

Summary Proof of Evidence

of

Mr. Giles Moir MRTPI

on behalf of

AJC Group

to

Demolish the existing building and erect 25 dwellings with associated access, landscaping and parking

at

Orchard Gate, Noads Way, Dibden Purlieu,
Hythe SO45 4PD

Our ref: GM-3131

LPA ref: 22/10813

Appeal ref: APP/B1740/W/23/3324227

August 2023

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Version: 1

Prepared by:

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Chapman Lily Planning Ltd

1. Introduction

- 1.1 This Summary Proof of Evidence has been prepared on behalf of AJC Group and contains a summary of the analysis set out in my main proof in relation to the matters in dispute between the appellant and LPA.

2. The refusal reasons and main issues

- 2.1 The following matters have been resolved between the Council and the appellant,

Reason for Refusal 2:

- 4.2 Resolved in its entirety

Reason for Refusal 3:

- 4.3 It is agreed that the proposed drainage strategy detailed in the 11th July 2023 letter from Calcinotto will not give rise to increased surface water flooding on site.

Reason for Refusal 4:

- 4.4 Resolved in its entirety following the completion of a unilateral undertaking to secure the requisite mitigation contributions in relation to protected habitats and a Grampian condition to secure the mitigation in relation to achieving nutrient neutrality.

The main issues arising from the remaining, unresolved, reasons for refusal are,

- The effect of the proposed development on the character and appearance of the site and the surrounding area,
- Whether the proposed development makes adequate provision for recreation and public open space,
- Whether the site makes suitable provision for affordable housing.
- Drainage, in particular whether all options for achieving surface water drainage in accordance with the drainage hierarchy have been exhausted.

5 Housing Land Supply

- 5.1 The LPA's current lack of a 5 year housing land supply, being 3.07 years, is not a new situation. Within my proof of evidence are appeal examples which demonstrate the sustained and long standing situation where the Council have been unable to demonstrate a 5 year supply.
- 5.2 The proposal will contribute towards the minimum housing target identified within policy STR5 and complies with the aims of section (ii) being located within a defined town.

6 Planning Assessment

- 6.1 The first issue,

the effect of the proposed development on the character and appearance of the site and the surrounding area, with particular reference to trees – this first issue is common, in terms of scope, to the LPA's first and seventh reason for refusal.

- 6.2 Mr Harrington's Proof of Evidence demonstrates that the design of the proposal has followed an iterative process which is informed by and derived from an analysis of the local development pattern.
- 6.3 The iterative approach to the design of the proposal demonstrates compliance with policy D1 of the Hythe and Dibden Neighbourhood Plan. Local character has been fully recognised, the design has responded to this character and that the local values are respected.
- 6.4 The proposed layout is logical, with a clear and legible entrance which leads to a network of footpaths and roadways that are well connected and easily navigable resulting in a convenient and safe space which is functional.
- 6.5 The second issue,
- whether the proposed site can provide safe access for all users – this issue is common to the LPA's second reason for refusal**

6.6 This matter is resolved.

6.7 The third issue,

whether the proposed development makes suitable arrangements for attenuating surface water runoff – this issue is common to the LPA’s third reason for refusal

6.8 It is agreed that the LPA’s concerns that it had not been demonstrated that the drainage scheme will not give rise to increased surface water flooding has been resolved as detailed in the 11th July 2023 letter from Calcinotto and as such the first section of reason for refusal 3 has fallen away.

6.9 The Planning Practice Guidance (PPG) ¹ provides guidance on the sort of sustainable drainage system that can be considered for a development proposal. The PPG is clear that the type of drainage system will “*depend on the proposed development and its location*”. The PPG identifies that “*where possible*” preference should be given to multi-functional sustainable drainage systems, and to solutions that allow surface water to be discharged according to the hierarchy of drainage options , i.e. not an absolute requirement.

6.10 Mr Bird demonstrates why the drainage strategy is consistent with the PPG, evidencing why infiltration is not achievable.

6.11 The fourth issue,

the effect of the proposed development on the New Forest Special Area of Conservation (SAC), the New Forest Special Protection Area (SPA), the New Forest Ramsar site, the Solent and Southampton Water SPA, the Solent and Southampton Water Ramsar site, and the Solent Maritime SAC, which are European Designated sites – this issue is common to the LPA’s fourth reason for refusal

6.12 This matter through the completion of a Unilateral Undertaking and the use of Grampian conditions is resolved.

¹ Paragraph: 056 Reference ID: 7-056-20220825

6.13 The fifth issue,

whether the proposed development makes adequate provision for recreation and public open space – this issue is common to the LPA’s fifth reason for refusal

6.14 The preamble to policy CS7 sets out a minimum standard for public open space of 3.5 hectares per 1000 population - this standard has been developed from the PPG17 study commissioned by the Council. PPG17 was replaced in March 2012 by the National Planning Policy Framework. Policy CS7 does not reflect the criteria of paragraph 98 of the NPPF as it is clearly not based upon, or derived, from an up-to-assessment.

6.15 Informal open space provision is provided onsite and a contribution has been secured to enhance off site provision and management of formal open space in relation to designed play spaces and formal recreational space.

6.16 The linked areas within the site provide 0.07ha of informal open space. The central green area has a defensible boundary providing a shield to the internal road layout. The areas are attractive to future users benefitting from passive surveillance from surrounding properties and provide opportunities for informal play and interacting with nature in the meandering pathway.

6.17 The garden areas for each of the properties provide the opportunity for informal play complementing the informal open space provided within the layout. The Noads Way recreation ground provides opportunities for both formal play and informal play, providing future residents of the appeal scheme choice and variety as to which open space they use.

6.18 Policy CS7, in so far as it relates to the provision of open space, is worded as an aim, not, an absolute – this wording provides the opportunity for flexibility by the decision maker in the application and assessment of the policy. Should it be considered that there is conflict with policy CS7, this conflict should be given limited weight in the overall planning balance given that the policy is not based on an up-to-date assessment (as required by the NPPF).

6.19 The sixth issue,

whether the site makes suitable provision for affordable housing – this issue reflects the Council’s sixth reason for refusal

6.20 Policy HOU2 is clear that the viability of development will be taken into account in application of the policy and cross refers to policy IMPL1: of the New Forest District Local Plan Part 1: Planning Strategy 2016-2036.

6.21 The proof of evidence from Mr Newman considers the quantum of affordable housing that the proposal can viably provide. Mr Newman’s demonstrates how the approach is consistent with policy IMPL1 of the New Forest District Local Plan Part 1: Planning Strategy 2020 together with the NPPF.

7 The Planning Balance

7.1 The NPPF (September 2023) sets out, at paragraph 11(d) the presumption in favour of Sustainable Development.

7.2 It is my opinion that paragraph 11(d)(i) of the NPPF is not engaged as the appeal proposal secures suitable mitigation, in accordance with the LPA’s adopted policies, to enable the Planning Inspector, as the competent authority, to undertake an appropriate assessment and conclude that the integrity of the habitat sites are not adversely affected, thereby complying with paragraph 182 of the NPPF.

7.3 It is my opinion that the tilted balance is not dis-engaged by paragraph 14 of the NPPF.

7.4 I consider that as the LPA cannot demonstrate a 5 year housing land supply this proposal benefits from the tilted balance. The benefits below weigh in favour of the proposal.

7.5 The provision for (net) 24 new homes including 3 affordable properties – this is a significant benefit of the proposal and is linked to the social dimension of sustainable development.

7.6 The proposal will deliver housing in a sustainable location, helping to sustain the vitality and viability of the local services, this is a significant benefit of the proposal.

- 7.7 The proposal has a significant benefit of protecting the countryside, Cranborne Chase Area of Outstanding Natural Beauty and the adjoining New Forest National Park. The sustainable location of the site will enable a reduced reliance upon the private car. The proposal will provide 10% Biodiversity Net Gain, which is a significant environmental benefit.
- 7.8 I find no conflict with development plan policies. I am of the opinion that the proposal does accord with the development plan as a whole.
- 7.9 I consider that in the application of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the proposal accords with the Development Plan, should however an alternative view be taken, there are material considerations, namely the application of paragraph 11 of the NPPF that mean that permission should be granted.

8 Conclusion

- 8.1 There is no dispute with the LPA with regard to the principle of development of the site.
- 8.2 It is clear that the LPA have an acute housing land supply shortage (the supply being 3.07 years) with little prospect of being rescued through the Local Plan review. This (the lack of a 5 year housing land supply) is not a new situation the LPA find themselves in having had a sustained under provision for several years. The proposal will make a valuable contribution to the LPA's land supply. It is my opinion that that the proposal is in overall compliance with the development plan. Should the Inspector find any conflict with development plan policies the engagement of paragraph 11(d), taken together with other material considerations clearly indicate that permission should be granted.