



## Appeal Decision

Inquiry held between 7 and 10 June 2022

Site visits made on 6 June (unaccompanied) and 10 June (accompanied)

**by J Wilson BA (Hons) BTP MRTPI DMS**

**an Inspector appointed by the Secretary of State**

**Decision date: 26<sup>th</sup> July 2022**

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**Appeal Ref: APP/C3810/W/22/3292333**

**Chandlers Garage, BMW House, Water Lane, Angmering, LITTLEHAMPTON, BN16 4EH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by McCarthy and Stone Retirement Lifestyles Ltd against the decision of Arun District Council.
  - The application Ref A/110/21/PL, dated 28 May 2021, was refused by notice dated 8 October 2021.
  - The development proposed is for the erection of retirement apartments (Category II type) with communal facilities and car parking. Erection of a retail store with car parking and associated highway works.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The Inquiry sat for 4 days between 7 and 10 June 2022. I visited the surrounding area informally on 6 June and on 10 June where I followed an agreed itinerary prepared between the parties and, by agreement, on an unaccompanied basis. Following that, and accompanied by representatives of the main parties, I inspected the appeal site.
3. For the avoidance of doubt the description in the heading above is taken from the original application form. Design amendments were made to address points of concern from Arun District Council (The Council) which involved a modification to the roof to reduce the mass and a consequent reduction in the size of one of the units. These changes were proposed in February 2022 after the refusal of the scheme by but prior to the lodging of the appeal. The scheme was referred to at the Inquiry as the 'Wheatcroft scheme'. There was no alteration in the number of units proposed (33 in total) and I am satisfied that the amendments would not change the substance of the scheme for which planning permission had been sought neither would it result in any greater impacts on people or the environment. The appellants undertook notification on these plans to those consulted on the planning application stage giving them the opportunity to make further comments on the amended plans. In view of these steps, I find that there would be no material conflict with the Wheatcroft principles. I also note that the Council have no objections to the inclusion of the amendments, and I have considered the appeal on the basis of the amended plans.

4. I held a Case Management Conference (CMC) on 6 April 2022 via Microsoft Teams. At the CMC the main issues were identified, the method of dealing with evidence at the Inquiry; the progress on statements of common ground; the listing of core documents; the timetable for submission of documents and other housekeeping procedural matters. I prepared and distributed a note of those proceedings.
5. A draft statement of common ground between the appellants and the Council was submitted with the appeal. A signed version was provided at the opening of the Inquiry and I have had regard to it reaching my decision.
6. Prior to the Inquiry the Council and the appellants reached agreement on an acceptable contribution towards the provision of offsite affordable housing increasing from £50,418 to £231,247, to be secured by a unilateral undertaking (UU). On that basis the Council withdrew the first reason for refusal and it became unnecessary for viability evidence to be heard at the Inquiry. A signed and dated UU was submitted prior to the close of the Inquiry and I have had regard to it in reaching my decision.
7. The Council also reached agreement on the level of parking needed to serve the residential elements of the development, subject to an age related condition being imposed. On that basis that part of the second reason for refusal relating to the level of parking for the residential aspect of the development was withdrawn and was not contested at the Inquiry.
8. The policy context for this development is the Arun Local Plan 2011-2031 (2018) (the Local Plan) and the Angmering Neighbourhood Plan (the ANP) which was made in March 2015. Policy HA3 of the ANP allocates the appeal site for residential development for at least 20 dwellings. Thus, there are policy led expectations for the development of the site. There is no dispute that the redevelopment of the site is supported and that the removal of the derelict buildings would be beneficial. Similarly, there is no dispute that the site is previously developed land (PDL) which is located in a central position in the village.
9. It is not disputed that the Council cannot demonstrate a five-year supply of housing land as required by the National Planning Policy Framework (the Framework). The figure quoted was 2.4 years and again that figure was not disputed. The consequence of this is that the provisions of paragraph 11 d) of the Framework are relevant as a material consideration in the planning balance. The Council maintained that this position was affected by the impact upon designated heritage assets.

### **Main Issues**

10. In the context of the above the main issues for consideration are: -
  - a) The effect of the development on the on the character and appearance of the area;
  - b) The effect of the proposed development on the setting of Designated Heritage Assets (DHAs), these being the Grade II listed building 'Eachways' and the Angmering Conservation Area;
  - c) Whether the provision for car parking in relation to the retail floorspace is adequate;

- d) If harm is identified to DHAs, whether any such harm would be outweighed by any public benefits arising from the proposal.

## Reasons

### Background

11. The appeal site lies close to the centre of the village of Angmering. It is a vacant semi derelict site previously used as a retail sales facility and car showroom. The site was vacated around 2015/16, a property 'Phares Courtledge' forms part of the appeal site and is subject to a demolition notice<sup>1</sup>.
12. It was put to the Inquiry that a previous development scheme had been supported by the Council. It became clear that earlier scheme, which was for a smaller number of units, had been refused due to the lack of affordable housing and insufficient car parking. Nonetheless that scheme, which included development set back from the Water Lane frontage, was not refused on design grounds.
13. There is no dispute that the site, in its current condition, lacks any positive contribution to the ACA or to the setting of Eachways, a Grade II Listed building which lies immediately adjacent to the site. The parties agreed that the removal of the derelict buildings would be beneficial. It was also acknowledged by both parties that the site is in a sensitive location being in a 'landmark'<sup>2</sup> location in the village.
14. The proposal is for a single building generally in an 'H' configuration. It provides a two storey building incorporating 33 apartments for retirement living. This, for operational reasons relating to level access, necessitates common floor levels internally. A retail store is proposed to be located on the ground floor of the Water Lane frontage. The buildings would have a common ridge height of 15.6 metres (for both the High Street and most of the Water Lane frontage). The plan form varies from 34 metres wide by 10 metres deep for the High Street element of the building to between 15.5 and 27 metres wide by 59 metres in depth for the main element facing Water Lane. The roof configuration necessitates a flat roofed valley concealed behind sloping roofs to accommodate the depth of the proposed plan form.

### Character and appearance

15. The village is characterised by a variety of building types with the buildings in the centre of the village generally located directly onto the frontage with some narrow gaps between buildings. Despite this the buildings are set around public spaces in the form of two greens which is referred to as the Square but which is irregular in shape. There is a particularly varied roofscape which is described by the appellants as a principal and striking feature of the area<sup>3</sup> and where highly articulated roofs present considerable informality and diversity. This gives the ACA a highly distinct and strong character which is part of its significance as a DHA.

### *Water Lane*

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<sup>1</sup> Demolition Order – Part 1 Part 1 - Housing Act 2004 Section 265 – 274 Housing Act 1985 referenced at 7.7 of Proof of Evidence (POE) of G Bendinelli

<sup>2</sup> LPA Closing para 2

<sup>3</sup> POE A Feculak paragraph 3.5.6

16. The two roadside frontages of the appeal site have very different characteristics and sensitivities. That on the approach into Angmering along Water Lane, lies outside the ACA. Nonetheless it performs a function, accepted by both parties at the Inquiry, as an important visual gateway into the village. That gateway is framed by two listed buildings; the rear elevation of Eachways and the side elevation of the Lamb Public House. As such the treatment of the Water Lane frontage of the appeal site is important in framing the approach into the village, particularly in the context of the setting of Eachways and to a lesser extent the Lamb Public House. Both these buildings along with that portion of the site which fronts the High Street are within the ACA.

### *High Street*

17. There are two triangles of open green space in the vicinity of the appeal site which form important focal points within the Square. The smaller of the two greens is located directly in front of Eachways and is adjacent to the High Street frontage of the appeal site. The larger green which the main focus of the Square and is home to the War Memorial is enclosed by Water Lane and Arundel Road. From this location there is a clear vantage point to Eachways and to the appeal site. These form a visual backstop to the north eastern end of this public space. In this context the appearance of the buildings on the appeal site is substantially obscured by frontage trees and vegetation which, though substantial in both height and density, are mainly self-seeded and not individually in good condition. The varied heights of buildings further along High Street to the east are not discernible from the small green in front of Eachways or the appeal site due to the topography, the alignment of High Street and the presence of vegetation.

18. The buildings in the centre of the village are characterised by historic development of differing designs and materials including extensive use of brick, flint, and render. A defining feature is the variation in roof heights and detailing which is described as producing a tightknit intimate streetscape<sup>4</sup> because of the relative proximity of the buildings to the back edge of the footpath<sup>5</sup>. The differing roof heights contribute to a rich tapestry of built form and produce distinctive variations which positively contribute to the character of the area. That said, the location of the green and the presence of a row of end on parking spaces in front of the local shops gives a wide separation between these buildings which results in a spacious open feel to this part of the village. In this particular context the space frames the view of Eachways and the appeal site at the north eastern end of this public space.

19. The High Street frontage of the appeal site forms a verdant and prominent backdrop to the two greens in the village. The existing vegetation obscures views of the derelict buildings within the appeal site. It replicates a sense of verdant enclosure also evident on the south western side of the main green. Even though the condition of the vegetation on the High Street frontage of the appeal site is poor, visually it makes a strong and positive contribution to the character of the area.

20. The appeal proposal would introduce a building which would be at least 2 metres taller than Eachways and would, from the village green, be more than twice the width of Eachways. It would represent a building of substantial mass

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<sup>4</sup> Planning Officers Report to Committee – A/110/21/PL

<sup>5</sup> Para 7.4.30 of G Bendinelli POE

which would have a dominating presence in this location, a factor accentuated by the position of the rendered terrace set much further forward than Eachways. I note that the Council accept that two storey developments on the site is inevitable given the allocation of the site for residential use coupled with the requirement to increase ground floor heights to address flooding issues and in order to make full use of a previously developed site. Nonetheless, the proposal, due to its position, bulk, form, common ridge height and lack of variation in its architectural detailing on the High Street frontage, would not simply present a different building but would introduce a highly visible one which would be dominant, and discordant when compared with its immediate surroundings and which would compete with, rather than complement, adjoining buildings. It would be particularly prominent from the public space. Significantly, it would lack the diverse characteristics found in the roof patterns and form of buildings in the centre of the village which would result in harm to the character and appearance of the area.

21. It was put to the Inquiry that the High Street elevation would not represent an active frontage to the development. The proposal indicates that the High Street elevation incorporates patio doors onto private patio spaces and gardens which, whilst shared would be contained within private gardens with secure and planted boundaries with no facility for any pedestrian access to the Square. In this regard the development would be at odds with the character of existing development onto the Square where properties are predominantly accessed directly from it.
22. For the reasons outlined above the development would be harmful to the character and appearance of the area in conflict with Policies D DM1, D SP1, H DM2 (d) of the Local Plan and Policies HD4, HD5 and HD6 of the ANP and to the provisions of the Framework. These Policies amongst other things, seek to ensure that development reflects the characteristics of the site and the local area, that design is appropriate to its context and is locally distinctive. It would also fail to accord with one of the principal objectives of national planning policy which is to conserve and enhance the historic environment.

### Designated Heritage Assets

#### *Eachways – Water Lane Frontage*

23. It is an agreed point that the Designated Heritage Assets (DHAs) affected by the appeal proposal are the Grade II Listed Building Eachways and the Angmering Conservation Area (ACA). Though only part of the appeal site (to the High Street Frontage) lies within the ACA.
24. Eachways is an early 19th Century Grade II Listed Building the significance of which derives from its architectural quality being two storeys with generally symmetrical form, square knapped flint walls, a tiled roof, and traditional windows. Despite its flint wall and hedge enclosure obscuring the ground floor openings, its simple historic and unaltered form is accentuated by its prominent position at the north eastern side of the Square. The importance of its front elevation is amplified by the absence of competing buildings either side or above it. I agree with the appellants description that the Eachways is an important point of emphasis in the street scene which affords this building a sense of primacy, as such it is a building of some status in the village. These factors further contribute to its significance as a DHA.

25. To the rear of Eachways on the Water Lane frontage, the proposed development presents as a two storey development with variations to the architectural detailing including different materials and a modest variation in roof details. The formation of a courtyard to the rear of Eachways including a rendered gable facing the listed building would create a focal point to the rear of Eachways that would represent an improvement to its setting especially when compared with the current context of the derelict buildings.
26. However, even though the height of the design has been minimised through the inclusion of a concealed flat roof behind sloping roofs, the bulk, size, and massing of the building is such that it would be visible on this frontage and would dominate the view when approaching the village and there would be a greater physical impact on the rear of Eachways than the existing buildings. The cumulative effect would be to further obscure 'Eachways' from view until any observer was almost in front of the building.
27. The result of the proposed development would therefore diminish the contribution made by Eachways on the approach into the village as it would essentially be hidden until the point immediately in front of it. This would cause some harm to the setting and appreciation of the listed building. It is acknowledged that, given this is an allocated site, any two storey developments, including individual buildings or flatted block(s) could have an analogous impact on the Water Lane frontage and similarly an effect on the rear elevation of Eachways and also on the approach into the village. However, this does not justify the scheme before me, which would be harmful to the setting of Eachways by virtue of its massing and its relationship with Eachways.

#### *Eachways – High Street Frontage*

28. The High Street frontage to the appeal site has an altogether different set of sensitivities. The proposal would introduce an architecturally uniform terrace directly to the south east of Eachways. This rendered terrace would be punctuated by four two storey gables with the recessed elements of the building detailed in brick. It was put to the Inquiry that the use of render on this elevation was a conscious design choice<sup>6</sup> so as to complement rather than compete with Eachways. I do not criticise that choice, per se, as it is a material commonly found in the village and which is also supported by the ANP. However, it would not, in this context, serve to reduce the visual impact of the building in comparison to Eachways especially given its location well forward of the Listed Building.
29. The Inquiry was told that the floor levels on the site are required to be higher than existing levels due to the need to make the site resilient to flooding. This in conjunction with the requirements for modern internal roof heights as dictated the overall height. However, this would result in a building which would exceed the height of the adjacent listed building by over two metres which would produce an unduly assertive development in this location.
30. Despite the contention that the rendered elevation was a deliberate design choice selected so as to complement rather than compete with the appearance of Eachways, the height of the ridge facing High Street would be around 2 metres taller than the ridge of Eachways. The proposed ridge would be lower than other properties at Angmering and Woodford villas which are the adjacent

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<sup>6</sup> EIC Mr Fekulack



terraces rising up High Street to the south east, however these buildings are not seen in the view of the appeal site from the Square. Additionally, elements of the H shaped building would be visible in the space between Eachways and the proposed development.

31. The long sections<sup>7</sup> serve to show the relationship between Eachways and elements of the proposal. They illustrate the height of the terrace and the rear part of the appeal building as it would be seen in relation to Eachways. Whilst from the small green, close up to the building the rear part of the building would not appear visible above Eachways, from the longer and equally important views from the centre of the village and also within the ACA, it would be markedly visible. It would also be visible in the gap between Eachways and the terrace fronting High Street which would give the impression of being filled with buildings even though the front elevation of the rear block would be set back into the appeal site.
32. The amendments forming the revised 'Wheatcroft' scheme which alter the side of the terrace to include hipped roofs would be insufficient to mitigate this relationship. In any event the High Street frontage would be dominated by the appeal building which would lack any relief in its overall roof height. Taking these matters together the impact of the visual prominence of the rendered terrace, would be to crowd Eachways to the point that it would be both dominated and overwhelmed by the appeal proposal. As a consequence, there would be a harmful effect on the Listed Building at Eachways which would noticeably alter and detract from its setting and therefore its significance.
33. Whilst I have no doubt that the materials and detailing of this elevation could be executed in a manner which would be commensurate with or complement detailing found elsewhere in the village centre, in this particular case the extent of the footprint required for level access coupled with the overall number of retirement units would result in a building of such magnitude that it would fail to sit comfortably next to Eachways. The proposed scale and massing of the building does not, in my view, adequately reflect or complement the adjacent Listed Building such that it would represent development at odds with it in its context in the centre of the village.
34. I therefore conclude that the appeal proposal would have a negative effect on the setting of the Grade II listed building at Eachways and cause material harm to its significance as a DHA. The Framework states that such assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance. As decision-maker I must consider this appeal in light of the statutory duties placed upon me in Section 66(1) and of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 1990 Act) which require that special regard shall be had to the desirability of preserving listed buildings or their settings.
35. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a Designated Heritage Asset (DHA), great weight should be given to an asset's conservation. Paragraph 200 goes on to state that any harm to, or loss of, the significance of a DHA, including from development within its setting, should require clear and convincing justification and any harm to a DHA should be given great weight.

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<sup>7</sup> shown in core document 1.6.14

36. For the reasons given above the proposal would conflict with Policies D DM1, D SP1, H DM2 d, HER DM1 and HER SP1, of the Local Plan and Policies EH1, HD4, HD5 and HD6 of the ANP and the Framework. These policies, amongst other things, place a high priority on the setting of listed buildings seeing to protect and where possible enhance their setting and seeking to achieve local distinctiveness. It would also be contrary to the provisions of the Framework which places considerable importance and weight on the preservation of DHAs and one of the principal objectives of national planning policy which is to conserve and enhance the historic environment.
37. The consequence of this finding of harm, even though that harm would, in the words of the Framework, be less than substantial means that the development would require clear and convincing justification. Paragraph 202 requires that harm to be weighed against public benefits, a matter to which I will return.

#### *Angmering Conservation Area*

38. As previously outlined the village is characterised by a variety of building types in generally tightly knit frontages set around an irregular shaped Square which is a focal point in the village. In this part of the ACA there is a highly distinct and strong character attributed to the presence of listed and other historic buildings set around this public space. This character is strengthened by the individual trees in the central space around the War Memorial<sup>8</sup> and planted boundaries particularly to the south west of the Square and the frontage of the appeal site to the north east. These features contribute to the significance of the ACA as a DHA.
39. There is no conservation area management plan in place though the ANP provides extensive information as to the history of the village and contains a clear indication of the historical importance of the Square to the village.
40. The High Street frontage of the appeal site and roughly 25 metres of the site depth from this frontage lies within the ACA boundary. The frontage forms an important backdrop to the public space from the village centre even though it is formed from vegetation rather than built form. The condition of this vegetation is generally poor as it is self-seeded and lacking maintenance. Nonetheless, its removal would visually open up the appeal site and afford views into it which are not currently available. Whilst there were contradictions in the evidence of the appellants regarding the appropriateness of the green boundary to the High Street Frontage of the site in the ACA, the appellants evidence describes Angmering as a 'well vegetated townscape'. I found this to be the case on my site visits particularly in the Square as a focal point in the village.
41. The introduction of a substantial building which, in the context of the High Street frontage would represent a striking intrusion into the ACA where the use of white render coupled with the prominence of the projecting two storey gables would accentuate the structure rather than serve to blend it in to the streetscape. Moreover, the detailed articulation and choice of materials including those for windows, eaves, soffits, downpipes, and roof materials would not, in my view, be sufficiently sympathetic in this highly sensitive part of the ACA. Whilst the Council accepted in cross examination that alternative details could be secured by the imposition of conditions, this would not

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<sup>8</sup> The War Memorial is a listed building in its own right.



overcome the harmful effect of the scale and mass of the building in this particular context.

42. The revised design of the building would increase the perceived gap between the proposal and Eachways though it would not achieve a significant reduction to the prominence of the scheme from the High Street. It would be insufficient to satisfactorily integrate the proposal in terms of the form, character, scale, and massing of the surrounding townscape as required by the Arun Design Guide.
43. I have already referred to the long sections<sup>9</sup> which show the site in the context of Eachways, similarly those same sections show the extent of the impact of the development in the ACA. In the context of the sensitivity of the High Street frontage of the site the development would be highly visible. The scale, form, continuous ridge height and resulting massing of the building on this prominent site would have a significant impact which would be visually intrusive on this sensitive site. The proposed replacement vegetation, amounting to three individual trees and a boundary hedge would inevitably mature and be more prominent in time, but it would not effectively obscure the stark appearance of the terrace within the ACA nor would it diminish the visual impact in the short medium or long term to lessen the permanent and lasting effect on the ACA.
44. In accordance with section 72(1) of the 1990 Act, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. For the reasons outlined above the proposal would fail to do so and would conflict with Policies D DM1, D SP1, HER SP1, HER DM3 of the Local Plan and Policies EH1, HD4 and HD5 and HD6 of the ANP and the provisions of the Framework. These policies, amongst other things, place a high priority on the protection of designated heritage assets and where one of the principal objectives of the Framework is to conserve and enhance the historic environment.
45. I note that the appellants contention that the Council's decision making should be consistent in that it was put to the Inquiry that an earlier scheme would have been higher than this proposal. However, I am required to consider the proposal before me on its merits having regard to relevant development plan policies and I have considered the scheme on that basis? Moreover, the previous scheme was refused planning permission albeit not on design grounds.
46. In reaching my conclusion I have also borne in mind that the allocation of this site for a minimum of 20 dwellings would necessitate structures of some significance on the site, particularly if retail and flatted accommodation are involved. The appellants highlighted that the earlier scheme proposed such elements however I note that this was for a much smaller number of residential units<sup>10</sup> which is clearly a materially different scheme. It also serves to demonstrate that an alternative design could be achieved on the site as the Council did not raise design issues with the earlier scheme effectively concluding that it would not cause harm the DHAs.

### Conclusion on Heritage and Conservation Matters

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<sup>9</sup> shown in core document 1.6.14

<sup>10</sup> 19 rather than the 33 units now proposed.

47. The Council conceded in cross examination that in their internal heritage balance they had afforded great weight to the heritage benefits of the removal of the derelict buildings and great weight to the harm caused by the proposal, which the appellants argued did not support a conclusion of less than substantial harm and on that basis argued there was no need for further consideration of heritage issues. The appellants also asserted that it is a requirement of Planning Practice Guidance (PPG)<sup>11</sup> to articulate where in the less than substantial harm scale the claimed harm lies in order that the weight to be given to it may be properly apportioned and then, where required assessed against public benefits. However, this approach seeks to impose a granularity to the assessment which is not present in paragraph 199 of the Framework nor in the text of the PPG. The Framework at paragraph 199 states that great weight should be given to an asset's conservation irrespective of the extent of the harm caused. Paragraph 203 in the Framework addresses 'scale' in relation to 'harm or loss' however this is in respect of non-designated heritage assets which this is not the case here.
48. The PPG also states that the category and extent of harm may vary and should be clearly articulated but it also states that even minor works have the potential to cause substantial harm. The PPG requires the extent of the harm to be articulated but does not require the identification of any scale.
49. On the basis of the evidence and from what I have read, seen, and heard, and for the reasons set out above I conclude that the development would fail respect the setting of the adjacent listed building therefore harming its significance. The development would run contrary to the expectations under sections 66 of the 1990 Act which requires that I take account of the desirability of preserving listing buildings.
50. Equally the proposal would cause significant harm to the character of ACA from The Square in Angmering which would conflict with the requirements of section 72 of the 1990 Act in that it would fail to preserve or enhance the ACA. Furthermore, paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a Designated Heritage Assets (DHAs), great weight should be given to the assets conservation. Paragraph 200 goes on to state that any harm to, or loss of, the significance of a DHA, including from development within its setting, should require clear and convincing justification. I will consider this further under public benefits below.

### Parking

51. The car parking provision for the retail store does not fully meet the advisory standards set out in the Arun District Council Parking Standards Supplementary Planning Document 2020 (PSSPD). These reflect the West Sussex County Councils' guidance on parking at new developments 2019 (County Guidance). The Inquiry heard opinions on the efficacy of adopting a retail parking standard for a large supermarket compared to a small convenience shop where the duration of visits would be much shorter for 'small basket' shopping of only a few items. Similarly, it was argued that these standards were maximums suggesting less rather than more spaces would be required. Nonetheless the shortfall in parking would be around half that indicated in the standards.

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<sup>11</sup> Reference ID: 18a-018-20190723

52. The evidence from the appellant, seeking to demonstrate a lesser need, was based on snapshots of information. Though useful that evidence was insufficiently robust to demonstrate conclusively the likely parking requirement needed for this type of convenience store. So, whilst the principles of that position appeared to have some merit, they have not been demonstrated to the degree required to establish a definitive position. Notwithstanding this the shortfall of spaces<sup>12</sup> was argued to be minor and it was also clear that there was no highway safety objection to the scheme and the Council conceded that the shortfall in the parking issue alone, would be insufficient to warrant the refusal of the scheme.
53. The shortfall, in this case, would not give rise to any highway safety risk and given the presence of other on street parking in the vicinity of the site I consider that the shortfall in retail parking would not be materially harmful. So, whilst there would be a shortfall from the identified standards which would conflict with Policy T SP1 of the Local Plan and Policies HD3 and HD8 of the ANP as they require the provision of appropriate levels of parking in line with the PSSPD and the County Guidance, it would not have led me to reject the proposal and parking has not therefore been determinative in relation to this appeal.

### **Other Matters**

54. I have considered the matters raised with regard to the inconsistency of advice from planning officers at pre application stage and the appellants concern that the outcome appeared arbitrary following advice from an officer who opposed rather than the officer who supported the scheme. Whilst different interpretations had been reached on the planning aspects between pre-application and application stage, such advice is advisory and is not binding on the Council at the decision making stage. What is clear to me is that the heritage advice was consistent throughout and it is the heritage matters which have proved decisive in this appeal. In any event, the Council's process of determining the planning application is not a matter for me in considering the merits of the appeal proposal.
55. A number of court judgements have been highlighted by the appellants referring to how the statutory duty under S66 of the 1990 Act should be discharged and highlighting the ability for a net heritage balance to be undertaken. I have had regard to these matters in reaching my decision though these do not lead me to a different conclusion.
56. The issue of density on the site was a matter addressed at the Inquiry where it was established that the ANP sets a figure of at least 20 dwellings for this site. It was not disputed that the policy requirement would not prevent a greater number of units being provided on this site. The policy does not however mean that the site can accommodate substantially more than that suggested number which is inevitably dictated by a judgement on the compliance with other policy matters, as are applicable in this case. In any event the appellant conceded that optimisation does not mean putting as much development as was physically possible rather that a site is developed 'as far as is possible within its constraints'.<sup>13</sup>

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<sup>12</sup> As defined in the PSSPD and the West Sussex County Guidance

<sup>13</sup> Councils Closing para 16

57. The appellants assert that the Council failed to adequately grasp that the proposal was for specialist accommodation for older people. However, it is specifically referred to in their planning report and the decision notice such that it is unambiguous that the Council made their decision clear in the knowledge that it was for retirement accommodation.
58. The Councils reason for refusal refers to conflict with Policy HA3 and HD2 and HD7 of the ANP. The first two of these policies refers to development in excess of 20 units on the Chandlers site and includes criteria to ensure that proposed development addresses flooding, provides pedestrian crossings, and supports additional short term parking spaces for shoppers using the core facilities in the village. I have found no substantive conflict with Policies HA3 and HD2 in terms of the number of units or the criteria. Similarly, Policy HD7 refers to housing density with which there is conflict only in so far as it produces a building of a scale and mass which results in harm to the surrounding area in the context of other policies as set out above.

### **Public Benefits**

59. The Framework at paragraph 202 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The appellants set out a range of benefits and I assess these below.
60. The provision of housing where the Council cannot demonstrate a five year supply of housing represents a clear benefit. This is also set in the context of the Framework objective to significantly boost the supply of homes and the PPG guidance which advises that the need to provide housing for older people is critical. In this context the provision of specialist accommodation for older people is afforded significant weight.
61. There would also be a benefit from the release of under-occupied housing as a result of downsizing, though in the context of 33 units that benefit would be small and I afford this very limited weight.
62. There would also be social economic and health benefits including those related to improving the health and general well-being of older people which lessens the burden on Health and Social Services and the contribution that new residents would make from their contribution to economic activity in the locality. These benefits are afforded moderate weight in the planning balance
63. The provision of affordable housing in the sum of £231,247 was agreed between the appellants and the Council. This is considered to be a benefit of the scheme. However, the weight that can be attached to this benefit is limited by the magnitude of this contribution. It is understood that the size of the contribution has been set in the context of the relatively high costs of developing PDL, nonetheless, the extent of that contribution was discussed at the Inquiry when it was accepted that the sum would result in only a modest provision of affordable accommodation of around 1 unit. Therefore, the benefit of the provision of the equivalent of a single unit can be attributed only limited weight.
64. The removal of unsightly and derelict buildings would unquestionably represent an enhancement for the village, the development would address contamination issues on the site and would be required to address local flooding issues. The

weight to be afforded to these measures should also be seen in the context that they would also be required as mitigation for the development which moderates the weight that can be attached to them as a public benefit. I therefore attach only modest weight to that benefit.

65. The development would improve the setting to the rear of Eachways which would represent a benefit to which moderate weight should be attached.
66. The provision of 4,000 square feet of retail space is argued to be a benefit as it was indicated it would secure the future of the Co-op which will relocate from its existing position in the village. Whilst the Framework at paragraph 81 states that significant weight should be placed on the need to support economic growth, the small number of additional jobs which are envisaged coupled with the fact that this is a business relocating from the centre of the village tempers the weight to be afforded to this benefit even though the existing Co-op accommodation may be relet in due course. The retail space would not be secured through the requirements of this development, so even though the letter of intent from the Co-op provided to the inquiry gives some reassurance that this is likely to happen should consent be forthcoming I can attribute only modest weight to the provision of the alternative retail space as a public benefit.

### **Heritage and planning balance**

67. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. Development which would conflict with and undermine the strategy of an approved development plan and the Framework when taken as a whole would, in planning terms, be harmful.
68. The effect of the Council not having a sufficient housing land supply to meet its needs means that the policies which are most important for determining the application are out-of-date, and so the Framework's 'tilted balance' can apply. However, paragraph 11 d) i. of the Framework states that the presumption in favour of sustainable development should be engaged unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Importantly, footnote 7 includes policies relating to the protection of designated heritage assets, a significant factor in this appeal. Given this conflict the presumption in favour of sustainable development afforded by paragraph 11 d) i, does not apply.
69. The context for this appeal is that this is an allocated site which is identified to deliver housing. In the context of a national imperative to significantly boost the supply of housing delivery is of high importance, but this is not at all costs. In the circumstances of this case the effect on DHAs is a material factor where harm to DHAs must be given great weight irrespective of the extent of that harm.
70. In considering the benefits of the scheme as required to do by paragraph 202 of the Framework, I have found that there would be a number of benefits from the development which together form a weighty consideration in my decision, including the provision of much needed specialist housing, the modest provision

of affordable housing and the social economic and health benefits of the scheme together with the benefits of developing PDL and improving the setting of the rear of Eachways. However, set against these benefits are the significant harms I have found to the character and appearance of the ACA, and to the setting of the adjacent listed building. I apportion great weight to both of these harms. Taking all of these matters into account the public benefits of the proposal would not, either individually or collectively, be sufficient to outweigh the harm to the DHAs such that they would justify granting planning permission for the appeal proposal.

### **Conclusion**

71. The material considerations in this case when taken as a whole do not justify taking a decision other than in accordance with the Development Plan and the Framework. For the reasons outlined above and having regard to all other matters raised, the appeal is dismissed.

*J Wilson*

INSPECTOR



Annexe A – Appearances

**FOR THE APPELLANTS:**

Mr Giles Cannock, of Queens Counsel - instructed by Ms C Fulgoni of the Planning Bureau

He called

Mr Graham Keevill BA(Hons) MCIfA, FSA of Keevill Heritage Ltd

Mr Andrew Feculak BA (Hons) BArch in Architecture of McCarthy and Stone

Mr Mark Smith BA (Hons) MCIHT of Paul Basham Associates Ltd

Mr Gian Bendinelli BSc (Hons), PGDip, BTP, CM, DPC, MRTPI of the Planning Bureau Ltd

**FOR THE LOCAL PLANNING AUTHORITY:**

Mr Ben Fullbrook of Counsel – instructed by Arun District Council

He called

Mr Martyn White BA (Hons) Town and Country Planning, DIP TP, MA Historic Conservation MRTPI of Arun District Council

Mr David Innes – Planning Witness BA (hons) T+CP, PIP TP, MRTPI of Blueprint Planning and Development

Ms Hamilton Street – Angmering Parish Council

Councillor Paul Bicknell – (District Councillor for Angmering) and local resident

**ANNEX B: DOCUMENTS SUBMITTED DURING THE INQUIRY**

- Doc 1 Addendum to the Original Statement of Common Ground (signed 6/6/22)
- Doc 2 Appellants Opening Statement – Mr Cannock
- Doc 3 Councils Opening Statement - Mr Fullbrook
- Doc 4 Script of representation given by Ms Hamilton Smith on behalf of Angmering Parish Council
- Doc 5 Correspondence from Southern Cooperative dated 7 June 2022
- Doc 6 PAA/141/20/ Mr Whites consultation response (internal correspondence) to pre-application enquiry to Arun DC
- Doc 7 Signed UU
- Doc 8 Replacement version of Angmering Neighbourhood Plan with missing text provided
- Doc 9 Agreed itinerary for site visit
- Doc 10 Signed and dated UU
- Doc 11 Revised set of planning conditions
- Doc 12 LPA Closing Submissions
- Doc 13 Appellants Closing Submissions