

NEW FOREST DISTRICT COUNCIL

Town & Country Planning Act 1990 (as amended by the Planning and Compulsory Purchase Act 2004)

The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (SI: 2000/1625) as amended.

Appeal by Renaissance Retirement Ltd against the decision of New Forest District Council to refuse permission to demolish existing buildings and the erect 44 sheltered apartments for the elderly with associated access, mobility scooter store, refuse bin store, landscaping and 34 parking spaces at:

**SITE OF THE RISE AND THREE NEIGHBOURING PROPERTIES, STANFORD HILL,
LYMINGTON SO41 8DE**

Community Infrastructure Levy Compliance

PINS Ref: APP/B1740/W/20/3265937

LPA Ref: 20/10481

James Gilfillan. MATCP, MRTPI.

1. Introduction.

1.1 This statement refers to the proposed demolition of 4 houses at Stanford Hill, Lymington and their replacement with a block of 44 sheltered apartments for the elderly.

1.2 Consideration of the effects of the development concluded that, in order to be acceptable the scheme would be required to mitigate the following impacts:

- Recreational activities arising from the development affecting protected habitats and species in the New Forest and Solent;
- Monitoring of the effect of increased vehicle movements on air quality throughout the New Forest and the subsequent acid deposition on New Forest habitats.

1.3 This statement sets out how the financial contributions sought to deliver mitigation are in accordance with the CIL regulations 2010 and para.56 of the NPPF.

1.4 Section 122 of the CIL Regulations concerns limitations on the use of planning obligations. Section 122 (2) states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

These requirements are repeated in the NPPF.

1.5 Both impacts have been subject to assessment in order to support adoption of the New Forest Local Plan in 2020 and are captured as a policy consideration by policy ENV1, (CD 4.1)

1.6 Each obligation will be considered in turn.

2. Recreation impacts on New Forest and Solent habitats.

2.1 The adopted and published documents relating to consideration of the impact arising from recreational activities associated with new residential development are available at;

- CD 4.6 – Mitigation Strategy for European Sites SPD 2014; and
- CD 7.19 – Solent Recreation Mitigation Strategy 2017 (Bird Aware Solent).

2.2 The former document sets out the impacts and harm of recreation activities on New Forest habitats, it identifies projects, both infrastructure and non-infrastructure that will be delivered to mitigate the impact of the pressures arising from the development.

2.3 The latter is relevant to sites within 5.6km of the Solent, which the site falls within, where development would increase pressure on protected habitats therein. It identifies projects to be delivered to mitigate the impact of additional recreational activities close to those habitats.

2.4 Applying these to the tests of CIL regulation 122.

2.5 In relation to test (a) an obligation is necessary because without a mechanism to ensure that an appropriate level of habitat mitigation is secured, the decision could not ensure the proposal will not adversely affect the integrity of a European site, and would, as a

consequence, conflict with the Conservation of Habitats and Species Regulations 2017 (SI 2017 /1013). The appropriate level of mitigation in this case is set out in the Council's Habitat Mitigation Strategy, which has been produced with and agreed by Natural England. Appropriate mitigation includes a proportionate financial contribution towards the delivery of Alternative Natural Recreational Greenspaces (ANRG/SANG) and other projects to direct residents away from protected habitats, access and visitor management and monitoring, which is delivered through the employment of a team of rangers to influence the way the European sites are used for recreational purposes.

2.6 In relation to test (b), the proposed residential development lies in close proximity to the New Forest National Park and the Solent, and is likely to lead to visits to these areas for recreation by occupants. Studies undertaken in support of the Council's Mitigation Strategy identify the extent of visitor footfall to European sites in the District which are likely to be generated by new residential development. The studies also identify the likely impact of increased visitor numbers on the integrity of the European sites, having regard to their conservation objectives.

2.7 In relation to test (c), the amount of contribution sought has been carefully calculated in order that it reflects the number of additional visits by the proposed numbers of residents, and the costs involved with delivering the necessary mitigation, these costs are broken down to a price per residential unit based on the size of the unit (bedrooms) and occupancy rates applied.

2.8 The mitigation costs are divided into Infrastructure and non-infrastructure. It is accepted that the Infrastructure required to mitigate the impacts would be covered by CIL, however because these contributions are fundamental to ensuring Likely Significant Effects don't occur and in order to pass an Appropriate Assessment of the Habs Regs the mitigation needs to be delivered. In the event that the development secures relief from CIL or its CIL liability falls below that of the S.106 contribution, the S.106 obligations are worded in such a way to ensure the Infrastructure requirements of mitigation are covered.

2.9 All residential developments are expected to contribute towards the costs of delivering the mitigation and whilst the monies are pooled, they are being used to cover a large number of mitigation projects over the entire plan area. The adopted European Sites Mitigation SPD identifies some projects in the Lymington parish that the monies would contribute towards, these have been included in the Infrastructure Delivery Plan 2018.

2.10 The costs associated with the Bird Aware Solent projects are absorbed in to the revenue costs for the Habitats Mitigation (Access Management and Monitoring) secured by the agreed S.106.

3. Air Quality.

3.1 The published documents relating to consideration of Air Quality impacts associated with additional residential development are provided at:

- CD 7.18 – Portfolio Holder report agreeing to contribution rate of £85 per residential unit.
- CD 7.20 – Air Quality Impact for Habitats regs assessment.
- CD 7.21 – Ecological Consultancy advice on Air Quality risks.
- CD 7.22 – New Forest Air Quality Ecological Mitigation Plan 2018.

3.2 The survey work reported at CD 7.21 identifies evidence of harm occurring. Further analysis and application of proposed Local Plan 'planned' growth across New Forest District and National Park, taken in combination with other sources that there was sufficient uncertainty regarding the potential for Likely Significant Effects to occur that led to survey work and mitigation proposals reported at CD 7.22.

3.3 Whilst mitigation projects are identified and costed, the survey work has not delivered sufficient data to justify imposition of a mitigation contribution and at this time the contribution is towards the costs of survey work and monitoring.

3.4 Applying these to the tests of CIL regulation 122.

3.5 In relation to test (a) an obligation is necessary because without carrying out the monitoring and applying the precautionary principle the decision could not ensure the proposal will not adversely affect the integrity of a European site, and would, as a consequence, conflict with the Conservation of Habitats and Species Regulations 2017 (SI 2017 /1013). The amount of the contribution for monitoring is set out in the Portfolio Holder report.

3.6 In relation to test (b), the proposed residential development is likely to lead to changes in air quality (from pollutants) arising from development. Due to the sites proximity to protected habitats of nature conservation interest, studies undertaken indicate a degree of uncertainty regarding the extent of the impact and therefore in order to provide certainty that Likely Significant Effects won't occur or can be mitigated, the development must contribute to the identified work.

3.7 In relation to test (c) above, the amount of contribution sought has been carefully calculated in order that quoted cost for the monitoring and survey work is covered by the expected housing growth, in order that the costs are spread equally and fairly and the development contributes its proportionate share.

3.8 Because of the importance of understanding the extent of the impact and in accordance with the Habitats regs assessment undertaken for the Local Plan, the required survey and monitoring work will be funded upfront by the Council. As development occurs it will be expected to make its contribution towards the costs, so whilst the monies are being pooled for the same 'project', that recognises that all residential development over the plan period contributes to the potential harm.

4. Conclusion.

4.1 These obligations secured by the S.106 agreement are necessary in order to ensure the development can mitigate Likely Significant Effects and protect the integrity of features of Nature Conservation interest close to the site in order to pass an Appropriate Assessment in accordance with the Habitats regs.

4.2 They are directly related to impacts arising from the development proposed and have been calculated fairly and proportionately to the scale of the development.

4.3 Should the Inspector conclude that the development is acceptable in all other respects he is requested to ensure these obligations are secured, without which it could not be concluded that the scheme alone and in combination with other projects would not give rise to unacceptable harm to the integrity of features of nature conservation interest.