

In the matter of:

CHURCHILL RETIREMENT LIVING

and

SECTION 78 OF THE TOWN AND COUNTRY PLANNING ACT [AS AMENDED]

and

LAND EAST OF LIDL, CHRISTY'S LANE, SHAFTESBURY, DORSET, SP7 8TL.

THE OPENING SPEECH OF THE APPELLANT

Section 1 - Introduction

1. The structure of this opening speech is as follows:
 - 1.1. Section 1 – Introduction.
 - 1.2. Section 2 – The factual background
 - 1.3. Section 3 – The legal background
 - 1.4. Section 4 – The policy background
 - 1.5. Section 5 – Those matters not in dispute
 - 1.6. Section 6 – Why planning permission should be granted.

2. This is an appeal by way of Section 78 of the Town and Country Planning Act 1990 in which the Inspector has the power in law to grant planning permission for the proposal which is subject to this appeal.

3. It will be the strong case of the Appellant in this matter that planning permission should be granted having heard the case for the Appellant and that evidence not being challenged or contradicted by the LPA.

4. The starting point for consideration of this appeal is that it is overwhelming compliant with the current policy of this Government and the development plan in bringing forward a development which:
 - 4.1. Seeks to boost the supply of housing.
 - 4.2. It makes a policy compliant contribution to affordable housing.
 - 4.3. It will bring forward specialist residential accommodation for the elderly.
 - 4.4. It will use a vacant site which is logically significantly underutilised.

- 4.5. It will lead to a development in a sustainable location.
 - 4.6. It uses a site which is patently PDL as so defined in the NPPF.
 - 4.7. It will ensure the re-use of the site.
 - 4.8. It will ensure development in a location which is accessible by all modes of transport.
 - 4.9. It will bring forward a well-designed scheme.
 - 4.10. It will contribute to the vitality and viability of the town centre by having around 70 residents who will use the town centre daily.
 - 4.11. It will bring residential living to the town centre.
 - 4.12. It will bring forward economic benefits through construction and occupation.
 - 4.13. It proposes a development which received minimal objection (only 3) during its consideration by the LPA.
 - 4.14. Cumulatively taken together these benefits are considerable and weighty in any planning balance.
5. It is also now noteworthy that the LPA no longer oppose the grant of planning permission.
6. Therefore at the commencement of this inquiry you can place significant, if not determinative weight, on the collective position of both main parties which is that planning permission should be granted at the end of this public inquiry. That view demands weight because:
- 6.1. It is the view of the statutory LPA.
 - 6.2. That view is formed by their understanding of the development plan.
 - 6.3. That view is formed after 7 months detailed consideration of the application.
 - 6.4. That view is formed after external advice received from viability consultants subject to professional requirements.
 - 6.5. That view is formed after consideration of all the consultation responses.

Section 2 – The factual background

7. This is a proposal which seeks permission for:
- 7.1. 41 residential units of which 27 are 1 bedroom and 14 are 2 bedroom.
 - 7.2. those units will be subject to an occupational restriction based on age.
 - 7.3. An owner's lounge.
 - 7.4. A lodge manager will be available for residents during office hours.
 - 7.5. A communal lift capable of accommodating 8 people.
 - 7.6. A guest suite.
 - 7.7. External amenity space.

7.8. Communal car parking.

7.9. A video entry system.

8. The Appellant is one of the leading providers of specialist accommodation for the elderly in the UK today. In 25 years they have had enormous success and now own in excess of 175 developments. The business operation is well known and successful because they provide very comfortable and secure accommodation for those who are in their advanced years.
9. The average age of a purchaser is 78 and the average age of all occupiers is in their late 80s.
10. The decision to move into such a development is predominantly needs based with residents choosing to live in such accommodation when current accommodation has become unsuitable or too large, they cannot access services they need or there has been the death of a partner.
11. The company look for town centre sites with a close relationship to existing shops and services and the ability to access the town centre conveniently and safely.
12. The factual background is best identified in a table:

DATE	EVENT	CD NUMBER
January 2016	North Dorset Local Plan Part 1 adopted.	CD 3.01A and B.
January 2019	Cattle Market ceases trading.	
Autumn 2019	Cattle Market buildings demolished.	
May 2020	Planning permission granted for the Lidl store on adjacent site [P/FUL/2020/00008]	
18 January – 15 March 2021	Dorset Council consults on the Local Plan Options Consultation. [Regulation 18]	CD 5.01-03.
22 June 2021	Shaftesbury Neighbourhood Plan made.	CD 3.02 A and B.
2021	Lidl store opens on the adjacent site.	
24 July -6 August 2023	CRL carry out online consultation with public emailing 278 residents. Only 3 responses received.	
25 August 2023	Planning application for 41 retirement living apartments submitted by Churchill Retirement Living. Application accompanied by Report on Affordable Housing and Viability.	CD1.01 and CD1.17.
13 September 2023	Planning application validated by LPA [P/FUL/2023/05051]	
4 October 2023	Shaftesbury Town Council write a letter of objection to the application.	
21 December 2023	New NPPF 5 published.	
22 January 2024	Appeal submitted to PINS by CRL.	
1 February 2024	Appeal validated by PINS with start letter	
February 2024	Dixon Searle Partnership appraise Appellants case on viability.	
March 2024	Statement of Case issued by the LPA.	CD 7.01
18 and 19 March 2024	Statement of Common Ground completed by main parties. Both parties agree the Appellant should make an off-site contribution of £214,370.	CD 7.02
22 March 2024	Viability Statement of Common Ground signed by main parties.	CD7.03
25 March 2024	CMC held by Inspector Wildgoose.	CD7.09
17 April 2024	Submission of Appellants proof of Mr Shellum.	CD7.04
1 May 2024	Commencement of public inquiry	

Section 3 – The legal background

13. There are 4 relevant legal matters that need to be addressed in opening and which will affect the determination of this appeal:
 - 13.1. Issue 1 – By way of Section 79 of the TCPA 1990, the Secretary of State may allow the appeal and grant planning permission.
 - 13.2. Issue 2 – In so doing he may grant permission conditionally or unconditionally by way of Section 72 of the TCPA 1990.
 - 13.3. Issue 3 – In so doing he may consider any obligation which exists by way of Section 106 of the TCPA 1990.
 - 13.4. Issue 4 – In determining this appeal he/she must consider the duties imposed by way of Section 38(6) of the PCA 2004 in that if regard is to be had to the development plan then the determination must be in accordance with the plan unless material considerations indicate otherwise.

Section 4 – The policy background

14. There are two documents which comprise the development plan:
 - 14.1. The North Dorset Local Plan Part I of January 2006.
 - 14.2. The Shaftesbury Neighbourhood Plan of 2021.
15. In determining whether the proposal is in accordance with the plan or not the following key policies require consideration in the form of this table:

POLICY	PAGE	COMPLIANCE	COMMENT	
THE NORTH DORSET LOCAL PLAN PART 1.				
1.	OBJECTIVE 1 – MEETING THE CHALLENGE OF CLIMATE CHANGE	19	YES	PARTICULARLY PREVIOUSLY DEVELOPED LAND
2.	OBJECTIVE 3 – ENSURING THE VITALITY OF MARKET TOWNS – SUPPORT ROLE AND FUNCTION OF SHAFTESBURY	20	YES	MAKING THEM THE MAIN FOCUS OF HOUSING DEVELOPMENT
3.	OBJECTIVE 5 – MEETING THE DISTRICTS HOUSING NEEDS – BY PROVIDING THE TYPE OF HOUSING WHICH REFLECTS HOUSING NEEDS	21	YES	NEED FOR SPECIALIST ACCOMMODATION FOR THE ELDERLY
4.	POLICY 1 – PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT	30	YES	PLANNING APPLICATIONS THAT ACCORD WITH THE POLICIES IN THE DEVELOPMENT PLAN WILL BE APPROVED WITHOUT DELAY.
5.	POLICY 2 – CORE SPATIAL STRATEGY	36	YES	SHAFTESBURY IDENTIFIED AS A MAIN TOWN AND WILL BE THE MAIN FOCUS FOR GROWTH INCLUDING HOUSING.
6.	POLICY 3 – CLIMATE CHANGE	46	YES	DEVELOPMENT SHOULD BE LOCATED IN AREAS SERVED BY A GOOD RANGE OF FACILITIES AND FACILITATE ALTERNATIVE MEANS OF TRANSPORT.
7.	POLICY 4 – THE NATURAL ENVIRONMENT	46	YES	DEVELOPMENTS SHOULD CONSERVE OR PRESERVE THE NATURAL ENVIRONMENT
8.	POLICY 6 – HOUSING DISTRIBUTION	87	YES	SHAFTESBURY SHOULD ACCOMMODATE AT LEAST 1140 HOUSES.
9.	POLICY 7 – DELIVERING HOUSES	96	YES	THE LPA WILL SUPPORT THE PROVISION OF AGE-RESTRICTED HOUSING FOR THE ELDERLY
10.	POLICY 8 – AFFORDABLE HOUSING	107	YES	ACCEPTABLE FOR DEVELOPER CONTRIBUTION OFF SITE.
11.	POLICY 11 – THE ECONOMY	132	YES	THE CONTINUED IMPROVEMENT OF TOWN CENTRES AS THE MAIN FOCUS
12.	POLICY 13 – GREY INFRASTRUCTURE	163	YES	THE PHYSICAL WORKS TO SUPPORT DEVELOPMENT
13.	POLICY 14 – SOCIAL INFRASTRUCTURE	174	YES	SOCIAL INFRASTRUCTURE MAINTAINED AND IMPROVED
14.	POLICY 15 – GREEN INFRASTRUCTURE	185	YES	DEVELOPMENT WILL BE REQUIRED TO PROVIDE NEW GREEN INFRASTRUCTURE
15.	POLICY 18 – SHAFTESBURY	223	YES	MAINTAINANCE OF ROLE OF SHAFTESBURY
16.	POLICY 23 – PARKING	287	YES	PARKING IN ACCORDANCE WITH LPA STANDARDS
17.	POLICY 24 – DESIGN	296	YES	DESIGNED TO IMPROVE C AND A OF THE AREA.
18.	POLICY 25 – AMENITY	302	YES	RESIDENTIAL AMENITY STANDARDS.
THE SHAFTESBURY NEIGHBOURHOOD PLAN 2016				
19.	POLICY SFTC1 – TOWN CENTRE	20	YES	SITE IDENTIFIED WITHIN TOWN CENTRE [SEE PAGE 19]
20.	POLICY SFTC4 – PARKING	24	YES	PROPOSALS THAT INCREASE PARKING IN TOWN CENTRE WILL BE STRONGLY SUPPORTED
21.	POLICY SFHE2 – HOUSING	32	YES	ON SITES OF TEN OR MORE DWELLINGS THE MIX OF HOUSING SHOULD INCLUDE DWELLING TYPES LIKELY TO BE SUITABLE FOR OLDER PERSONS.
22.	POLICY SFG11 – IMPORTANT TREED AREAS	42	YES	AREA IDENTIFIED AS IMPORTANT TREED AREA SHOULD RETAIN TREED CHARACTER.
23.	POLICY SFDH1 TO 7 - DESIGN	66-72	YES	LPA CONTENT WITH THE PROPOSED DESIGN OF THE DEVELOPMENT.

Section 5 – Those matters not in dispute

16. It is important to note the many matters of agreement now with the LPA as set out in the proof of the Appellant and the Statement of Common Grounds (Planning and Viability):
- 16.1. MA 1 – The site was formerly used as the Shaftesbury Cattle Market.
 - 16.2. MA 2 – It was vacated in 2019 and the buildings have been demolished.
 - 16.3. MA 3 – The site comprises PDL and is currently vacant.
 - 16.4. MA 4 – In close proximity are the two notable supermarkets – Lidl and Tesco.
 - 16.5. MA 5 - The site lies within the defined Town Centre as set out in the SNP.
 - 16.6. MA 6 - There is no objection to residential development on this site.
 - 16.7. MA 7 – There is no objection to this site being used for specialist accommodation for the elderly.
 - 16.8. MA 8 – The need to provide housing for the elderly is “critical” as set out in the NPPG.
 - 16.9. MA 9 – There is an estimated requirement for 4,222 additional specialist older persons accommodation for the elderly in the County by 2038.
 - 16.10. MA 10 – There is a specialist need for affordable housing in the North of the County which amounts to 144 units per annum.
 - 16.11. MA 11 – The parties agree that the sum of £214,370 is the maximum level of provision that can be met from the appeal scheme.
 - 16.12. MA 12 – If such a sum is secured by way of a Section 106 agreement then it would comply with Policy 8 of the North Dorset Local Plan Part 1 2016.
 - 16.13. MA 13 – The design is acceptable and complies with Policy 24 of the NDLP1 and the SNP.
 - 16.14. MA 14 – There would be no unacceptable highway impact if pp is granted.
 - 16.15. MA 15 – There are sufficient car parking spaces proposed.
 - 16.16. MA 16 – The proposal will not cause harm to any of the proposed trees on site.
 - 16.17. MA 17 – There would be no harm to Biodiversity on site.
 - 16.18. MA 18 – With the completion of a legal agreement the proposal complies with the development plan.
 - 16.19. MA 19 – The site lies outside the Shaftesbury CA which at is closest is 210 metres away. There is no contention of any harm to the setting of that CA.
 - 16.20. MA 20 – The site can be developed without any harm to the setting of any Listed Building. [See page 15 of the DAS – CD 1.19]

Section 6 – Why planning permission should be granted.

17. It will be the evidence of the Appellant that the proposal could not be more compliant with Government Guidance and the NPPF in:

17.1. Benefit 1 – The provision of market housing namely 41 units – Substantial weight.

17.1.1. Policy 2 and 3 seek the provision of housing in Shaftesbury.

17.1.2. Policy 18 specifically seeks housing to be focussed on Shaftesbury.

17.1.3. Significantly boosting the supply of housing [NPPF 61]

17.2. Benefit 2 – The provision of specialist accommodation where national policy identifies the need as critical – substantial weight.

17.2.1. The provision of additional housing accommodation for older persons [Policy 7 of the Local Plan].

17.2.2. The provision of additional housing accommodation for the elderly in Shaftesbury [Policy SFHE2 of the NP]

17.2.3. The need to provide housing for older people is critical [NPPG para 001]

17.3. Benefit 3 – The redevelopment of PDL – substantial weight.

17.3.1. Substantial weight to reusing suitable brownfield land [NPPF 124(c)].

17.4. Benefit 4 – Sustainable site in the TC – substantial weight.

17.4.1. Policy SFTC1 in the NP specifically wants to see development in the Town Centre.

17.5. Benefit 5 – Optimum use of the site – moderate weight.

17.5.1. Effective use of land [NPPF 123].

17.5.2. LPAs should support development that makes efficient use of land [NPPF 128]

17.6. Benefit 6 – Release of underutilised housing stock in the local area – substantial weight.

17.6.1. Many of the occupiers of the development are currently in large, underutilised family homes that they will vacate freeing up the resultant housing stock for others to use and occupy which is an unquestionable benefit.

17.7. Benefit 7 – Economic benefits – substantial weight.

17.7.1. Substantial weight to economic development [NPPF 81]

17.8. Benefit 8 – Social benefits – substantial weight.

17.8.1. The range of units -1- and 2- bedroom units.

17.9. Benefit 9 – Environmental benefits – moderate weight.

17.9.1. The building occupies only 45% of the total site area therefore the majority of the site will be used for hard and soft landscaping of 55% [DAS page 49]

17.10. Benefit 10 – The provision of a payment for AH – substantial weight.

18. Cumulatively therefore there are 10 benefits which demand weight in the planning balance.

1 May 2024

**SASHA WHITE K.C.
LANDMARK CHAMBERS.**
