

**IN THE MATTER OF
THE TOWN AND COUNTRY PLANNING ACT 1990**

**AND IN THE MATTER OF
THE FORMER EDWINA MOUNTBATTEN HOUSE,
BROADWATER ROAD, ROMSEY.**

OPENING SUBMISSIONS

**ON BEHALF OF
THE APPELLANTS**

1. These Opening Submissions are made on behalf of Churchill Retirement Living [‘the Appellants’] in respect of an appeal under s.78 of the T&CPA 1990 against the refusal by Test Valley Borough Council [‘the Council’] to grant permission for a development of 47 retirement living apartments (age-restricted C3) and associated development [‘the scheme’] on the site of the former Edwina Mountbatten House, Broadwater Road, Romsey [‘the site’].
2. The site is previously developed land within the built-up area of Romsey on the edge of the town centre. It is currently occupied by a derelict former care-home built in the 1960s. There is acceptance in principle of the demolition of the existing building (which is agreed to be of no historic or townscape merit) and the re-development of the site with age-restricted C3 retirement living apartments (for which there is a recognised need). The site is acknowledged to be sustainably located vis-a-vis the services and facilities in the town centre to serve future residents and to and encourage non-car trips.
3. The Appellants are a specialist retirement living operator, who design, construct and then manage their sites, selling leasehold interest to the qualifying residents and

maintaining the fabric of the buildings, grounds and communal areas. As such, in addition to their specialist knowledge of the operational needs of their residents, their business model fosters the principles of good design in terms of attractive architecture, high quality materials and fitness for purpose – the Vitruvian triumvirate of *firmitas, utilitas, venustas* – as reflected in Chapter 12 of the NPPF. The Appellants’ track record of successful place-making is something of which they are rightly proud.

4. The site lies outside but adjacent to the Romsey Conservation Area and in the setting of a number of listed buildings and the Broadlands Registered Park and Garden. To its south, the site is bounded by a tree-belt along a stream and the bypass. Its eastern boundary is Palmerston Street; its northern boundary is Broadwater Road. As such, it sits in an important location both in townscape and heritage terms, a fact recognised by the Appellants from the outset and to which their scheme design is directly and deliberately addressed with care and sensitivity.
5. Aligned with this approach of good place-making, the appeal scheme was developed through extensive dialogue with officers of the Council, including the Council’s Conservation Officer, and with engagement with the Design Review Panel, who reported on two previous iterations. As a result, the scheme evolved through the application process such that, by the time of determination, the final scheme – ie that now before the Inspector - received a positive recommendation for approval by the Council’s planning case officer and was supported by the Council’s Conservation Officer.
6. As regards the relevant heritage assets, professional officers’ support was not on the basis of a conclusion under para. 208 of the NPPF that the public benefits arising outweighed heritage harm caused but, rather, by reference to the fact that the scheme would cause *no harm* to the relevant heritage assets. Indeed, the Committee Report (correctly) observed that:

*‘the approach proposed, informed by the comments of the Conservation Officer, and reflected in the revised proposals, is appropriate and would broadly **enhance** the character of this site situated adjacent [to] the Conservation Area and make a **positive** contribution to sustaining the significance of the surrounding heritage assets.’¹(emphasis added)*

¹ CD8.1, para. 8.21

7. It was with understandable disappointment, therefore, that the Appellants saw their carefully considered scheme - the result of collaborative working and engagement - refused permission by the planning committee for seven reasons for refusal, including harm to the Conservation Area and other (unspecified) heritage assets, an allegation of harm to residential amenity, and five technical objections all eminently capable of resolution (and now all resolved)². Hence this appeal.
8. The Minutes of the planning committee³ do not elucidate the heritage assets said to be harmed, and neither does the Council's Statement of Case⁴. This is perhaps not surprising as the Council's Conservation Officer does not consider *any* heritage asset to be harmed, and the Council had not yet found a heritage consultant to defend its reason for refusal.
9. In response to the Appellants' request at the Case Management Conference that the Council identify both the heritage assets said to be harmed, and where in the spectrum of 'less than substantial' each harm was alleged to be, the Council did eventually produce a list of properties – but one far longer than anyone had previously suggested as relevant. Even then, this list still did not identify the degree of harm within the 'less than substantial category'.
10. Subsequently - presumably following the appointed consultant witness's site visit – a number of the putatively harmed listed buildings were knocked off the list, and, at last, the degree of alleged harm was set out.
11. Other than for the 'Manor House', it seems, in truth, that little more than proximity informs the 'colour grading' the Council's witness proposes for identifying harm to the Palmerston Street properties. 'Very low' level of less than substantial harm is one end, shading into 'no harm' and hence taking one outside para. 208; but the alleged starting point of the spectrum ('medium') needs to be examined with some care.

² See SoCG

³ CD8.3

⁴ CD7.1

12. Given that ‘substantial harm’ lies at the end of the spectrum of ‘less than substantial harm’, by alleging a ‘medium’ harm, the Council’s appointed witness has concluded that the most proximate listed buildings and the Conservation Area will, by virtue of developing the appeal scheme in their setting, be half-way to having their heritage significance ‘vitiating’ – such that ‘very much, if not all, of their significance will be drained away’⁵.
13. That will need to be explored in evidence, but is, plainly, very far from a reasonable conclusion on harm – and a world away from the true position, where the scheme, as recognised by the Council’s officers, will actually *enhance* the site and *positively contribute* to the heritage assets.
14. As to the other operative reason for refusal, this focuses on two runs of houses along Palmerston Road and on an allegation of enclosure and overbearingness in relation to their residential amenity. Importantly, this is *not* an allegation of harm to the townscape or street scene, but rather to the living conditions of certain occupiers. Equally, in alleging unacceptable resultant living conditions, the reason for refusal does not allege impacts on privacy or loss of sunlight/daylight⁶.
15. Again, this will have to be explored, now, in evidence, but it may be noted at this stage that one run of the identified houses actually faces down Broadwater Road, not the appeal site, and their outlook will be unaffected; the other run of houses is provided with a height to distance ratio well within both the nationally published guidance on good design in street-making and (as the Council’s case officer correctly noted) comparable with many such relationships characteristic of Romsey town centre.
16. It is perhaps unsurprising, therefore, that for the Council’s appointed planning witness to begin to attempt to identify an unfavourable planning balance, she has to err in her approach both to weighting the benefits of the scheme, and to the weight she attributes to them.
17. Again, the inquiry will explore these judgements, but let it be observed here that: the pressing need for older persons accommodation is recognised by the Council and

⁵ See *Palmer* at para 2.2.6 of Mr White’s proof

⁶ See SoCG

reflected in national policy; the pressing need for housing of all sorts is undeniable; the scheme makes its agreed contribution to much needed affordable housing; it will provide social benefits for its residents, savings to the public purse on health and social care and a more than proportionate boost to local spending. All this on a derelict, previously developed site in the built-up area close to the town centre.

18. This is a scheme which fully complies with the Government's definition of 'sustainable development' and which will in due course be commended to the Inspector to be granted permission, precisely as concluded by the professional officers advising the Council. Being in accordance with the development plan, it should be granted permission 'without delay', as advised by para. 11(c) of the NPPF. If and insofar as any harms are identified, the weight of public benefits means that the scheme amply passes the test in para. 208 of the NPPF; footnote 7 and para. 11(d)(i) are, therefore, not engaged and para 11(d)(ii) would urge that permission should be granted, in the public interest.

CHRISTOPHER BOYLE KC,

13th August 2024.

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