfall in the supply of older persons accommodation and Guidance states that local authorities should take a positive approach to schemes that address that shortfall. I have discussed in my evidence that the council has taken a positive approach to the redevelopment of the appeal site by accepting the principle of the development and

seeking amendments to deliver an acceptable scheme although this was rejected by the applicant at the time. Furthermore, the Submission Draft District Plan Policy DPH4 is at an advanced stage of preparation and aims to address the shortfall of older persons housing in full upon adoption in 2025. The scale of the contribution is also relevant to its weight and the provision of 41 units is a relatively small contribution towards a need of 801 across the district. I would therefore attribute **moderate weight** to the social benefits of this appeal given it does make an important but relatively small contribution to an identified need, and should the appeal scheme not proceed an amended scheme could be approved, and this need would be met through the emerging development plan in any case.

- The likely release of some under-occupied housing to indirectly contribute to general housing land supply through greater re-occupation is a material benefit which should attract **some weight** noting a lack of certainty about the degree of delivery.
- The environmental benefits of the scheme mainly relate to the efficient use of previously developed land and achieving an appropriate density as directed by NPPF paragraph 128. While the scheme does significantly increase the density of the site, the benefit is moderated by the consequential harm arising from its scale which results in overdevelopment. A suitably designed scheme for a somewhat smaller building could instead deliver an efficient redevelopment of the site to deliver that environmental benefit but with fewer other impacts arising. As such I attribute this environmental benefit **limited weight**. I attribute **neutral weight** to the sustainable location of the site within the settlement boundary of Hassocks because this benefit is of a generalised nature achievable by any development of the site and not specific to the appeal scheme.
- The economic benefits of the scheme are construction-phase jobs, local expenditure by future residents and some related employment from ongoing operation, are a material benefit in support of the scheme. I have taken into account the fact that these types of economic benefit would be generated by any type of residential development of the site and are not unique to the appeal scheme. The economic benefits are also proportionate to the scale of the proposed building and number of residents. The scale of the appeal scheme is harmful to character and amenity, yet a smaller scheme could be acceptable in planning terms and would deliver similar economic benefits, albeit proportionately less. As such, I attribute **limited weight** to the economic benefits of the appeal scheme as currently proposed because proportionate economic benefits would be derived from any residential redevelopment of this site and an alternative scheme could be approved with fewer harmful impacts.

6.22 Weighing the above material considerations, I am satisfied that the harm arising from the appeal scheme is significant and contrary to the Development Plan as a whole, and the benefits in favour of the scheme are insufficient to outweigh the harm.

7. Conclusion

- 7.1 In my view, the council has taken a positive approach to the principle of specialist housing at the appeal site and has raised no objection to the proposed nature of the use, the principle of redeveloping the site nor increasing its density per se. Indeed, the council attempted to negotiate amendments to the preceding planning application to reduce the scale of the design and overcome some of the harms it identified at the time, although this was rejected by the applicant.
- 7.2 I have found that the footprint, scale and mass of the building as proposed would result in an overdevelopment of the plot which would harm local character and fail to appropriately address the character and scale of surrounding buildings and townscape. This overdeveloped appearance, particularly from the footprint and height of the southern projection, would be visible from Keymer Road, the Orion Public Car Park and surrounding properties, but limited to glimpsed views from Dale Avenue and very limited public visibility from The Minnells so I attribute moderate weight to this issue.
- 7.3 I have also found that the appeal scheme would significantly harm the residential amenity of surrounding neighbours. The proposed location of the car park and the large number of new windows introduced across the site up to three storeys in height would cause unacceptable noise, disturbance and light pollution, and cause a harmful perception of overlooking for neighbours. Due to the nature of the impacts, and the acute degree to which it will affect certain properties, I attribute significant weight to this issue.
- 7.4 I have carefully considered the benefits of the appeal scheme, including its contribution to an identified housing need for older people, freeing up some under-occupied housing stock and the environmental and economic merits described above. I have attributed relative weight to these benefits as set out above.
- 7.5 The council can demonstrate a five year supply of housing land based on the most up to date available evidence. The Mid Sussex District Plan (2018) and Hassocks Neighbourhood Plan (2020) are consistent with the NPPF, and the policies that are most important for determining this appeal are up to date and continue to have full weight. The District Plan was adopted more than 5 years ago and so is under review in accordance with national guidance and the emerging Draft District Plan is at the advanced Submission stage. The tilted balance of NPPF paragraph 11 is therefore not engaged.
- 7.6 In conclusion I am satisfied that the harm arising from the appeal scheme is significant and contrary to the Development Plan as a whole, and the benefits in favour of the scheme are insufficient to outweigh that harm. As such, I respectfully request that the Inspector dismisses this appeal.

WHALEBACK

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