



Appeal Decision

Inquiry held from 28 to 30 June 2022

Site visit made on 28 June 2022

by Jonathan Bore MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2022

Appeal Ref: APP/U1105/W/21/3270077RD

Honiton Cattle Market, Silver Street, HONITON, EX14 1QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Churchill Retirement Living Ltd against East Devon District Council.
 - The application Ref 20/2410/MFUL, is dated 6 November 2020.
 - The development proposed is the demolition of existing structures and redevelopment to form 57 retirement living apartments for older persons including communal facilities, parking and landscaping.
 - This decision supersedes that issued on 11 August 2021. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing structures and redevelopment to form 57 retirement living apartments for older persons including communal facilities, parking and landscaping at Honiton Cattle Market, HONITON, EX14 1QN in accordance with the terms of the application, Ref 20/2410/MFUL, dated 6 November 2020, and the plans submitted with it, subject to the following conditions:
 - 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: 10106HT PA LOC A; 10106HT PA01 rev A, PA02, PA03, PA04, PA05, PA06, PA07, PA08 and PA09; with the exception that roof materials are to be natural slate as required by Condition 6.
 - 3) 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 the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; measures to control the emission of dust, dirt, noise, vibration and light pollution and measures to protect water quality during construction; the recycling and disposal of waste during construction; and delivery, demolition and construction working hours.

- The approved construction method statement shall be adhered to throughout the construction period for the development.
- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice, and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority.
 - 5) Prior to the development proceeding above base course level, details, including samples, of materials to be used externally on the buildings shall be submitted to and approved in writing by the local planning authority, and the development shall be built in the materials approved.
 - 6) The roofs of the dwellings hereby permitted shall be covered in natural slate, to be secured using nails, in accordance with details including samples that have been submitted to and approved in writing by the local planning authority.
 - 7) No dwelling shall be occupied until the car parking spaces, bicycle stand, mobility scooter store, refuse store, disabled parking bays and operational electric vehicle charging bays have been laid out within the site in accordance with drawing no 101HT PA01 rev A, and those facilities shall thereafter be kept available for those purposes.
 - 8) No dwelling shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. The drainage system shall thereafter be operated in accordance with the approved details.
 - 9) No dwelling shall be occupied until a landscaping scheme, including planting, areas to be grassed, and hard surfacing, has been submitted to and approved in writing by the local planning authority. The approved landscaping scheme shall be carried out in the first planting season following the completion of the development; and 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 or species.
 - 10) The existing boundary walls on the site shall be restored before the completion of the development in accordance with details submitted to

and approved in writing by the local planning authority, and no such wall shall be demolished.

Main Issues

2. The main issues in this appeal are, firstly, the effect of the scheme on the settings of the Honiton Conservation Area and the Grade II listed St Paul's Church, and secondly, the effect of the proposal on business and employment opportunities in the area.

Reasons

The effect of the scheme on the settings of the Honiton Conservation Area and St Paul's Church

3. Honiton Conservation Area has a mostly 18th Century and early 19th Century appearance, with larger buildings fronting the High Street and burgage plots and yards behind. Its character and form reflect its medieval origins, its rebuilding after a series of fires, its industries and agricultural connections, and its former coaching function. The most prominent building is St Paul's Church, designed by Charles Fowler and completed in 1838, with its lofty tower dominating the High Street and its tall Romanesque nave and apse rising above the surrounding buildings. The appeal site is outside and to the north of the conservation area, apart from its southern boundary which is just within it, but the site is within the setting of the conservation area and church.
4. The appeal site, of about 0.4 hectares, is not a historic yard or burgage plot; it was formerly a purpose-built cattle market which opened in 1910. The market has long ceased to operate, and its more recent use as a livestock collection point on two mornings a week has now also ceased. Although the site is a physical reminder of the town's old agricultural connections, it now has a run-down appearance, with unattractive single storey utilitarian buildings and a hard surfaced area, and its historic stone boundary walls are partly degraded and in a poor state of repair. Its current appearance in my view detracts from the setting of both the conservation area and St Paul's Church. The harmful effect of vacant buildings and those without a suitable alternative use is recognised by the Honiton Conservation Area Appraisal.
5. The scheme would consist of a long three storey building housing 57 retirement apartments for older people. The single building is a functional requirement, allowing all residents easy indoor access to the shared communal facilities. It would be the only building of this type and form in the immediate locality, but there is no single prevailing character or built form that demands a particular design response on this site: it sits between the conservation area on one side and, on the other, modern, larger footplate educational and leisure buildings, a car park and a recreation ground; whilst nearby there is modern infill housing of two to three storeys. The site is at a lower level than the High Street and the building would be stepped down in response to the site levels. It would be designed as far as possible as a series of visually distinct elements, with varied building and ridge lines and different finishes. This design approach, whilst not incorporating physical gaps, would be effective in breaking up the length and bulk of the building. Though it would be a new element in the townscape to the north of the town centre, it would not hinder an appreciation of the linear nature or grain of the conservation area.

6. As regards materials and window detail, the scheme would use UPVC casement windows rather than vertically oriented wooden sliding sashes; the appellant says this is for ease of operation, maintenance and performance. Given the location outside the conservation area and the mixture of window styles in the vicinity, this would be appropriate. The elevations would take reference from colours and textures found in the older part of the town and the appellant proposes to use natural slate for the whole roof rather than artificial slate and concrete roof tiles indicated on the application drawings; details of elevational and roof materials can be sought by condition. The old stone boundary walls would be retained as part of the scheme and their restoration can also be made the subject of a condition. The proposed use of materials and the window design are acceptable.
7. The scheme would have no effect at all on the relationship of St Paul's Church tower to the High Street, and verified views indicate that the development would have little if any impact on the glimpses of countryside seen through the small gaps at the side of the church. On the other side of the church, to the north-west, the scheme's building plan and orientation would be designed to protect important views of the tall nave and apse, which rise prominently above the town's buildings. From significant public viewpoints in School Lane, Northcote Lane and the nearby recreation ground, the proposed development, rather than competing with the nave, would be seen as a foreground feature which would draw the eye towards the church and frame it, emphasising rather than detracting from its significance. Nave and apse would be partially obstructed in views from some more northerly parts of the car park and recreation ground, but owing to distance, intervening vegetation and the presence of parked vehicles, these are not significant public viewpoints. The current unsightly market site would be removed, and the development would create a more effective sense of enclosure to School Lane than the present indeterminate array of buildings. The setting of the church would therefore be both preserved and enhanced.
8. To conclude on this issue, the scheme, including its scale, form, design and materials, would be acceptable in the context of the varied built forms in the immediate vicinity of the site, including the rear of the High Street buildings within the conservation area. The proposal would therefore accord with Strategy 48 and Policy D1 of the adopted East Devon Local Plan 2013 to 2031 and Chapter 12 of the National Planning Policy Framework, which taken together aim to retain local distinctiveness and ensure that development is of high quality and relates well to its context. There would be no harm to heritage assets: the development would not harm the character and appearance of the conservation area and would preserve and enhance the setting of St Paul's Church; it would therefore accord with Strategy 49 and Policies EN9 and EN10 of the Local Plan and Chapter 16 of the Framework, which protect designated heritage assets and the character and appearance of conservation areas.

The effect on business and employment opportunities in the area

9. The vision for Honiton set out in the adopted East Devon Local Plan 2013 to 2031, is (in brief) to focus on improvements to the existing urban fabric, improve the town centre, build on community aspirations for a vibrant local economy, secure both indigenous and inward investment in employment growth and seek modest housing growth. To this end, Strategy 23 encourages the building of additional new homes within the town's built-up area and makes

provision for additional employment land through a site allocation. Strategy 32, which applies to the whole district, resists the change of use of current employment land and premises where it would harm business and employment opportunities in the area, subject to certain caveats, one of which concerns the marketing of the site. One of the Council's principal objections is that this site was not marketed prior to the submission of the planning application which is the subject of this appeal.

10. Managed by a firm of local chartered surveyors and auctioneers, the former livestock facility on the site was a collection point for taking finished cattle and sheep to slaughter and for taking calves to rearing units. It operated only on two mornings a week and ceased early in 2022, having been served notice to quit. Six full time and five part time jobs were associated with the operation on the site, according to the planning application form, compared with one for the proposal. However, it would be wrong to draw conclusions about job losses and harm to business and employment opportunities from that raw information, for several reasons.
11. Firstly, there is no convincing evidence either of harm to the farming sector or of the likelihood or indeed desirability of the previous sui generis use returning. On this point this decision comes to a different conclusion from the previously quashed decision. The service provided to the sector by the former use is recognised, and it is acknowledged that the firm which ran the stock collection activity from the site is currently collecting off farm at a lower level than previously (Document ID 2). However, the February 2022 agricultural appraisal and its May 2022 update, taken together, concluded that the closure of the Honiton livestock collection centre would be inconvenient for some, but would not be a reason for farmers to change their farming practice, because other options exist. Moreover, the firm has applied for, and been granted, planning permission for a replacement livestock collection point on another site at Offwell, just outside Honiton. This site would provide modern facilities and improve on the service offered by the old site. As Document ID 2 states, this may take time to develop, but the February 2022 agricultural appraisal commented that even if the alternative site was not established, it would not affect the type of farming in the region and would not have any impact on agricultural employment. The May 2022 update stated that it could not envisage a situation in the future in which the old centre in Honiton would be needed for agricultural purposes. The evidence demonstrates that the farming sector is adjusting successfully to the change in circumstances without harm to business or employment opportunities.
12. Secondly, it is most unlikely that the site could be re-used acceptably in its current form for business purposes. Business use was supported by two local business owners who came to the inquiry, but the site is run down and the buildings are generally outworn with a limited life. Uninsulated, some with asbestos cement, some open-sided, and purpose-built for the livestock market, they would not be straightforward to adapt for business purposes. Business use would require planning permission because the previous use was sui generis, and this would raise difficult planning issues. There are many homes very close to the appeal site including those at Tucker Court, Allhallows, Angel Mews and Northcote Lane, together with a school and recreation ground; and the constricted access to the site would raise issues of highway safety and residential living conditions, creating significant impediments to business use. Also, as previously observed, the site currently detracts from the setting of

Honiton Conservation Area and St Paul's Church; if it were to be used in its current form for business, even with site adaptation, it would continue to harm these settings, and its full-time operation with its associated commercial vehicles would make the situation worse. In its present form the site has too many constraints for it to be realistically capable of sustaining a significant degree of business use.

13. Thirdly, the prospect of a small business unit redevelopment is unrealistic. Recognising that offices, large light industrial and warehouse units and trade counter uses would not be viable in this location, the Council have produced, for this appeal, a hypothetical scheme for the site consisting of a series of terraces of different owner occupier business units small enough either to be exempt from business rates or to attract small business rate relief. A number of successful schemes of this kind have been built in the South West in response to continuing demand. However, the exercise serves to illustrate the difficulties associated with redeveloping the appeal site for business. The number of homes near the site has already been alluded to; the entrance to the hypothetical scheme would be opposite Allhallows and the rear wall of one of the unit terraces would be close to Tucker Court. The noise and vehicle activity, which would exist even if HGVs were restricted, together with the more utilitarian appearance of a business scheme, would have a negative impact on the living conditions and surroundings of nearby homes and it was notable that local residents came to the inquiry, not to object to the housing scheme, but to express their concern about the possibility of the site being developed for business use. As mentioned above, a school and recreation ground are close by. Moreover, the functional materials, turning and standing areas and parked vans associated with such a scheme would harm the setting of the church and conservation area. Whilst recognising that this is a hypothetical layout, the site is too small and constrained to lend itself to significantly different configurations. More stringent design and layout requirements would constrain floorspace and operational areas with consequences for viability. The proximity of residential property, the constricted access, and the position within the setting of heritage assets make it unrealistic to expect that an acceptable small unit business scheme could successfully be realised.
14. Fourthly, the scheme would have no material effect on wider employment opportunities and employment land availability. Honiton has a large and busy employment area in the form of Heathpark Industrial Estate, and the adopted East Devon Local Plan 2013 to 2031 has allocated a substantial area of additional employment land to the west at Haynes Lane. Whilst acknowledging the verbal evidence of some tightness in the current supply of premises, the employment land figures for Honiton itself as set out in the Statement of Common Ground demonstrate an adequate overall supply of such land, with 8.5 years' supply of immediately available land (0-2 years) and 16.7 years supply of short- and medium-term land (0-2 years and 2-7 years).¹ There is also a healthy supply of 103 hectares of employment land in the district.
15. The evidence indicates that the proposal for retirement homes on the appeal site would not harm business and employment opportunities in the area and would therefore not conflict with Local Plan Strategy 32. It is not necessary to

¹ Regarding the disputed elements in the SoCG, East Devon District Council's occupation of its new offices is counted as take-up, whilst recognising that it is outside the normal run of events. Foundry Yard was previously in employment use, so its re-use is not regarded as take-up, whilst the mere sale of site 11D in the absence of any planning application does not itself represent take-up.

go on to consider the exceptions contained within the policy, including the marketing of the site, because these exceptions are contingent on there being such harm, and there would be none. The scheme would also accord with the Local Plan's vision for Honiton and with Local Plan Strategy 23; it would improve the urban fabric, provide a modest number of new homes within the built-up area and would not impede the delivery of the employment allocation.

Housing considerations

16. The scheme would provide homes for older people, thus meeting a specialist housing need highlighted in the East Devon Housing Needs Assessment (2020) and releasing existing homes on to the market. The adopted Local Plan does not make any provision for this kind of specialist housing for older people and no such housing has been built in the town in recent years. The new homes would make efficient use of an eminently suitable brownfield site within a very short walk of the High Street and public transport. The new residents would likely use the town centre facilities and services, helping to support the local economy.
17. It would be difficult for an affordable housing provider to manage stock on-site, but the appellant's completed unilateral undertaking dated 7 July 2022 provides for an appropriate contribution towards the provision of off-site affordable housing with an overage clause.
18. The scheme would therefore further the objectives of Local Plan Strategies 3 and 4, which promote sustainable development and balanced communities; Strategy 23 regarding development at Honiton; Strategy 34, which seeks affordable housing in connection with residential developments; and Chapters 5 and 11 of the National Planning Policy Framework, which respectively deal with housing provision and making effective use of land.
19. Taking into account the site circumstances and location, and all the submitted evidence, and reading as a whole the full range of policies in the Framework and the Local Plan, the proposed housing scheme represents a much more appropriate development for this brownfield site adjacent to a town centre than a reoccupation by the last previous use, or re-use or redevelopment for business purposes.

Conditions

20. The list of conditions suggested in the Statement of Common Ground have been combined into a set of more concise conditions. It is not necessary to attach an age-related occupancy condition as these matters can be managed through the lease. Apart from the standard time limit condition, conditions are required to protect nearby residential living conditions during the construction period; to address drainage and potential land contamination; to protect the character and appearance of the area by requiring the submission of details of facing materials and landscaping and natural slate for the roof and to protect and restore the old stone boundary walls; and to ensure that provision is made for parking, cycle and mobility scooter parking and electric vehicle charging as indicated on revised site plan 10106HT PA01 rev A. These conditions are set out in the first paragraph of this decision.

Conclusion

21. The scheme would meet an identified specialist housing need for older people on a very suitable brownfield site close to the town centre. It would not harm the setting of the conservation area and would preserve and enhance the setting of St Paul's Church. It would not harm employment or business opportunities in Honiton or East Devon. It would comply with the National Planning Policy Framework and the Local Plan as a whole.
22. I have considered all the other matters raised but they do not alter the balance of my conclusions. For all the above reasons the appeal is allowed.

Jonathan Bore

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sasha White QC, instructed by Planning Issues Ltd

He called:

Robert Jackson MArch RIBA	Design Director, Planning Issues Ltd
Paul White MPhil BA MCifA PIEMA	Head of Heritage, Ecus Ltd
James Chaffer MRTPI MRICS	Partner, Alder King Property Consultants
Matthew Shellum BA DipTP MRTPI	Planning Director, Planning Issues Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mark Westmoreland Smith, of Counsel, instructed by East Devon District Council

He called:

Karen Pritchard BA AssocIHBC	Conservation Officer, East Devon DC
Chris Parkes FRICS	Senior Director, Lambert Smith Hampton
Jeremy Ebdon BSc MRTPI	Principal Planning Officer, East Devon DC

INTERESTED PARTIES:

Roger Wadman	Honiton resident
Joanne Maxwell	Honiton resident
Martin Williamson	Foundry Yard, Honiton
Tim Parnell	Heathpark Industrial Estate, Honiton

DOCUMENTS

Core Documents CD 1 – CD 99

ID 1: Letter of notification and list of persons notified

ID 2: Email correspondence between the Council and Stags

ID 3: Completed unilateral undertaking dated 7 July 2022

PLANS

Plans 10106HT PA LOC A; 10106HT PA01 rev A, PA02, PA03, PA04, PA05, PA06, PA07, PA08 and PA09.

PHOTOGRAPHS

Brochure of proposals and images (CD 45)