

Appeal Decisions

Inquiry held on 12, 13 and 14 July 2016

Site visit made on 14 July 2016

by R J Jackson BA MPhil DMS MRTPI MCMl

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 August 2016

Appeal A

Ref: APP/E1210/W/16/3144083

2, 4, 6 and 8 Stuart Road, Highcliffe, Christchurch BH23 5JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Churchill Retirement Living against the decision of Christchurch Borough Council.
 - The application Ref 8/15/0460, dated 11 August 2015, was refused by notice dated 11 December 2015.
 - The development proposed is demolition and redevelopment to form 38 sheltered apartments for the elderly including communal facilities, access, car parking and landscaping.
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Appeal B

Ref: APP/E1210/W/16/3144106

2, 4, 6, 8 and 10 Stuart Road, Highcliffe, Christchurch BH23 5JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Churchill Retirement Living against the decision of Christchurch Borough Council.
 - The application Ref 8/15/0584, dated 12 October 2015, was refused by notice dated 11 January 2016.
 - The development proposed is demolition and redevelopment to form 48 sheltered apartments for the elderly including communal facilities, access, car parking and landscaping.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for demolition and redevelopment to form 38 sheltered apartments for the elderly including communal facilities, access, car parking and landscaping at 2, 4, 6 and 8 Stuart Road, Highcliffe, Christchurch BH23 5JS in accordance with the terms of the application, Ref 8/15/0460, dated 11 August 2015 subject to the terms of the Planning Obligation dated 14 July 2016 and the conditions set out in the First Schedule to this decision.
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Appeal B

2. The appeal is allowed and planning permission is granted for demolition and redevelopment to form 48 sheltered apartments for the elderly including communal facilities, access, car parking and landscaping at 2, 4, 6, 8 and 10 Stuart Road, Highcliffe, Christchurch BH23 5JS in accordance with the terms of the application, Ref 8/15/0584, dated 12 October 2015 subject to the terms of the Planning Obligation dated 14 July 2016 and the conditions set out in the Second Schedule to this decision.

Procedural Matters

3. These two appeals relate to two slightly different sites. Appeal A relating to Nos 2 to 8 (evens) Stuart Road, and Appeal B to the Appeal A site with the addition of 10 Stuart Road.
4. The Council notified local residents of the arrangements for the inquiry for Appeal A on 30 June 2016, but failed to include that the inquiry would also consider Appeal B. It realised this deficiency and sent further letters on 11 July 2016. In the meantime, site notices were displayed in close proximity to the appeals sites which indicated that both appeals would be considered at a single inquiry. Members of the public who attended the opening of the inquiry understood that both appeals were to be determined together. Given this situation I am satisfied that there would be no substantial prejudice in determining both appeals.
5. The Council had originally intended to call Mr Kevin Chilvers to give evidence in the appeal. However, he became indisposed a few days prior to the inquiry and the Council instead called Mr William Richards. Mr Richards adopted Mr Chilvers' evidence as his own and answered questions upon it.
6. In February 2016 the appellant submitted amended plans in respect of the proposal that is Appeal A which made a number of changes to the layout and elevations of the proposal. There was an increase in the ground floor area of 13m², but the number of apartments remained the same, although two of the 2-bedroomed flats were changed to 1-bedroomed flats. At the appellant's request the Council notified all those who had made representations on the application on 20 May 2016 giving until 3 June 2016 for comment.
7. A number of local residents indicated that they considered that these plans should not be substituted for those determined by the Council. In Mr Chilvers' proof of evidence he indicated that he too resisted the use of the amended plans as he considered them materially different, but the Council's advocate indicated that it should be a matter for my discretion. The appellant indicated that it preferred the amended plans and asked that they be considered.
8. The description of the proposal remains the same and there was no indication in the evidence that there were different adverse effects from the amended as opposed to the original scheme. As interested parties were notified I am satisfied that they have not been deprived of the opportunity to make comments and I will use the amended plans for my decision.
9. However, it transpired that one of the amended plans, while different to the original scheme, utilised the same drawing number. To avoid confusion the amended drawing was re-issued with a new number (10077HC-PA11), and I have used this.

10. Before closing the inquiry I was provided with copies of completed Planning Obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), dated 14 July 2016; one relating to each appeal. These provide for contributions towards mitigating the effects of the proposed development on the Dorset Heathlands¹ and providing a contribution towards the provision of affordable housing. I will consider these below.

Main Issues

11. The Council originally refused both applications for seven reasons, but on 22 March 2016, on the advice of Natural England, withdrew those relating to the effect on bat populations. It also indicated that with the completion of the Planning Obligations its concerns relating to the effects of the proposed development on the Dorset Heathlands and the provision of affordable housing were satisfied.

12. That being the case, the main issues in both these appeals are:

- the effect of the developments on the character and appearance of the area.
- the effect on the living conditions of occupiers of neighbouring properties in terms of outlook, privacy, and noise and disturbance.
- the effect of trees on the living conditions of those occupying the proposed schemes.

Reasons

Character and appearance

13. The appeal sites lie on the corner of Lymington Road and Stuart Road with 2 Stuart Road facing both highways. There is a Bed and Breakfast establishment at No 2, and the other properties are dwellings, whether three or four depending on which appeal. The existing buildings are a mixture of a bungalow, one and a half, and two storey properties. To the west of the appeal site are generally taller properties, being a mixture of two and a half and three storeys in height.

14. On the opposite, northern, side of Lymington Road is a long three storey building, Homecliffe House, but this is set at a lower level than the road so that the first floor is only a short distance above the level of Lymington Road. To the rear and east of the appeal sites is Chewton Lodge, which is a cul-de-sac of two storey dwellings, accessed from further east.

15. There is a triangular area of land between the 2 Stuart Road and Lymington Road upon which is an Oak Tree (T2)² and a small sub-station. Between 2, 4 and 6 Stuart Road and 11 and 15 Chewton Lodge³ are a row of seven Oak Trees (T5 to T11 inclusive). There is a Copper Beach (T1) in the northwest of the appeals sites which provides a pleasant feature on this corner. Trees T1,

¹ Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar Site, Dorset Heathlands Special Area of Conservation and Dorset Heathlands Special Area of Conservation (Purbeck and Wareham) and Studland Dunes.

² All references to trees (Tx) are as set out in the Arboricultural Impact Appraisals and Method Statements submitted with the applications; the references are the same in both proposals.

³ There is no No 13. The appellant also acknowledged that the numbering of the properties in Chewton Lodge on the application drawings was incorrect.

T2, T3 and T5 to T11 inclusive are covered by two Tree Preservation Orders⁴ (TPOs). Trees T1 to T5 can all be seen directly from Lymington Road and trees T6 to T11 can be seen either through the gaps between the properties in Stuart Road or over those buildings.

16. There was no dispute between the parties that a sheltered housing scheme was acceptable on the appeals sites in principle. The appellant maintained that this meant that a large single building was therefore also acceptable, but I do not consider that this necessarily follows. While providing sufficient housing with ancillary facilities to ensure acceptable management charges is appropriate, this does not mean that this has to be located in a single building or that the architectural response could not in a different form. In the context of Policy HE2 of in the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (the LPP1) the determining factor is whether the proposal is compatible with or improves its surroundings against a number of factors taking into account the Christchurch Borough Wide Character Assessment (the CBWCA).
17. The Council adopted the CBWCA in 2003. This divides the Borough into a number of different character areas. The appeal sites lies in two different areas, with No 2 falling within the Lymington Road Character Area (the LRCA) and the remainder of the sites falling within the Wharnccliffe - Walkford Brook Character Area (the WWBCA).
18. The LRCA is the main through route for Highcliffe. It is identified as being tree lined with the street frontage set back from the main road with wide pavements and modest building heights. The Lymington Road elevations of both schemes would be the same. Although the proposed buildings would be taller than the existing, at three storeys in height, they would be similar in height to the other properties along Lymington Road, would provide a face to Lymington Road behind retained trees and would not be intrusive in the street scene.
19. Due to the width of Lymington Road and existing vegetation to the east the appeals sites can only be seen in relatively short distance views. The proposed northwest corner of the buildings (this section being the same in both appeals) would address the junction of Lymington Road and Stuart Road. Although more prominent than at present, it would act in counterpoint to the building opposite and the retention of the Copper Beech (T1) would soften the effect of the development. The proposals would therefore be compatible with their surroundings in respect of the effect on the LRCA.
20. The main character of the WWBCA is as a mixed residential area with detached properties in residential streets, individual large housing and medium rise flatted development. There are also areas of strong tree cover. Although the division between the two character areas is shown as a single line in the CBWCA it seems to me that the division is more nuanced.
21. The main part of Stuart Road runs in an east-west direction to the rear of Lymington Road and there are views between the properties on the north side of Stuart Road through to the rear of the properties fronting Lymington Road within the LRCA. This means that the larger form of development of the LRCA pervades through to this part of Stuart Road. At the eastern end of Stuart

⁴ References 2015 No 14 and 2016 No 2.

Road on the short north-south section this difference in character continues with the care home on the corner. I therefore agree with my colleague Inspector, who in 2014 considered an appeal⁵ relating to 20 Stuart Road, that this part of the local area provides a transition between the two character areas.

22. Currently there are only small gaps between the properties along Stuart Road. These limited gaps and the width of the street mean that the properties are mostly seen as a continuous line of building from either Lymington Road or upon turning the corner opposite No 14 within Stuart Road heading north. As No 8 is a bungalow it is possible to see over this property to glimpse the tops of the trees behind; this adds to the character of the area.
23. In both appeals the proposals would introduce a continuous built form fronting Stuart Road. In both appeals there would be set backs within the west elevation breaking up the overall mass. In Appeal A the three forward elements would be of similar size, although the form of architecture would reduce in the southern section by introducing a half-hip and dormer windows. This would mean that there would be apparent gaps between the main front elevations thereby breaking up the façade. This would be compatible with the overall current form of architecture of individual dwellings at a human scale. There was no dispute that the architectural style proposed for both buildings would be in keeping with the area.
24. In Appeal B the elevation would also be broken up but given the overall length of the building this would be in a different form. Notwithstanding the use of different materials there would be an approximately 33m long section at the northern end before the two smaller sections at the southern end replicating the southern end sections in Appeal A. The section furthest to the north would be considerably longer than any building on this section of Stuart Road. However, this part of the appeal straddles the LRCA, where buildings are larger, and the WWBCA with its smaller buildings. On balance I am of the view that this part of the development would be compatible with the character and appearance of the area in the transition between the two character areas.
25. In both appeals the additional height of the building, particularly above No 8, would mean that the glimpses of the tops of the trees to the rear of the site from Stuart Road would be lost. The appellant acknowledged the loss of this glimpsed view but maintained that by opening up the new accesses to the parking areas new views of the trees would be created. However, because of the depth of the southern end sections of both Appeals A and B and that the trees between Stuart Road and Chewton Lodge are at the northern end of the site, such glimpses would not be possible without going on to the appeals sites meaning that public glimpses would be lost. This would be harmful to the character and appearance of the area, although as the current views are only glimpses this harm would not be significant.
26. Local residents were concerned about the effect of the proposed developments on the character of the area when viewed from Chewton Lodge. At present there is an open view along Chewton Lodge over the garage for No 14. Because 8 Stuart Road is a bungalow and as the protected trees only extend south to the rear of No 6 this view extends over the appeal site to the care home on the western side of Stuart Road. The introduction of a taller built

⁵ APP/E1210/A/14/2218868

form (the effect would be the same in both appeals) would restrict this view but as both schemes would be set some distance back from the properties in Chewton Lodge they would not be harmful to the sub-urban and more open character of the cul-de-sac.

27. The Council is concerned that the proposals would be cramped within the sites due to the extent of building. Although the built form would be closer to Stuart Road there would still be sufficient space between the pavement and the building to ensure a sense of space. As there would be a loss of hardsurfacing of the drives for the individual properties, particularly No 2 where there is an extensive area of parking for the Bed and Breakfast use, to soft landscaping this would enhance the public realm and provide a setting for the building.
28. There is also space around the building to ensure that there would be an acceptable setting for residents to sit outside the building in a number of different environments. I will consider the effects of the development on adjoining occupiers and whether there is sufficient distance to the adjoining properties in the next section.
29. Local residents are particularly concerned about what they see as the preponderance of accommodation for elderly persons in the area, both in sheltered accommodation and care homes. They consider this proposed additional sheltered accommodation would be harmful to the character of the area of one of mixed housing. However, there are no policies in the development plan which would restrict the provision of additional accommodation of this type. While I would acknowledge that paragraph 50 of the National Planning Policy Framework (the Framework) seeks inclusive and mixed communities, when looking at the wider vicinity as a whole there are, and would continue to be, a mix of houses and flats in keeping with the existing character of the area and accommodation for the elderly would not predominate.
30. Overall, while there would be some harm to the environment through the loss of glimpsed views of the trees over the developments, the proposals would, taken as a whole, be compatible with their surroundings. The proposals would thus comply with Policies HE2 and HE3 of the LPP1 which requires development to reflect and enhance areas of local distinctiveness and be compatible in its response to bulk and to take account of the landscape setting of the site. They would also comply with Policy H12 of the Christchurch Local Plan (the CLP) which requires that development is appropriate in scale to the immediate locality. Similarly, the proposals would comply with paragraphs 58 and 64 of the Framework which seek development to respond to local character and improve the quality of an area.

Neighbouring living conditions

31. The Council expressed concern about the effect of the development on the living conditions of the occupiers of adjoining properties setting out specific concerns. Local residents' concerns went beyond these and in giving his evidence Mr Richards echoed those objections. Although there are a number of similarities the appeal proposals are different and need to be considered separately.

Appeal A

32. The first area of concern relates to the relationship with 10 Stuart Road. As the proposed building is to the north of No 10 there would be no loss of sunlight to that property and as there is a reasonable separation created by the access drive this would ensure that there would be no material loss of daylight or outlook leading to an overbearing effect.
33. The amended scheme reduced the number of windows in the southern elevation. Particularly, at first floor what had been the southernmost unit was changed to a guest room and at second floor what had been Unit 30 had been pulled back from the boundary. Neither the guest room nor Unit 30 in the amended scheme would have any windows in the south elevation.
34. However, concerns still remained about potential overlooking from two windows at first floor in Unit 17, from the living room and a kitchen, and from a bedroom window at second floor in Unit 31. There was discussion at the Inquiry about the appropriate separation distance to judge whether there would be unacceptable overlooking. Reference was made to the Urban Design Companion that suggests a back-to-back distance of 20m 'rule of thumb', but this document acknowledges that this 'need not be applied too rigidly'. It is not clear from this statement whether this means it should be relaxed or increased. It seems to me that in an urban location such as this there will always be a degree of overlooking, but this should not be direct at close distance, and as building height increases so should the separation distance as it is possible to look over intervening fences more easily. Account should also be taken of the topography of the area.
35. In this case the ground is essentially level. The proposal has three windows in the side elevation directly facing the side elevation of No 10, which is itself blank. Views over the rear garden of No 10 would be at an oblique angle, although from the kitchen the view would be more acute. Both the living room in Unit 17 and the bedroom in Unit 31 are secondary windows to the rooms in question and obscure glazing could resolve any potential overlooking. This could be secured by condition on any permission. However, obscure glazing a kitchen is not generally appropriate, and there would be a loss of privacy from this window in Unit 17 towards No 10. However, the degree of the harm this causes needs to be tempered in that the kitchen is small and thus is unlikely to be used for an extended period. I therefore conclude that while there would be some harm, this would not be at a significant level.
36. Turning to the relationship with the properties in Chewton Lodge, the first concern relates to the relationship between units within the east facing elevation of the proposal and Nos 11 and 15. The section drawing⁶ provided shows that the ground rises across the appeal site to the east meaning that the properties in Chewton Lodge are at a slightly higher level than the appeal proposal. There is also the row of trees (T5 to T11) and other vegetation which obstruct intervisibility, particularly in the summer months. There is, in my opinion, sufficient distance between buildings to ensure that the proposal would not give rise to a material loss of light or outlook.
37. At first floor level the concern relates to Units 24 and 25, and at second floor to Units 36 and 37. I conclude below that only management pruning would be

⁶ Drawing 10077HC-AP28

needed to ensure adequate light within these rooms so I do not need to consider the alternative internal layout put forward by the appellant. In Units 24 and 36, with the latter above the former, there would be windows to a living room and to a kitchen to the east. The section of vegetation between the appeal site and 11 Chewton Lodge is relatively dense and combined with the distance to the rear elevation of No 11, and that No 11 faces at an angle to the appeal site, I am satisfied that none of windows would give rise to an unacceptable loss of privacy to the occupiers of that property.

38. For Units 25 and 37 there are windows to the living rooms and kitchens in the east elevation facing towards Nos 11 and 15 Chewton Lodge. As noted above No 11 faces at an angle to the appeal site with only a single, obscure glazed, window in its southeast elevation. Consequently I am satisfied that the living conditions of the occupiers of No 11 would not be adversely affected. In relation to No 15 the living room windows in the proposed apartments are secondary windows to the living rooms and the provision of obscure glazing secured by condition would resolve any overlooking problems for occupiers. While the kitchen windows would look towards the rear elevation of No 15 these rooms are small and, as with the windows at the southern end of the proposed building, are unlikely to be used for extended periods. Unlike the situation at the southern end, however, there is sufficient vegetation which would ensure that there was no harm through overlooking even in winter months.
39. Objections were also made to noise and disturbance from traffic, residents and visitors in the car park. The only traffic generation figures are provided by the appellant and show 56 movements (two-way) over a 12 hour day. The layout shows a landscaped area between the access way and the southern boundary, and the nearest part of No 10 appears to be a garage, in that it has a garage door. Given this level of traffic activity within the parking area I am satisfied that there would be sufficient separation not to lead to unacceptable levels of noise and disturbance for the occupiers of No 10. There is also sufficient separation from the properties in Chewton Lodge to ensure that any noise and disturbance would not be unacceptable to the residents there.

Appeal B

40. The situation in the northeastern part of the site for Appeal B is the same as for Appeal A. The layouts are the same with the same effects and obscure glazing needed in similar relationships.
41. At the southern end of the site the relationship would be with 12 Stuart Road. Again the development is to the north of No 12 and there is sufficient separation to ensure that there was no loss of daylight, outlook or an overbearing effect.
42. The concern expressed by the Council related to the relationship of Unit 22 with No 12, although the relationship between Units 23 and 40 and No 12 also needs to be explored.
43. In relation to Unit 22 there is a single window in the southern elevation providing light to a bedroom. However, this window is a secondary window with the main window looking east. I am satisfied that the provision of obscure glazing to this side window would ensure that there was no unacceptable overlooking. The eastern facing window for Unit 22 would allow oblique views

into the rear garden of No 12 but this would be further away than from the current situation with windows in the eastern elevation of No 10 and I am therefore satisfied that this relationship would be satisfactory.

44. In relation to the windows in the south elevation of Unit 23 they would be to a kitchen and a living room. For Unit 40 this would be a secondary window to a bedroom in the southern elevation. Unlike the situation in Appeal A, there is a driveway past No 12 leading to a detached double garage in the rear garden adjacent to the appeal site. This increases the separation distances involved and I am satisfied that there would be sufficient separation and angle to the rear garden of No 12 not to lead to unacceptable overlooking even if the windows were not to be obscure glazed.
45. As with Appeal A the Council is concerned about noise and disturbance within the parking area. The Transport Statement submitted with the application indicated that in a 12 hour day there would be 70 (two-way) movements associated with the development. In this case the landscaped area along the southern boundary within the site is narrower, but with the driveway to No 12 between the appeal site and the dwelling and its garden I am satisfied that this amount of comings and goings would not give rise to an unacceptable noise and disturbance to be harmful to the living conditions of the occupiers of that property or the residents in Chewton Lodge.

Appeals A and B

46. I am therefore satisfied in Appeal A, with the exception of overlooking from the kitchen window of Unit 17, that there would not be any adverse effect on the living conditions of occupiers of neighbouring properties in terms of outlook, privacy, and noise and disturbance. In the case of the kitchen window the harm I have identified would not be at a significant level. There would also be no harm to the living conditions of any adjoining occupier in the case of Appeal B. Insofar as there is no harm the proposals would comply with Policy HE2 of the LPP1 which requires development to be compatible in its relationship to nearby properties. They would also comply with Policy H12 of the CLP which permits development which does not adversely affect the residential amenities of existing occupiers. They would also comply with the core planning principle set out in paragraph 17 of the Framework which seeks a good standard of amenity for all existing occupiers of land and buildings. Insofar as much as there is harm there would be non-compliance with these policies and principle.

Trees and living conditions

47. The appellant and the Council agree that, subject to appropriate conditions, there is sufficient space around the trees to ensure both proposed developments would not directly affect the protected trees. The difference was whether there would be future pressure to prune or remove the trees from occupiers of the sheltered accommodation.
48. There was also a dispute as to under what category some of trees should be classified under the relevant British Standard⁷. However, it was agreed that whether Category A or Category B they were worthy of retention, added to the character and appearance of the area, and acted as a constraint on

⁷ BS 5837:2012 – Trees in relation to design, demolition and construction - Recommendations

- development. Given this agreement I do not need to explore the difference in categorisation further.
49. The Copper Beech T1 is located at the northwest corner of the appeal site and to the northwest of the proposed buildings. The rooms in this corner of the buildings are all dual aspect allowing light from both north and east with the northerly windows more affected by the tree. Taking into account the dual aspect of these rooms I am satisfied that even allowing for growth of the tree there would be sufficient light within those rooms to ensure that there was no reasonable pressure to undertake works which would adversely affect this tree so as to be harmful to the appearance of the area.
50. The Oaks T5 to T11 are asymmetrical with the majority of the crown to the northeast of the trunks. It was suggested that this was most likely caused by the proximity to the coast and the prevailing winds. This does not affect the health or longevity of the trees. There was agreement between the parties that the trees were mature and had reached their final overall sizes. However, there would be future growth to the crowns.
51. The Council's concerns relate to the flats facing to the east, although for those on the northeastern corner, where the living rooms are dual aspect, there is concern that the trees to the north (T2 and T3) would also affect living conditions.
52. On the other side of the building most rooms, including the owners' lounge in Appeal A, are dual aspect and also face south. I am satisfied that there would be sufficient light from that direction so as to ensure that these rooms were not unacceptably shaded or suffer from the trees dominating their aspects. While the kitchens would only face east and towards the canopy of the trees, as I have concluded above, they are small and are unlikely to be occupied for extended periods of time.
53. For the rooms of the apartments which face north I am satisfied that there is sufficient space between the buildings and the canopy of the trees to ensure that adequate levels of light would be made available. In this I note that these rooms are further from the trees than the existing rooms in 2 Stuart Road so this would improve on the current situation.
54. This is not to say that works for the general maintenance of the trees will not be required in the future in line with good arboricultural practice, but these works would not affect the long-term health or longevity of the trees.
55. I am therefore satisfied that there would not be pressure to undertake extensive work to the trees harmful to the character and appearance of the area. As such the proposals would comply with Policies HE2 and HE3 of the LPP1 in that the development has demonstrated it has taken account of trees and would be compatible with its surroundings in its relationship to mature trees. It would also comply with paragraph 58 of the Framework which seeks that development would respond to local character.

Other matters

56. Local residents are concerned that the proposal would provide insufficient parking and would lead to additional traffic on the local highway network. I note from the Transport Statements submitted with the applications that parking provision reflects the appellant's experience elsewhere and that the

Highway Authority raised no objections to either scheme, in terms of either area of concern. If parking were to take place off-site this would be restricted in the local vicinity as there are already parking restrictions on local roads. I am therefore satisfied that the proposals would not result in severe residual cumulative impacts, and therefore, in line with paragraph 32 of the Framework, lead to the developments being refused.

57. There were also concerns about the loss of the existing single family dwellings. However, as residents would move into these proposed apartments the evidence shows a proportion would vacate larger properties. This would free-up those properties giving a net increase in the number of larger properties available exceeding the loss of dwellings proposed.
58. Regulation 122 of the Community Infrastructure Levy Regulations (CIL Regulations) states a planning obligation may only constitute a reason for granting planning permission if the obligation passes three requirements. This is reiterated in paragraph 204 of the Framework. These requirements are that the Obligation is necessary to make the development acceptable in planning terms, that it is directly related to the development and fairly and reasonably related in scale and kind to the development.
59. Regulation 123 of the CIL Regulations also states a planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure where five or more separate planning obligations provide for the funding or provision of that project or provide for the funding or provision of that type of infrastructure.
60. The sites lie beyond 400m but within 5km of the Dorset Heathlands. Natural England, the Government's specialist advisor, indicates that in this location, in the absence of suitable mitigation, additional residential development, including sheltered accommodation will have, in combination, a significant adverse impact on the integrity of the sites. This is taken through in Policy ME2 of the LPP1. In addition the relevant Councils have published "The Dorset Heathlands Planning Framework 2012 - 2014 Supplementary Planning Document" (the SPD) to provide a mechanism of providing mitigation through a range of measures which are identified in the document.
61. The Planning Obligation makes provision for the payment of £30,682 in respect of Appeal A and £38,838 in respect of Appeal B which are the sums identified under the SPD. These are to be used on specific projects identified in the proof given by Mr Richards. I am satisfied that the Obligations are necessary in order to mitigate the effects of the developments on the Dorset Heathlands, are directly related to the increase in recreational effect of the proposed occupiers of the developments, and fairly and reasonably relate to the developments in question. I am also satisfied from the evidence provided at the inquiry that the obligations comply with Regulation 123 of the CIL Regulations as there are less than five obligations towards each project.
62. The proposals would therefore comply with Policy ME2 of the LLP1 and the relevant requirements of the Conservation of Species and Habitats Regulations 2010 (as amended) which seek to avoid the harmful effects of additional residential development on the Dorset Heathlands. It would also comply with paragraph 118 of the Framework which seeks adequate mitigation for European sites.

63. Under Policy LN3 of the LPP1 all residential development is required to make a contribution towards the provision of affordable housing. While the percentages sought vary all requests are subject to being assessed against financial viability. In these cases it was accepted by the Council that it would not be possible to provide affordable housing on site and provision should be delivered through a financial contribution. The Council and appellant jointly commissioned District Valuation Services. In the case of Appeal A the relevant Obligation therefore provides a contribution of £507,523 towards affordable housing and in respect of Appeal B the contribution would be £313,528.
64. I am satisfied that the contributions are necessary to make the development acceptable in planning terms, are directly related to the increase in population and it has been demonstrated that the sums fairly and reasonably relate to the development in question. As affordable housing does not represent "infrastructure" as defined in the CIL Regulations Regulation 123 is not engaged.
65. The proposals would therefore comply with Policy LN3 of the LLP1 which seeks an appropriate provision of affordable housing.

Planning Balance

66. Paragraphs 7 and 8 of the Framework indicate that there are three dimensions to sustainable development; economic, social and environmental and that these roles should not be undertaken in isolation.
67. Above I have identified areas where the proposals would be harmful to the environment and the living conditions of a neighbour. In both appeals this would be the loss of the glimpsed views of trees above development from Stuart Road, and, in Appeal A, from overlooking from the kitchen window in Unit 17 towards 10 Stuart Road. However, I have identified neither of these harms as being significant for the reasons given.
68. Set against these harms are the benefits of the developments. The Council has identified an undisputed need for 634 specialist housing units for the elderly in the Borough in the LPP1 Plan period and this was confirmed in the undisputed report submitted on behalf of the appellant⁸. The proposals would go some way to meet this need; this is a social benefit, as would be the reported⁹ increased wellbeing and reduced reliance on the NHS for the residents. There would be economic benefits during construction and following occupation as residents would use the local shops and other facilities in Highcliffe, and there would be the employment of a warden.
69. In many development situations it is necessary to balance the harm against the benefits. In these cases none of the harms identified are significant and I conclude that the benefits outweigh those harms. Consequently the proposals represent sustainable development and planning permission should be granted.

Conditions

70. I have considered the conditions set out in the Statement of Common Ground against the requirements of the national Planning Practice Guidance and the

⁸ DCA The Need for Private Retirement Housing in Christchurch Borough

⁹ A Better Life: Private Sheltered Housing and Independent Living for Older People

Framework. The conditions apply in both appeals with the differences identified. The number in brackets refers to the condition numbers.

71. In addition to the standard timescale condition (1), to ensure that the development is compatible with the surrounding area I have imposed conditions requiring details of materials to be submitted (3), although these only need to be agreed prior to above ground works taking place. In the interests of highway safety conditions are necessary to require the creation of the new accesses as a first construction operation (4), and the reinstatement of the existing accesses (5) and the provision of parking and turning on site prior to the development being occupied (6).
72. In order to protect the health and longevity of the protected trees on and adjacent to the sites, conditions requiring appropriate tree protection works identified in the Arboricultural Impact Appraisals and Method Statements (7), details and nature of the cellular confinement system (8), and details of service routes (9) need to be agreed prior to any works commencing on site.
73. In order to ensure that the proposals are compatible with their settings details of hard and soft landscaping, including boundary treatments, needs to be agreed prior to any above ground works (10) and, for the same reason, its continued maintenance (11). However, I can see no reason why gates need to be prevented; in any event, if sought, this can form part of any landscaping scheme.
74. I have not been provided with any reason why details of drainage need to be considered outside of the requirements of other legislation.
75. In order to protect the living conditions of the occupiers of neighbouring properties, ensure highway safety and the retention and longevity of protected trees on site a Construction Management Plan, including hours when deliveries to and works may take place on site, needs to be resolved prior to development commencing (12).
76. Energy efficiency measures are to be provided through air source heat pumps. So as to ensure that the living conditions of both neighbours and residents of the development are protected details of these systems need to be agreed prior to installation (13). The heat pumps need to be operational prior to any units being occupied to ensure their benefits.
77. In order to protect bat populations a Biodiversity Mitigation Plan needs to be agreed prior to any works commencing on site (14).
78. As set out in my main reasoning conditions requiring obscure glazing of certain windows are required to protect the living conditions of the occupiers of neighbouring properties (15).
79. In Appeal B there are no details of the buggy park building in the drawing pack. In order to ensure that the design is appropriate this needs to be agreed prior to any above ground works commencing on site and delivered prior to first occupation (16).
80. Otherwise than as set out in this decision and conditions, I have imposed a condition (2) specifying the relevant drawings as this provides certainty. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

81. For the reasons given above I conclude that both Appeal A and Appeal B should be allowed.

RJ Jackson

INSPECTOR

Richborough Estates

FIRST SCHEDULE

**Conditions applicable to Appeal A
2, 4, 6 and 8 Stuart Road, Highcliffe, Christchurch BH23 5JS
Ref: APP/E1210/W/16/3144083**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

| Drawing Number | Description |
|----------------|--------------------|
| 10077HC-PLOC A | Location Plan |
| 10077HC-PA01 A | Site Plan |
| 10077HC-PA02 A | Ground Floor Plan |
| 10077HC-PA03 A | First Floor Plan |
| 10077HC-PA04 A | Second Floor Plan |
| 10077HC-PA05 A | Roof Plan |
| 10077HC-PA06 A | Elevations Sheet 1 |
| 10077HC-PA08 A | Elevations Sheet 3 |
| 10077HC-PA11 | Elevations Sheet 2 |
- 3) No above ground development shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) Before any development commences (excluding demolition) the first 10m of the approved access, measured from the nearside edge of the carriageway, shall be laid out and constructed to a specification submitted to and approved in writing by the local planning authority.
- 5) Before the development hereby permitted is first occupied the existing accesses to the highway shall be closed and reinstated in accordance with a scheme submitted to and approved in writing by the local planning authority.
- 6) The development shall not be occupied until space has been laid out within the site in accordance with drawing no 10077HC-PA01 A for cars to be parked, loaded and unloaded and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 7) No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, including site clearance or any other preparatory works, undertaken until the tree protection measures set out in the Barrell Tree Consultancy Report reference 15045-AIA2-DC dated 28 July 2015 have been erected on site in accordance with the report and Tree Protection Plans references 15045-BT1 and 15045-BT2 and agreed in writing as complete by the local planning authority. The protection shall be retained until the development is complete and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the prior written consent of the local planning authority.

- 8) No development shall take place on site, including site clearance and any other preparatory works, until samples of the cellular confinement system required to protect trees and details of the cellular confinement infill aggregate have been submitted to and approved in writing by the local planning authority. The aggregate shall only be either 4-20mm clean angular flint or granite, and no calcareous material shall be used.
- 9) No development shall take place on site, including site clearance and any other preparatory works, until details of service routes, including any soakaways, have been submitted to and approved in writing by the local planning authority. The development shall take place in accordance with the approved details.
- 10) No above ground works shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include means of enclosure, hardsurfacing materials, and minor artefacts and structures. The development shall take place in accordance with the approved details with all hard landscaping completed prior to the development being first occupied.
- 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoardings;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction; and
 - vii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 13) Before any above ground construction work takes place details of the air source heat pumps to be installed on the development shall be submitted to and approved in writing by the local planning authority. The approved details shall be installed and commissioned prior to the development being occupied and shall therefore after be maintained in operating condition.
- 14) No development, including any demolition, shall commence on site until an ecological survey report, comprising an agreed methodology and scope, and a Biodiversity Mitigation Plan, which shall include any necessary mitigation measures, have been submitted to and approved in writing by the local planning authority. The development shall take place in accordance with the approved details.
- 15) The building hereby permitted shall not be occupied until the windows set out below have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed

shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

| Drawing Number | Unit Number | Window |
|----------------|-------------|---------------------------------------|
| 10077HC-PA03 A | 17 | Living room window in south elevation |
| 10077HC-PA03 A | 25 | Living room window in east elevation |
| 10077HC-PA04 A | 31 | Bedroom 2 window in south elevation |
| 10077HC-PA04 A | 37 | Living room window in east elevation |

END OF SCHEDULE

Richborough Estates

SECOND SCHEDULE

**Conditions applicable to Appeal B
2, 4, 6, 8 and 10 Stuart Road, Highcliffe, Christchurch BH23 5JS
Ref: APP/E1210/W/16/3144106**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

| Drawing Number | Description |
|----------------|--------------------|
| 10077HC-PALOC | Location Plan |
| 10077HC-PA001 | Site Plan |
| 10077HC-PA002 | Ground Floor Plan |
| 10077HC-PA003 | First Floor Plan |
| 10077HC-PA004 | Second Floor Plan |
| 10077HC-PA005 | Roof Plan |
| 10077HC-PA006 | Elevations Sheet 1 |
| 10077HC-PA007 | Elevations Sheet 2 |
| 10077HC-PA008 | Elevations Sheet 3 |
- 3) No above ground development shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) Before any development commences (excluding demolition) the first 10m of the approved access, measured from the nearside edge of the carriageway, shall be laid out and constructed to a specification submitted to and approved in writing by the local planning authority.
- 5) Before the development hereby permitted is first occupied the existing accesses to the highway shall be closed and reinstated in accordance with a scheme submitted to and approved in writing by the local planning authority.
- 6) The development shall not be occupied until space has been laid out within the site in accordance with drawing no 10077HC-PA001 for cars to be parked, loaded and unloaded and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 7) No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, including site clearance or any other preparatory works, undertaken until the tree protection measures set out in the Barrell Tree Consultancy Report reference 15045-AIA3-DC dated 11 September 2015 have been erected on site in accordance with the report and Tree Protection Plan reference 15045-BT3 and agreed in writing as complete by the local planning authority. The protection shall be retained until the development is complete and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the prior written consent of the local planning authority.
- 8) No development shall take place on site, including site clearance and any other preparatory works, until samples of the cellular confinement system required to protect trees and details of the cellular confinement infill

- aggregate have been submitted to and approved in writing by the local planning authority. The aggregate shall only be either 4-20mm clean angular flint or granite, and no calcareous material shall be used.
- 9) No development shall take place on site, including site clearance and any other preparatory works, until details of service routes, including any soakaways, have been submitted to and approved in writing by the local planning authority. The development shall take place in accordance with the approved details.
 - 10) No above ground works shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include means of enclosure, hardsurfacing materials, and minor artefacts and structures. The development shall take place in accordance with the approved details with all hard landscaping completed prior to the development being first occupied.
 - 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoardings;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction; and
 - vii) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
 - 13) Before any above ground construction work takes place details of the air source heat pumps to be installed on the development shall be submitted to and approved in writing by the local planning authority. The approved details shall be installed and commissioned prior to the development being occupied and shall therefore after be maintained in operating condition.
 - 14) No development, including any demolition, shall commence on site until an ecological survey report, comprising an agreed methodology and scope, and a Biodiversity Mitigation Plan, which shall include any necessary mitigation measures, have been submitted to and approved in writing by the local planning authority. The development shall take place in accordance with the approved details.
 - 15) The building hereby permitted shall not be occupied until the windows set out below have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before

the window is installed and once installed the obscured glazing shall be retained thereafter.

| Drawing Number | Unit Number | Window |
|----------------|-------------|--------------------------------------|
| 10077HC-PA003 | 22 | Bedroom 1 window in south elevation |
| 10077HC-PA003 | 33 | Living room window in east elevation |
| 10077HC-PA004 | 48 | Living room window in east elevation |

- 16) Before any above ground works take place details of the buggy store shall be submitted to and approved in writing by the local planning authority. The approved details shall be completed and available for use prior to the first occupation of the development and shall thereafter be maintained for that purpose.

END OF SCHEDULE

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

| | |
|---|--|
| Martin Edwards of Counsel | Instructed by the Solicitor to Christchurch and East Dorset Councils |
| He called | |
| William Richards LB (Hons) Dip TP MRTPI Dip LA | Director, Aspinalls Planning |
| Andrew Douglas | Tree and Landscape Officer, Christchurch and East Dorset Councils |

Kim Bowditch, Senior Planning Officer Christchurch and East Dorset Councils, was not called to give evidence but took part in the section of the inquiry dealing with planning obligations and conditions

FOR THE APPELLANT

| | |
|--|---|
| Neil Cameron of Queens Counsel | Instructed by Andrew Burgess, Planning Issues Limited |
| He called | |
| David Cashman DipArb(RFS) CUEW FArborA MICFor | Associate Director, Barrell Tree Consultancy |
| Dermot McCarthy BA(Hons) Dip Arch RIBA | South West Design Director, Planning Issues Limited |
| Andrew Burgess BA(Hons) MRTPI FRSA | Managing Director, Planning Issues Limited, Director Churchill Retirement Living Limited |

INTERESTED PARTIES

| | |
|--------------|----------------|
| Andrew Ellis | Local Resident |
| Richard Noah | Local Resident |

DOCUMENTS

- 1 Details of Appellant's Advocate and Witnesses
- 2 Qualifications and Experience of William Richards
- 3 Drawing Pack, including scheme as originally determined by the Council
- 4 Extract from Christchurch Borough Wide Character Assessment
- 5 Email dated 8 June 2015 from David Cashman to Andrew Douglas
- 6 Opening on behalf of appellant
- 7 Statement made by Andrew Ellis
- 8 Sketch showing alternative floor plan for first floor room dispositions in northeast part of proposals
- 9 Christchurch and East Dorset Local Plan, adopted April 2014
- 10 Land Registry details of 2, 4, 6, 8 and 10 Stuart Road
- 11 Letters to local residents advising of amended plans in respect of Appeal A

- 12 Inquiry notification letters relating to Appeal A
- 13 Inquiry notification letters relating to Appeal B
- 14 Bundle of letters of objection
- 15 Letter from Planning Inspectorate regarding appeal notifications
- 16 Closing on behalf of Local Planning Authority
- 17 Closing on behalf of appellant
- 18 Completed Planning Obligation dated 14 July 2016 relating to Appeal A
- 19 Completed Planning Obligation dated 14 July 2016 relating to Appeal B

Richborough Estates