



*St Edmundsbury*  
BOROUGH COUNCIL

## Development Control Committee 5 January 2017

### Planning Application DC/16/0876/FUL Place Court, Camps Road, Haverhill

<b>Date</b>	24.05.2016	<b>Expiry Date:</b>	23.08.2016
<b>Registered:</b>			
<b>Case Officer:</b>	Gary Hancox	<b>Recommendation:</b>	Refuse
<b>Parish:</b>	Haverhill	<b>Ward:</b>	Haverhill North

**Proposal:** 50 bedroom sheltered retirement apartments with communal facilities, parking, landscaping and access (following demolition of existing building)

**Site:** Place Court, Camps Road, Haverhill

**Applicant:** Churchill Retirement Living

#### **Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters and appeal against non-determination under Section 78 of the Town and Country Planning Act 1990.

#### CONTACT CASE OFFICER:

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## **Background:**

**The applicants have lodged an appeal against the 'non-determination' of the planning application within the prescribed decision-making periods. The time period for the determination of this planning application expired on 23 August 2016.**

**The Council is no longer able to determine the application which will now be considered by an appointed Inspector. This application is referred to the Committee to seek the views of Members as to what their decision would have been if they were in a position to determine the above planning application.**

## **Proposal:**

1. Planning permission is sought for demolition of a two-storey former residential care home and the redevelopment of the site to provide 49 sheltered retirement apartments and a lodge manager's apartment utilising the existing access off Camps Road. The apartment block would contain a mixture of two and three storey buildings and would be of a traditional design and appearance with relatively simple detailing with a mixture of red brick and render elevation treatments.
2. A typical sheltered development consists of a block of 1 and 2 bedroom apartments, each benefiting from its own private front door, entrance hall, lounge / dining room, fitted kitchen and bathroom.
3. The proposed apartments would be for people aged 60 and over, or those over this age with a partner of at least 55. They would be managed by a management company and would have a lodge manager living on site.

## **Application Supporting Material:**

4. Information submitted with the application as follows:
  - Application forms
  - Plans and elevations
  - Planning statement
  - Transport statement
  - Design and access statement
  - Drainage strategy
  - Arboricultural assessment
  - Landscape strategy
  - Tree protection plan
  - Affordable housing viability statement

## **Site Details:**

5. The site is situated close to the centre of Haverhill and fronts onto Camps Road opposite the recreation ground. The site has an area of 0.46 hectares and forms part of a larger site containing a former care home,

social services buildings and Magistrates Court. The existing building on site is a two-storey residential former care home development that is situated within the central portion of the site. The existing building is formed of brick construction with a pitched roof and lightly rendered elevations. Haverhill Methodist Church is to the east of the site and to the north is Place Farm Primary Academy. There is also a medical practice on Camps Road.

6. A portion of the external site area is hard ground, accommodating parking areas to the north of the existing building. Areas of soft landscaping are generally located within the southern and western sections of the site.
7. The site access also serves Place Farm Primary Academy and an Ambulance Station.
8. The site is located within the Housing Settlement Boundary and outside the Conservation Area.

### **Planning History:**

9. E/94/1602/P – Alterations and extension to care home for the elderly – Approved May 1994.

### **Consultations:**

10. Highway Authority: No objection to the amended site plan, based on 18 parking spaces, space for local mini-bus service and scooter/cycle parking.
11. Natural England: No comments.
12. Environment team: No objection, subject to appropriate conditions.
13. Environment Agency: No objection.
14. SCC Obligations: No requirement for education contributions.
15. SCC Archaeology: No objection, subject to appropriate conditions.
16. Police Architectural Liaison Officer: Offers various comments/suggestions to design out crime for the site.
17. Public Health and Housing: No objection, subject to appropriate conditions.
18. Strategic Housing: Supports the principle of development. However we believe there would be a market for affordable older people's accommodation, including low cost home ownership options which could be included on-site.
19. Anglian Water: No objection.

20.SCC Flood and Water Management: No objection.

21.Ecology Tree and Landscape Officer: No objection, subject to appropriate conditions.

**Representations:**

22.Town Council: Object – lack of parking provision for residents and staff.

23.Ward Member (Councillor Williams): Objection. Lack of parking provision and the location of building work. The parking survey was carried out in 2014 and is not a true reflection of current day traffic in that area in my opinion. 16 parking spaces for 50 residents just doesn't seem realistic if that's to include carers and visitors too.

24.East of England Ambulance Service (EEAS): Object - As an emergency service EEAS are very concerned that the construction activity will impact our response capability due to the constrained access road. We would also be concerned that parking issue arising from the proposed development would adversely affect our day to day operations.

**Policy:**

25.The following policies of the Replacement St Edmundsbury Borough Local Plan 2016 and the St Edmundsbury Core Strategy December 2010 have been taken into account in the consideration of this application:

26.St Edmundsbury Core Strategy December 2010

- Policy CS2 (Sustainable Development)
- Policy CS3 (Design and Local Distinctiveness)
- Policy CS4 (Settlement Hierarchy)
- Policy CS5 (Affordable Housing)
- Policy CS14 (Community Infrastructure and Tariffs)

27.Joint Development Management Policies 2015

- Policy DM1 (Presumption in favour of sustainable development)
- Policy DM2 (Design and local distinctiveness)
- Policy DM6 (Flooding and sustainable drainage)
- Policy DM7 (Sustainable design and construction)
- Policy DM11 (Protected Species)
- Policy DM22 (Residential design)
- Policy DM23 (Special Housing Needs)
- Policy DM45 (Transport assessments and travel plans)
- Policy DM46 (Parking standards)

28.Haverhill Vision 2031:

- Policy HV1 (Presumption in Favour of Sustainable development)
- Policy HV2 (Housing development within Haverhill)

## **Other Planning Policy:**

29. National Planning Policy Framework (2012) - specifically paragraphs 14, 17, 49, 50, 55, 61, 64.
30. For decision making purposes, as required by Section 38(6) of the Planning & Compulsory Purchase Act 2004, the Development Plan comprises the Adopted St Edmundsbury Core Strategy, The Joint Development Management Policies Document, the Development Control Policies Development Plan Document (2015), and Haverhill Vision 2031.
31. Section 38(1) of the Planning & Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Material considerations in respect of national planning policy are the NPPF and the more recently published National Planning Practice Guidance.
32. The National Planning Policy Framework (the Framework) sets out government's planning policies for England and how these are expected to be applied. Paragraph 14 of the Framework explains that there is a 'presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking'. For decision taking this means:
  - Approving development proposals that accord with the development plan without delay; and
  - Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
    - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole;
    - or specific policies in this framework indicate development should be restricted."
33. The Government defines sustainable development as having three dimensions. These dimensions give rise to the need for the planning system to perform a number of roles:
  - economic, in terms of building a strong economy and in particular by ensuring that sufficient land of the right type is available in the right places;
  - social, by supporting, strong vibrant and healthy communities by providing the supply of housing required to meet future need in a high quality environment with accessible local services, and;
  - environmental, through the protection and enhancement of the natural, built and historic environment.
34. Paragraph 8 of the NPPF stresses that these roles should not be undertaken in isolation because they are mutually dependent; therefore a balanced assessment against these three dimensions is required.

**Officer Comment:**

35.The issues to be considered in the determination of the application are:

- Principle of Development
- Design and layout
- Highway impact
- Landscape and ecology
- Planning Obligations (Affordable Housing)
- Planning balance

**Principle of development**

36.The application site is located within the settlement boundary of Haverhill, one of two towns within the St Edmundsbury Borough where Core Strategy Policies CS1 and CS4 focus large scale growth. Policy HV2 of the Haverhill Vision 2031 (2014) allows for new residential development within the settlement boundary. The site is not allocated for any specific land use, and the last use of the site was as a care home. The principle of the redevelopment of the site for retirement housing is considered to be in accordance with these policies.

37.Policy DM23, states that proposals for new or extensions to existing accommodation for the elderly and or vulnerable people will be permitted on sites deemed appropriate for residential development by other policies contained with the Local Plan, provided that such schemes meet the following criteria:

- The proposed development is designed to meet the specific needs of residents including requirements fro disabled persons where appropriate; and
- Includes appropriate amenity space for residents of an acceptable quantity and quality; and
- The location of the development is well served by public transport, community and retail facilities; and
- The proposed development does not create an over concentration of similar accommodation in any one street or area.

38.Taking into account the location of the site within the settlement boundary, and its proximity to local services and facilities, the site is deemed appropriate for residential development. The Council’s Strategic Housing Team recognises that there is a specific need for a variety of accommodation for older people. The proposed development meets the criteria of the above policy and is in accordance with it.

**Design and layout**

39.Core Strategy Policy CS3, Joint Development management policy DM2 and

paragraphs 61 and 63 of the NPPF requires all development to be a high quality design that fully considers the context in which it sits, contributes to a sense of local distinctiveness and compliment the natural landscape and built form that surrounds it. All proposals should preserve or enhance the existing character of the area.

40. The application proposes a building that broadly follows the footprint of the existing building, although is larger in terms of width. The proposed building height varies generally between two and a half, and three storeys throughout and the mix of two and a half and three storey elements provides a gradual increase in height from the neighbouring residential scale developments. The overall height of the building is generally higher than the existing care home building, which is two-storey throughout. However, the use of varied roof heights helps to break up the massing of the building, which is considered appropriate for its context.
41. The appearance and detailing of the development is based on traditional form, materials and design features, and the elevations are articulated by projecting and recessing elements in varying heights, and variations in eaves and ridge line. Varied materials including brick and render help to break up facades, indicating individual dwellings rather than a continuous development block. The roof scape of the majority of the building is varied through the incorporation of dormers and gables.
42. The proposed building replaces a fairly benign building of limited architectural quality, and its replacement with a more modern building is considered to contribute to the enhancement of the character and appearance of the area, respectful of its context. It is noted that the neighbouring site is also likely to be re-developed in the future, and a separate planning application seeks its redevelopment for housing (as indicated on the street scene drawings). The appearance of the development is such that it would not conflict with or prejudice future housing proposals on this adjacent site.
43. The proposed plans indicate that of the 34 notable trees on the site, mainly to the front and rear boundaries of the site, only three are proposed to be felled to accommodate the development (a Holly and two Cherry trees). The retention of the majority of the landscaping on the boundaries of the site will help to assimilate the building into its setting, ensuring that there contribution to the street scene remains.
44. Overall, the design and layout of the building is considered to accord with Policies CS3, DM2, and the NPPF in this regard.

### **Highway Impact**

45. Access to the site will be as existing via a road off Camps Road, shared with the adjoining former social services site (vacated) and an ambulance station and school. Initially SCC Highways were concerned with the apparent under-provision of parking when assessed against their standard

parking requirements for retirement units. Amended plans were submitted showing 18 parking spaces, a minibus space and scooter/cycle parking, and having regard to the site's sustainable location close to existing services and facilities, and based on experience of previous similar sites, SCC Highways raises no objection to the application, which is considered to accord with Policies DM2 and DM46 in this regard.

### **Landscape and Ecology**

46. The site is largely already developed, however there are improved grassland areas and established trees to the edges of the site which are good habitats for reptiles and bats. Bats could also be present in the buildings on the site. A Phase 1 and 2 ecology survey was undertaken for the site, which also included bat and reptile surveys. These have been considered by the Council's Ecology, Tree and Landscape Officer who recommends no objection to the application subject to the implementation of the proposed mitigation set out in the ecology survey (including for example the installation of bat boxes within the site). A scheme of hard and soft landscaping, as well as tree protection during construction, can be required by condition.
47. Subject to the above conditions, the application is considered to accord with Policies DM2 and DM11.

### **Planning Obligations (Affordable Housing)**

48. In line with the economic and social dimensional roles of sustainable development, which inter alia seek to provide a supply of housing to meet the needs of the present and future generations, Core Strategy Policy CS5 requires developers to integrate land for affordable homes within sites where housing is proposed, to ensure that affordable housing is provided and comes forward in parallel with market homes. In this case the target is 30% affordable housing and conditions or legal obligations will be used to ensure that affordable housing is secured and retained for those in housing need. No other obligations are applicable to the type of housing proposed.
49. The applicants have indicated that due to the nature of sheltered housing it is not considered appropriate to include on-site affordable housing. Policy CS5 does not make a distinction between different types of housing in respect of the application of the affordable housing target, however it does allow for consideration of development viability and mix, including additional costs associated with the development of brownfield sites and the provision of significant community benefits. It also gives the option for the Council to negotiate a lower percentage or tenure mix of affordable housing.
50. The above approach accords with the NPPF, which states that pursuing sustainable development requires careful attention to viability and costs, such that sites should not be subject to a scale of obligations that their ability to be developed viably is threatened.



51. The Framework advises that in order to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.
52. Forest Heath District Council & St Edmundsbury Borough Council Joint Affordable Housing Supplementary Planning Document (published Oct 2013) provides supplementary guidance to support the affordable housing policies in the adopted Development Plan. Although the preferred option is for affordable housing to be provided on-site the SPD does allow for off-site provision and payments in lieu of on-site affordable housing in exceptional circumstances, where it can be robustly justified.
53. The applicants' Design and Access Statement states that 'due to the size of the site, private access road, the location of existing trees and surrounding ground levels, the site does not offer sufficient opportunity for the building to be suitably configured for the on-site provision of affordable housing within or alongside an open market retirement housing scheme'. The applicants have therefore submitted a Viability Report to explain why no on-site affordable housing is being proposed. In reaching their conclusions, the applicants have also applied Vacant Building Credit (VBC), which has the effect of reducing the required level of on-site affordable housing provision to 16%. VBC is explained below.

#### Vacant Building Credit (VBC)

54. National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the Local Planning Authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace. The 'credit' to be applied is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided.
55. There are however limitations as to when VBC applies. The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. The National Planning Practice Guidance (NPPG) advises that when considering whether or not to apply VBC, Local Planning Authorities should consider '*whether the building has been made vacant for the sole purposes of re-development.*'
56. In this case the building was last used as a care home for the elderly, and

is currently unoccupied. The applicants have therefore applied the VBC, which has reduced the affordable housing percentage target from 30% down to 16%. Even at 16% affordable housing, the applicant's Viability Report argues that the provision of any affordable housing results in an unviable scheme.

57. However, in the opinion of Officers, it is felt that VBC should **not** apply in this case. The site is currently owned by Suffolk County Council, and up until 2015 was used as a care home for the elderly. As part of a wider programme of cost saving and efficiency measures, at some point in the recent past it was decided that the building should be closed, with any existing residents being relocated, and the site sold for redevelopment. The site was advertised for sale as part of a wider 0.8 hectare site that included a Care Home, Magistrates Court, Day Centre and Offices.
58. Even taking into account that the care home site was likely to have been made vacant by the County Council as part of ongoing cost-saving measures, the care home building has been made vacant for the sole purposes of its redevelopment. The County Council had a choice of what to do with the buildings, which of course could have included their continued use. As a result, it is considered that VBC should not be applied, and that the policy requirement of 30% affordable housing is applicable in this case. By way of comparison, if a developer wanted to develop a site where a company or organisation had vacated a premises due to the closure of the business, or for unforeseen circumstances has moved out leaving an unoccupied building, then this would result in a vacant building being brought back into use. VBC could then be applied. However, this is not the case in respect of the application site.

#### Viability

59. The applicants have submitted a Viability Report that, taking into account the affordable housing percentage target, tests the economic viability of the proposal in order to establish a residual land value. This value is then tested against the market value of the site in order to identify any development surplus, which can then contribute to a financial obligation in lieu of on site affordable housing provision. This is based on an industry standard 20% level of return for the developer.
60. The applicant has established a market value for the site based on sales marketing and advice for the larger site. (This of course does not necessarily equate to the price offered for the site in a bidding process, which may have been higher than the suggested market value.) The applicants have concluded that having regard to an assessment of the residual land values of a policy compliant sheltered housing scheme, compared with the benchmark land value of the site results in a scheme that is unviable, and that there should be no requirement towards affordable housing.
61. The applicant is in effect asking the Council to respect a market value for the site (that reflects what a conventional house builder would pay for the site), but that the only logical and viable use for the site is the 49 unit

retirement home proposed. The applicant appears to have offered a price for the site that has regard to meeting policy requirements (i.e. on site affordable housing), knowing full well that, due to the nature of their product, those requirements cannot be met. It is very likely that the developer has over-bid for the site having had to compete with bids from conventional house builders.

62. Planning Practice Guidance states that: "In all cases, land or site value should: reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge." This is a key requirement because if it is assumed that land value will increase due to the grant of permission but this does not adequately reflect policy requirements, the adopted site value is likely to be inflated. If this inflated site value is included as a benchmark or a fixed cost in an assessment, this will artificially reduce viability and undermine the delivery of sustainable development and those policies it failed to reflect.
63. Since lodging the appeal, further information has been submitted by the applicants clarifying that using the market value approach (as discussed above) would result in a maximum viable housing contribution of approximately £90,000. This equates to an equivalent affordable housing contribution of approximately 9%.
64. The lack of on-site affordable housing provision and an offered affordable housing contribution that is significantly less than the policy requirement weighs heavily against the scheme in the planning balance. Furthermore, regard must also be had to the potential for on site affordable housing being able to be offered by a conventional house builder, which would better accord with Policy CS5 and address an identified district wide and local need.
65. The reasons for the lack of on site affordable housing put forward by the applicant are acknowledged and understood. However, ultimately the deal offered by the developer is not considered to be the optimal deal for the Council, as it would result in no affordable housing provision on site, but would provide retirement flats that would be for sale at a price that would still not be considered affordable to most. The need within Haverhill for this type of accommodation has not been demonstrated, and it is felt that the scheme performs poorly when taking into account the social element of sustainable development, (...supporting, strong vibrant and healthy communities by providing the supply of housing required to meet future need...). The proposed development is less sustainable because of this.

**Other matters:**

66. The comments of the Ambulance Service in respect of potential disturbance during the construction period are noted, however it is felt that to some extent this could be considered and mitigated for through

the submission of an appropriate construction management plan. This could be required by condition.

#### Planning balance

67. The application site is located within the settlement boundary of Haverhill and is compliant with policies CS1, CS4, HV2 and DM23. However, the application is not fully compliant with policy CS5 and offers no on-site affordable housing provision, and an equivalent financial contribution of only 9% of the policy target. Whilst the need for housing for older people is acknowledged and supported by policy, there is also a significant district and local need for affordable homes, across all house types.

68. The benefits of the scheme can be summarised as follows:

- The scheme would contribute 49 dwellings to the supply of housing in the District
- The proposal would generate indirect economic benefits during the construction period

69. The dis-benefits of the scheme can be summarised as follows;

- The scheme does not provide any on-site affordable housing and only a small financial contribution is offered in lieu.

70. The benefits of the scheme outlined above are acknowledged and weight is attached to them accordingly. However, as the application does not fully accord with the development plan and so in terms of the 'planning balance scales', the starting position is that they are tilted against the proposal. Significant weight can be given to the contribution the development would make to the supply of housing, however considerable weight must also be given to the lack of affordable housing provision without adequate justification. Officers disagree with the land benchmark value put forward by the applicant and the development scheme does not represent the best option for the site.

#### **Conclusion:**

71. The benefit of the proposal in terms of providing 49 retirement flats is excepted. The application of the VBC is not correct in this instance, and therefore the applicable affordable housing target is 30%. The applicants have demonstrated that the provision of any affordable housing would render the scheme unviable. However, in the opinion of Officers, this is because the applicant appears to have offered a price for the site that has regard to meeting policy requirements, knowing full well that those requirements cannot be met. It is very likely that the developer has over-bid for the site.

72. The proposed development does not represent sustainable development with its dis-benefits outweighing its benefits.

### **Recommendation:**

73. That the Committee resolves that it would have **refused planning permission** had the non-determination appeal not been lodged for the reasons briefly set out in paragraphs 69 to 71 above.

74. The Committee is also requested to authorise the Head of Planning and Growth:

- i) to defend the decision of the Committee at the forthcoming appeal hearing/ public inquiry, and
- ii) to remove, amend or add to the reasons for refusal in response to new evidence, information or amendment in the lead up to the forthcoming hearing/public inquiry, and
- iii) to appoint an advocate and expert witness (as necessary) to present the Council's case and defend its reasons for refusal, and
- iv) to agree a 'Statement of Common Ground' with the appellant and any other 'Rule 6' party, and;
- v) to suggest conditions to be imposed upon any grant of planning permission should the Inspector be minded to allow the appeal.

### **Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online:

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O6740LPDGSR00>