



Appeal Decision

Hearing held on 25 January 2023

Site visit made on 25 January 2023

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2023

Appeal Ref: APP/B1605/W/22/3310455

Adey Ltd, Gloucester Road, Cheltenham GL51 8NR

- 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 LNT Care Developments Limited (CAA Property Limited) against the decision of Cheltenham Borough Council.
 - The application Ref 21/02700/FUL, dated 25 November 2021, was refused by notice dated 26 August 2022.
 - The development proposed is demolition of the existing office building and erection of a 66 bedroom care home for older people (Use Class C2) including associated access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing office building and erection of a 66 bedroom care home for older people (Use Class C2) including associated access, parking and landscaping at Adey Ltd, Gloucester Road, Cheltenham GL51 8NR, in accordance with the terms of the application, Ref 21/02700/FUL, dated 25 November 2021, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Signed and executed Legal Agreements securing planning obligations pursuant to S106 of the Town and Country Planning Act 1990 were submitted by the appellant prior to the Hearing. One Agreement relates solely to Travel Plan obligations, in response to the second reason for refusal. The other, which was submitted later, as an alternative rather than a replacement for the first Agreement, includes an additional Library Contribution obligation. This was in response to a submission from Gloucestershire County Council (GCC), made within a week of the appeal Hearing date, which requested this financial contribution.
3. The GCC submission, which included a CIL Compliance Statement and CIL Compliance Statement Summary, was before me before the Hearing, and I am therefore considering the library contribution matter as part of my determination of the appeal. In the interests of fairness, I invited written responses on this matter from the Borough Council and the appellant following the Hearing. I have taken these into account, and I return to this issue later in my decision.

Main Issue

4. The LPA has confirmed that the submitted planning obligations deal with part of its second reason for refusal, by securing the funding and implementation of a Travel Plan. This includes an undertaking to pay a Travel Plan Bond to assure the carrying out of the required Travel Plan, and a Monitoring Fee towards the County Council's monitoring costs.
5. I am satisfied, on the basis of the evidence before me, which includes a CIL Regulation Compliance Statement by the County Council setting out the development plan policies relevant to the Travel Plan obligations, that the planning obligations contained within the submitted Section 106 Agreements, in so far as they relate to Travel Plan obligations, would meet the three tests set out in Paragraph 56 of the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I find that they are all necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to it.
6. The LPA has also confirmed that it no longer seeks a contribution towards works to be carried out within the public highway, since this matter would be the subject of a separate S278 Agreement under the Highways Act or a similar licensing agreement with the Local Highways Authority. This has been agreed by the appellant, and I have no reason to object to this approach on the basis of the evidence before me. I have dealt with the appeal accordingly.
7. Accordingly, having regard to the above, there remains a single main issue in respect of this appeal, which relates to the first reason for refusal. This is, whether the appeal site is a suitable location for the proposed Use Class C2 care home for older people, having regard to the extent of the identified need for this type of residential accommodation in this location.

Reasons

Background

8. The appeal site lies to the southeast side of Gloucester Road within a predominantly residential area within the designated Principal Urban Area, approximately 1km west of the town centre. It is occupied by a part single/part two-storey former commercial building, which was previously used for light industrial/office purposes (Class B1/E) and has been vacant since late 2020.
9. The building benefits from permitted change of use under Part 3, Schedule 2, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for use as 26 dwellings¹. During my site visit, I saw no evidence that the permitted residential conversion works had commenced.

Location and need

10. It is not in dispute that the site is an appropriate location for residential development. The Council's specific objection to the appeal scheme is that there is currently an existing sufficient number, standard and type of care beds within the market to meet the needs of the local population, so that there is no

¹ Prior approval application refs 21/01429/PRIOR and 21/01430/PRIOR – Council determined that no prior approval is required in July 2021

quantitative or qualitative need for the proposed new care home at the location of the appeal site.

11. It is the Council's view that the appellant has provided insufficient evidence that the proposal would help to meet an identified need in this location, for the type of accommodation proposed, as required by Policy SD11 of the *Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031* (2017) (the JCS) and Policy HM2 of the *Cheltenham Plan* (2020) (the CP).
12. JCS Policy SD11 – Housing Mix and Standards covers a wide range of housing types, including housing for older people. The policy seeks to ensure that new housing development addresses local needs and contributes to the creation of mixed and balanced communities. It aims to ensure that housing provision is responsive to local market changes and the needs of the local area, providing diverse, inclusive and balanced communities with accommodation for people with different needs and at different stages in their lives, including older people, the benefits for whom are stated to include a reduction in social isolation.
13. The policy recognises the role played by specialist accommodation, including, amongst other things, nursing homes and dementia-care housing, in meeting identified needs including the needs of older people. In this respect, criterion 3.i. of the policy states that *'Provision of specialist accommodation, including accommodation for older people, will be supported where there is evidence of a need for this type of accommodation and where the housing/bed spaces will contribute to meeting the needs of the local community'*.
14. CP Policy HM2: Elderly Care Provision is a more detailed and locally specific policy of the District plan, which supports policy SD11 having regard to the implementation of specialist housing for the elderly. The introductory paragraph to this Policy acknowledges that the increasing proportion of older people in the population has led to an increase in the demand for residential or nursing homes providing residents with constant care and attention. The Policy states that housing choice for older people, and supported and special needs housing proposals for older people, should focus on the provision of high-specification care-ready accommodation, and that the Council will support proposals that *'help to meet an identified need'* (criterion a).
15. The proposal would replace the existing building with a two-storey purpose-built 66-bed care home for older people who require 24-hour care and supervision (Class C2 Residential Institution). The scheme has been designed to be flexible and capable of accommodating both personal residential care as well as catering for the needs of residents requiring nursing and medical care, including specialist dementia care. The proposed single-room accommodation would include en-suite wet room facilities and the development would include indoor and outdoor communal facilities and recreational space for residents and visitors, such as coffee shop, hair salon, cinema room and extensive gardens.
16. As such, the proposal comprises a type of accommodation which is supported in principle, where needed, by Policies SD11 and HM2. It also accords with guidance within Chapter 5 of the *National Planning Policy Framework 2021* (the Framework) in respect of significantly boosting the supply of homes, including ensuring that the needs of groups with specific housing requirements are addressed.

17. Moreover, the Planning Practice Guidance (PPG)² states that the need to provide housing for older people is critical, noting that people are living longer lives and the proportion of older people in the population is increasing, and that the number of people aged 85 and over is projected to double to 3.2 million between 2016 and 2041.
18. The explanatory text to Policy SD11 states that developers of specialist or supported accommodation are expected to refer to the local housing evidence base and engage with the local authority to ensure that proposals meet identifiable needs within the local community, and that there is a local demand for the type of accommodation proposed. It also states that developers should provide evidence of how proposals dovetail with current Health and Social Care Commissioning and future plans.
19. The appellant did not engage in pre-application discussions with the LPA or GCC in respect of the appeal scheme. Moreover, the LPA's decision has been informed by the collective view across health and social care of GCC and Gloucestershire Integrated Care Board (GICB), who consider that, on the basis of an existing overcapacity of care home provision within a 3-mile radius of the appeal site, the development would not meet an identified local need.
20. As such, whilst Policies SD11 and HM2 are supportive in principle of the provision of the type of accommodation proposed, there is however an element of conflict with Policy SD11, given the lack of support for the appeal scheme from GCC and the GICB, who consider that the proposal would undermine GCC's 'care at home first' strategy. This approach encourages older people to remain living in their own home for as long as it is safe to do so, thereby reducing reliance upon care home placements.
21. I do not consider that the failure of the appellant to liaise with the relevant health and social care bodies, in and of itself, warrants refusal of the appeal scheme. It is necessary for me to consider the matter of whether there is sufficient evidence of an "identified need" for the proposed development.
22. I have been referred to the supporting text to Policy HM2 which refers to the JCS, and how, through the examination process, a need for 1,558 C2 use non-specified 'residential institution' bedspaces, which usually comprise care home and nursing home provision, was identified over and above the OAN for the plan period across the JCS area. The supporting text confirms that a significant number of these bedspaces had already been constructed or supplied prior to the adoption of the JCS, with the remaining need for C2 use care bed spaces to be divided between the three JCS authorities and met through the emerging Local Plans.
23. In respect of Cheltenham Borough, Policy HM2 confirms that an identified need for 126 units of this type had already been exceeded at the time of adoption of the CP in 2020, with an identified supply (on the basis of completions and permissions) at that time of 269 units/beds. On this basis, the LPA considers that there is no current identified need for the appeal scheme within Cheltenham. The LPA has also confirmed that no planning applications for new C2 care homes within Cheltenham Borough have been determined since the adoption of the JCS and the CP.

² PPG Paragraph: 63-001-20190626

24. Notwithstanding the above, I am not persuaded that permission must be refused for the appeal scheme solely on the basis of the above figures alone. Although the need for the type of accommodation proposed had already been met within Cheltenham Borough, the supporting text to Policy HM2 confirms that this Policy was included within the CP in order to assist in the overall delivery across the JCS.
25. Moreover, I have been presented with evidence in relation to the matter of local need from both main parties, having regard to the objectives of criterion 3 (i) of Policy SD11 and criterion (a) of Policy HM2. This information is also relevant to my consideration of the extent to which the proposal accords with these policies.
26. The appellant's stated intention is to provide a local community care facility serving the needs of the immediate local population. The appellant expects that the appeal scheme would be occupied by persons who either presently live within the local area or are dependent relatives of persons resident within the local area.
27. The LPA has based its analysis of need upon the existing care home provision within Cheltenham Borough, including a capacity analysis of care homes within a 2-mile radius of the appeal site, including dementia care accommodation, in order to highlight an existing density of care home provision within a local distance of the appeal site. It has also taken account of projected population growth on the basis of the 2021 Census, and local knowledge of the GCC and GICB of the care sector in Cheltenham and Gloucester.
28. The LPA considers that the requirements for all types of care home provision, including specialist registered dementia care, are currently being adequately met within a 3-mile radius of the site. (This study area having been selected for analysis based upon the appellant's stated anticipated origin of the new care home residents within its Design and Access Statement).
29. The LPA's view is that there is already a sufficient local supply of similar care homes to that currently proposed, so that the proposal would not offer a significantly different accommodation offer, and that the development would contribute to a local over-saturation of such accommodation.
30. This view is supported by evidence of high care home vacancy rates. On the basis of the information before me from both main parties, including data contained within the mandated Capacity Tracker, and the appellant's telephone survey, I have no substantive reason to doubt that there are significant vacancy levels within the existing care home provision within the Borough. I also note that these high vacancy rates include homes with full wet room/en-suite facilities, as proposed in the appeal scheme.
31. The appellant's supporting evidence includes a Planning Need Assessment³ (the Carterwood Report), undertaken by specialist healthcare consultants, which is based upon two areas: i) a circa 5-mile "market catchment area", which extends beyond the Cheltenham Borough Council area into neighbouring authorities; and ii) the Cheltenham Borough Council area.
32. The Carterwood report concludes that, based on 2024, the earliest anticipated date of operation of the appeal scheme, there will be a shortfall of 83 market

³ Carterwood Report – June 2021

- standard⁴ bedrooms and 712 full en-suite wetroom bedrooms within the market catchment area.
33. In respect of specialist dedicated dementia beds, considered as a sub-set of the total market beds, the identified shortfall in the market catchment area is 242 market standard beds and 305 full wetroom facilities beds.
 34. Within the Cheltenham Borough Council area, the Carterwood Report acknowledges that there is an overprovision of bedrooms that meet with the minimum market standard. However, it identifies a shortfall of 290 rooms providing full wetroom facilities. In respect of market standard dementia rooms, the shortfall is found to be 51.
 35. Having regard to planned provision and an estimated growth in the elderly population, based on 2011 Census figures, the Carterwood Report also predicts that the minimum market standard shortfall is expected to increase to 605 and 139 in the market catchment and local authority areas respectively by 2034.
 36. The conclusions of the main parties are based upon studies which are not directly comparable with each other in respect of their format and factors such as the chosen area of study, the time frame over which the need is evaluated, and the supporting population data used. Having regard to this, and on the basis of the documentation before me, I have no substantive reasons to doubt the documentary evidence provided by either party.
 37. Policies SD11 and HM2 do not contain definitions of “local community” or “identified need”, nor specify a defined catchment boundary for the purposes of defining need. With this in mind, notwithstanding that the identified market catchment area of the Carterwood Study extends to beyond the geographical boundary of the Borough of Cheltenham, I find that a 5-mile radius from the appeal site is not an unreasonable catchment area for the proposal, and there is no reason for me to dispute this study area as comprising a reasonable basis for establishing a local need for the development, which I find no substantive reason should be restricted to the benefit of Cheltenham residents only.
 38. In coming to this view, I acknowledge that the application Design and Access Statement states that residents of the proposal would be expected to emanate from an area within 3 miles of the appeal site, or would be associated with families/relatives living within this area. However, there is nothing before me that binds the proposal to this suggested catchment.
 39. For the above reasons, I therefore conclude that there is no unequivocal conflict with criterion 3 (i) of JCS Policy SD11 and criterion (a) of CP Policy HM2, since the appellant has provided evidence of need within a reasonably defined market catchment boundary of the appeal site.
 40. However, the proposal would undermine the GCC care at home first strategy, through the provision of additional care home bedrooms within a tighter geographical area in relation to the site, where the GCC and the GICB have identified an existing oversupply. In this respect, I conclude that there would be some conflict with JCS Policy SD11, so that the appeal site is not considered to be a suitable location for the proposed Use Class C2 care home for older people.

⁴ Defined in the report as providing a minimum of an en-suite with WC and wash hand basin

Planning Balance

41. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing sites. As such, Paragraph 11 d) of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where a five-year housing land supply cannot be demonstrated. Paragraph 11 states that where relevant policies are out of date, permission should be granted unless: i. the application of policies in the Framework that protect areas or assets of particular importance, provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
42. The appeal site is not subject to policies in the Framework⁵ that protect areas or assets of particular importance that provide a clear reason for refusing the proposed development.
43. Notwithstanding that the proposal is for a Class C2 residential institution comprising a specialist type of accommodation, it would nevertheless contribute to the Council's supply of housing through the release of general needs dwellings. In accordance with the conversion guidance set out in the PPG, the proposal would equate to a delivery of 37 dwellings. This is a considerable social benefit of the appeal scheme to which I attach great weight, given that the housing supply in Cheltenham currently stands at 2.9 years, comprising a significant shortfall.
44. Moreover, the appeal scheme would comprise a purpose-built care home, built to modern standards and providing a high level of accommodation, as exemplified by features such as single occupancy 'full market standard' bedrooms with full wetroom facilities, and extensive areas of communal amenity space. The appellant has demonstrated a need for the proposal within a defined local market catchment area, albeit that this differs from the Council's designated study catchment area. As such, and having regard to a generally ageing population, the scheme would accord with Paragraph 60 of the Framework, which seeks to ensure that the needs of groups with specific housing requirements are addressed. I attach great weight to this benefit.
45. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an urban area where access to facilities and public transport connections is likely to be greatest.
46. The incorporation of energy efficiency measures into the development, together with the promotion of sustainable transport modes, comprise clear environmental benefits which accord with central environmental objectives of the Framework, and as such, carry moderate weight.
47. There would also be economic benefits as a result of the provision of jobs and support for local services and facilities during the construction and future occupation of the new care home. These would contribute to a key Framework aim of building a strong competitive economy, and, as such, are benefits carrying moderate weight. In considering this factor, I have afforded less weight to employment directly in connection with the running of the care home,

⁵ Paragraph 11 d) i. footnote 7

- acknowledging that due to existing recruitment issues in the care home sector, there is a high likelihood that employees of the new care home would be recruited from within the current local care home workforce.
48. The site is currently of limited ecological value, and the proposed landscape planting would provide the opportunity for improved biodiversity in accordance with a key Framework objective. As such, this is a benefit which attracts moderate weight.
49. Potential harms identified by the LPA include a risk of market failure, with the collapse of smaller local care providers and an associated more limited care home market with a reduction in care home choice available to older people. In addition, there are concerns in respect of resulting increased pressure on the local care sector workforce, which is experiencing high vacancy and turnover rates and recruitment problems.
50. The Council is concerned that a negatively inflated demand for care home placements could potentially arise due to lack of local domiciliary staff. There is concern that this would weaken the public sector's home first approach, which is currently one of rehabilitation and enablement, seeking to reduce the amount of personal care in commissioned residential care homes, in favour of enabling older people to live in their own homes and maintain their independence for as long as possible.
51. I acknowledge the responsibility of local authorities, under The Care Act (2014) to ensure the wellbeing of residents in need of care and support services. I also acknowledge that Government support is given to the home first approach. However, it is not the role of the planning system to manage the care home market. The proposal would accord with processes of redevelopment and renewal which have been taking place within the care sector as part of an open market economy, as new purpose-built care homes replace older outdated stock, in line with modern standards and expectations and the quality of care homes overall is improved.
52. Moreover, the LPA has acknowledged that its objection to the appeal scheme in this location is based upon the current local care home sector circumstances, and that its view could potentially alter in the future. I find that it is not unreasonable to assume that current care home vacancy rates have been influenced by de-stabing impacts such as the Covid pandemic, Brexit and economic uncertainty. With this in mind, I have taken account that the appeal scheme would not be likely to be completed and occupied until 2025 at the earliest.
53. It is important to address the medium and long term elderly persons housing needs, and the evidence before me⁶ is that, notwithstanding that the most recent Census figures show a degree of plateauing in respect of the increase in elderly population in Cheltenham compared to Gloucestershire, the Southwest and the national average, the population is still likely to continue to show a notable increase in elderly persons between 2018 and 2030.
54. As such, and notwithstanding the public sector drive towards encouraging older persons to remain in their own homes, I consider that there is reasonably likely to be a future increase in the number of elderly who have conditions whose

⁶ Older People Care Home Strategy GCC 2019

needs cannot effectively be met within the community, such as dementia. As such, the demand for high dependency nursing and dementia care provision in care homes will continue to rise in the future on the basis of a predicted rise in the elderly population.

55. Moreover, and noting austerity issues within the public sector, I find that the proposed standard of accommodation proposed, including full ensuite wet rooms would reasonably be attractive to self-funding residents of the appeal scheme, who in addition to considering proximity to family and friends, would take account of the quality of care and accommodation in making their choice of accommodation, rather than the objectives of the commissioning authority.
56. Having regard to all of the above, overall, in my view, the adverse impacts arising from the development would not significantly and demonstrably outweigh the scheme's benefits. The proposal would therefore represent a sustainable form of development when assessed against the Framework read as a whole. The factors above provide the material considerations to grant planning permission other than in accordance with the development plan in this specific case.

Other Matters

Library Contribution

57. The appellant has provided a signed and executed unilateral undertaking dated 23 January 2023 which would, in addition to the Travel Plan obligations agreed by the main parties, also secure a financial contribution towards library infrastructure, as sought by the County Council.
58. The Library Contribution of £12,936 would support library resources, including refurbishment costs, building upgrades, and improvements to stock, IT, digital technology and integrated services in respect of two libraries⁷ located a similar distance away from the appeal site.
59. To meet the statutory tests set out in Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010, planning obligations must be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind.
60. The submitted CIL Compliance Statement sets out in detail the County Council's justification for the Library Contribution. On the basis of the evidence before me, including the location of the identified libraries in relation to the appeal site, I find that such an obligation would be acceptable, in principle, in relation to new residential development on the appeal site where it would generate new residents who would add to the demand on these libraries.
61. However, I am not persuaded, on the basis of the evidence before me, that the requested financial contribution is fairly and reasonably related to the proposed Class C2 care home development. The sum sought has been calculated on the basis of a standardised library contribution of £196 per new dwelling, which has been multiplied by the number of bedrooms proposed.
62. The PPG⁸ describes residential care homes and nursing homes as comprising individual rooms within a residential building and providing a high level of care

⁷ Cheltenham Library and Hesters Way Library

⁸ PPG Paragraph: 63-010-20190626

meeting all activities of daily living, and not usually including support services for independent living. As such, the proposal would not result in the creation of self-contained residential units, and its impact upon the local library services would be expected to be notably different from that of new self-contained dwellings.

63. Furthermore, the proposed single person bedroom occupancy would result in a level of residential occupancy that would reasonably be expected to be significantly lower than that which would result from 66 new dwellings, even taking into account variations in dwelling size.
64. It has been suggested, by the main parties, that a smaller contribution, based upon the equivalent number of dwellings that would be expected to be released into the open market as a result of the appeal scheme would be a more appropriate financial contribution, since a large percentage of the future occupants of the proposal would be likely to be already living within the catchment area of the two libraries in question. However, such an obligation, justified by supporting substantive evidence specifically in relation to the appeal scheme is not before me.
65. I acknowledge that it is possible that some future residents of the care home may make use of the local library facilities. However, the specific proposed nature of the appeal scheme, which is intended to accommodate residents who require 24-hour care and supervision, including a proportion of dementia care residents, and could also reasonably be expected to include an element of on-site library facilities within the proposed communal accommodation, means that any additional demand upon the local libraries as a result of the appeal scheme is reasonably likely to be minimal.
66. As such, even if there were to be some use of council library facilities, I have no substantive evidence before me to persuade me that the existing service would not be able to cope with the likely modest additional demands placed upon it by the proposed development.
67. Having regard to the above, in my judgement, it has not been satisfactorily demonstrated that the Library Contribution, as requested by the County Council, would meet the CIL tests. As such, I have not taken the submitted unilateral undertaking dated 23rd January 2023 into account in reaching my decision.
68. The County Council has referred to a number of appeals⁹ where the appeal Inspectors have supported the County Council's approach on this matter. However, none of these residential appeals relate to Class C2 uses, and, as such, are not directly comparable to the current appeal scheme.

Third parties

69. I have taken account of third party concerns in respect of a number of matters, including the impact of the proposal on the character and appearance of the area, living conditions of neighbouring occupiers, parking, traffic and highway safety, loss of employment and impact on local infrastructure and service provision.

⁹ APP/G1630/W/19/3229581, APP/G1630/W/20/3256319, APP/G1630/W/21/3280979, APP/U1620/W/22/3296510, APP/B1635/W/21/3273053 and APP/G1630/W/22/3295270

70. In respect of the character and appearance of the area, I find that the proposal comprises an appropriate design, having regard to surrounding residential development, and having regard to the functional needs of the proposal. Subject to planning conditions to ensure appropriate architectural detailing and materials, lighting and landscaping scheme, I am content that this matter has been satisfactorily addressed.
71. I am satisfied that material harm would not arise to neighbouring living conditions, having regard to the design of the appeal scheme and the juxtaposition and separation distances between the proposed development and neighbouring properties. Whilst there may be some disruption during the construction period, this would be for a relatively short time, and working practices during the demolition, piling and construction stages would be controlled by conditions.
72. The Council has raised no highway safety concerns in respect of the development, finding the proposed access and parking provision to be acceptable. I am satisfied that traffic and parking matters can be satisfactorily addressed by conditions and a planning obligation to secure the funding and implementation of the submitted Travel Plan, having regard to the scale and nature of the development and the accessible location of the appeal site.
73. The Council has raised no objection to the loss of existing employment land. On the basis of the evidence before me, including the submitted Marketing Statement, I do not disagree and I am satisfied that the development accords with the relevant development plan policies in regard to this matter.
74. Having regard to the submitted drainage strategy, I am satisfied that drainage matters are capable of being dealt with by means of condition.
75. The matter of the impacts on infrastructure and services arising from the development is dealt with by means of the Council's Community Infrastructure Levy (CIL) requirements.
76. A number of third party objections relate to a proposed withdrawn application¹⁰ for a flatted development at the front of the site. As such, they are not directly relevant to the determination of the current appeal.

Conditions

77. In the event that the appeal was allowed, I was provided, prior to the Hearing, with a list of suggested conditions which have been agreed by both main parties. I have considered these in the light of the tests set out in Paragraph 56 of the Framework and the PPG, and imposed them where I consider them to be necessary and reasonable, incorporating amendments and deleting and/or amalgamating conditions for the sake of clarity and precision and to avoid duplication. Some conditions require scheme pre-commencement submission and approval in the instances where such details need to be taken into account in the construction of the development, and therefore go to the heart of the planning permission.
78. In addition to the standard implementation condition (1), it is necessary to define the plans for certainty (2). In the interests of highway safety and to protect the living conditions of neighbouring occupiers it is necessary to ensure

¹⁰ Ref 21/02653/FUL

- that demolition and construction of the development take place in accordance with approved Demolition and Construction Method Statements (3) and (4).
79. To ensure that the development does not increase flood risk on or off site, a condition is necessary to ensure the implementation, and subsequent management and maintenance of, a Sustainable Drainage Scheme (SuDS) (5).
 80. To protect the character and appearance of the area, conditions are necessary to ensure appropriate scheme design detailing in respect of matters including buildings, ancillary structures, lighting, hard surfacing and landscaping (6), (7), (8) and (9).
 81. In the interests of highway safety, a condition is necessary to ensure the provision of adequate road, access, parking and turning provision (10).
 82. To ensure that the development provides opportunities for sustainable transport modes, conditions are necessary to ensure that the development provides for secure cycle parking facilities (11) and a scheme for electric vehicle charging (12).
 83. In the interests of sustainable construction, conditions are necessary to ensure that carbon emission reducing and renewable energy elements are incorporated into the development (13), (14) and (15).
 84. To ensure sustainable waste management and recycling, conditions are necessary to secure the implementation of a Site Waste Management Plan during construction (16) and the provision of refuse and recycling storage facilities for the development (17).
 85. In the interests of protecting the living conditions of neighbouring residents and future occupiers of the development, having regard to impacts including noise, privacy, outlook and contamination avoidance, conditions are necessary to ensure appropriate details in respect of any fixed plant and machinery associated with the development (18), the implementation of an approved piling method statement (19), obscure glazing of some elements of the development (20), certainty in respect of the finished height of the development (21) and the implementation of satisfactory site remediation (22) and (23).
 86. I have not included the Council's suggested condition requiring the implementation and monitoring of the Travel Plan, since planning conditions should not be used to override or supersede a completed planning obligation. As such, a condition which would directly duplicate the effect of the planning obligation in terms of the Travel Plan requirements would not be necessary.
 87. I have considered whether a condition is necessary to ensure that the development incorporates dementia care bedrooms. The appellant's supporting documents confirm that the scheme is intended to provide such facilities within the development, albeit that the details of such are not indicated on the plans. I have no substantive reason to doubt the appellant's intention in this respect, nor the ability of the development layout to satisfactorily provide such accommodation, having regard to the role of the appellant as an experienced care home provider. Since my decision is not reliant upon the inclusion of dementia care bedrooms, I do not consider such a condition to be necessary and I have not imposed one.

Conclusion

88. For the above reasons, I therefore conclude that the appeal should succeed, and planning permission be granted subject to conditions.

S Leonard

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GL51-8NR-A-01 A, GL51-8NR-A-02, GL51-8NR-A-03 B, GL51-8NR-A-04, GL51-8NR-A-05 A, GL51-8NR-A-05 1A and LNT-A-09.
- 3) No works of demolition and/or site clearance shall take place, until a Demolition Method Statement (DMS) has been submitted to, and approved in writing by, the local planning authority. The DMS shall be adhered to throughout the development process and shall, where necessary:
 - i. Specify the type and number of vehicles expected during the demolition;
 - ii. Allocate space for the parking of vehicles for site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during demolition);
 - iii. Allocate space for the storage, loading and unloading of plant and materials resulting from the demolition;
 - iv. Specify the intended hours of demolition works;
 - v. Specify measures to control the emission of noise, dust and dirt and vibration during demolition;
 - vi. Provide for wheel washing facilities;
 - vii. Specify the access points to be used and maintained during the demolition phase;
 - viii. Specify advisory routes for demolition and any temporary access to the site;

- ix. Specify arrangements for receiving unusually large vehicles;
 - x. Include a Highway Condition survey; and
 - xi. Include methods of communicating the DMS to staff, visitors and neighbouring residents and businesses.
- 4) Prior to the commencement of the development hereby permitted (other than works of demolition or site clearance), a Construction Method Statement (CMS) shall be submitted to, and approved in writing by, the local planning authority. The CMS shall be adhered to throughout the development process and shall, where necessary:
- i. Specify the type and number of vehicles expected during the construction of the development;
 - ii. Allocate space for the parking of vehicles for site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - iii. Allocate space for the loading and unloading of plant and materials;
 - iv. Allocate space for the storage of plant and materials used in constructing the development;
 - v. Specify the intended hours of construction;
 - vi. Specify measures to control the emission of noise, dust and dirt and vibration during construction;
 - vii. Provide for wheel washing facilities;
 - viii. Specify the access points to be used and maintained during the construction phase;
 - ix. Specify advisory routes for construction and any temporary access to the site;
 - x. Specify arrangements for receiving abnormal loads or unusually large vehicles;
 - xi. Include a Highway Condition survey; and
 - xii. Include methods of communicating the CMS to staff, visitors and neighbouring residents and businesses.
- 5) No development (other than works of demolition and/or site clearance) shall take place until full details of a Sustainable Drainage Scheme (Suds) shall have been submitted to, and approved in writing by, the local planning authority.

The Suds scheme shall be in accordance with the submitted Drainage Strategy set out in the CTP Drainage Strategy Technical Note (Ref CTP-21-0652 Rev 02 dated April 2022) and shall include:

- i. A detailed design;
- ii. A timetable for implementation;
- iii. Demonstration of the technical feasibility/viability of the drainage system through the use of Suds to manage the flood risk to the site and elsewhere;
- iv. The measures taken to manage the water quality for the life-time of the development hereby permitted;
- v. Construction details of any permeable paving and an exceedance flow route plan;
- vi. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The Suds drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.

- 6) The following elements of the development hereby permitted shall not be installed, implemented or carried out unless in accordance with details which shall have been submitted to, and approved in writing by, the local planning authority:
 - i. Design and profile of all new windows and doors, (including cills, heads and reveals, materials, finish and colour);
 - ii. Main entrance (Gloucester Road);
 - iii. External lighting (including security lighting);
 - iv. Bin and cycle stores;
 - v. Railings; and
 - vi. Meter house and PV battery store.

- 7) No external facing or roofing materials shall be applied unless in accordance with:
 - i. a written specification of the materials; and/or
 - ii. physical sample(s) of the materials.

The details of the above shall have been first submitted to, and approved in writing by, the local planning authority.

- 8) Prior to the implementation of any hard surfaces within the site, including driveways, parking and turning areas, footways and patios, details shall first be submitted to, and approved in writing by, the local planning authority.
All hard surfacing areas within the development hereby permitted shall be carried out in accordance with the approved details prior to first occupation of any part of the development.
- 9) Prior to the implementation of any landscaping, full details of a hard and soft landscaping scheme shall be submitted to, and approved in writing by, the local planning authority. The scheme shall identify all walls, fences, trees, hedgerows and other planting which are to be retained, and provide details of all new walls, fences, or other boundary treatments; finished ground levels; new planting specification to include species, size, position and method of planting of all new trees and shrubs; and a programme of implementation.
All hard and soft landscaping works shall be carried out in accordance with the approved details and implementation programme. All hard landscaping and means of enclosure shall be completed prior to first occupation of the development hereby approved. The soft landscaping scheme shall be carried out prior to first occupation or in the first planting and seeding seasons following the first occupation of the development, whichever is the sooner.
Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed, or become seriously damaged, diseased or dying, shall be replaced during the next planting season with those of similar size, species and number as those originally approved. All hard landscape works shall be permanently retained in accordance with the approved details.
- 10) The development hereby permitted shall not be occupied until the proposed off-site highway works/junction alterations, means of vehicular access to the site, and the parking and turning facilities serving the development have been carried out and provided in accordance with the approved drawing ref GL51-8NR-A-03B.
The access, turning and parking for the development shall thereafter be retained as such at all times and shall not be used for any purpose other than for the parking and turning of vehicles and shall remain free of obstruction for such use at all times.
- 11) No development shall take place above slab level until details of secure covered cycle parking facilities have been submitted to, and approved in writing by, the local planning authority.
The approved cycle parking shall be fully implemented before first occupation of the development hereby permitted and shall thereafter be permanently retained.

- 12) No development shall take place above slab level until an Electric Vehicle Infrastructure Strategy and Implementation Plan has been submitted to, and approved in writing by, the local planning authority.
The Plan shall contain details of the number and location of all electric vehicle charging points and shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851, and Manual for Gloucestershire Streets.
The approved electric vehicle charging points shall be installed and operational prior to the first occupation of the development hereby permitted.
The electric vehicle charging points shall be retained for the lifetime of the development, unless they need to be replaced or upgraded, in accordance with details to be submitted to, and approved in writing by the local planning authority.
- 13) The development hereby permitted shall be carried out in accordance with the measures set out in the submitted Sustainability Appraisal by LNT Care Developments dated October 2021.
- 14) No development shall take place above slab level until details of the location, type/model, operation and predicted noise levels of the proposed ground source heat pumps (GSHPs) have been submitted to, and approved in writing by, the local planning authority.
The approved GSHPs shall be installed prior to the first occupation of the development hereby permitted and shall thereafter be permanently retained.
- 15) No development shall take place above slab level until details of the proposed solar PV panels, including their mode of operation, design, appearance and positioning on the roof, have been submitted to, and approved in writing by, the local planning authority.
The approved solar PV panels shall be installed prior to the first occupation of the development hereby permitted and shall thereafter be permanently retained.
- 16) Prior to the commencement of the development hereby permitted, a detailed Site Waste Management Plan (SWMP) shall be submitted to, and approved in writing by, the local planning authority. The SWMP shall be adhered to throughout the development process and shall include:
- i. Information on the type and amount of waste likely to be generated prior to and during the construction phase;
 - ii. Details of the practical arrangements for managing waste generated during construction in accordance with the principles of waste minimisation; and
 - iii. Details of measures for ensuring delivery of waste minimisation during the construction phase.

- 17) No development shall take place above slab level until details of refuse and recycling storage facilities have been submitted to, and approved in writing by, the local planning authority.
The approved refuse and recycling storage facilities shall be provided before first occupation of the development hereby permitted and shall thereafter be permanently retained.
- 18) No externally accommodated fixed plant or machinery, including air conditioning units, refrigeration units and extraction systems, including kitchen extraction equipment, shall be installed in the development hereby permitted unless details of such, including means of ventilation and extraction, odour control measures and noise levels, are submitted to, and approved in writing by, the local planning authority.
The equipment shall be installed in accordance with the approved details and thereafter retained as such for the duration of its presence within the development hereby permitted.
- 19) No piling activities shall be carried out until a full piling method statement, including details of noise and vibration impacts from the piling operations upon nearest residential properties, dates and times of piling, and details of monitoring measures, has been submitted to, and approved in writing by, the local planning authority.
The piling shall be carried out in accordance with the approved details.
- 20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the proposed first floor windows/glazing on the northeast elevation (excluding the courtyard facing northeast elevation) shall at all times be non-opening and glazed with obscure glass to a minimum Pilkington Level 3 (or equivalent).
- 21) No development (other than works of demolition and/or site clearance) shall take place until drawings showing the existing and proposed ground levels, slab levels and ridge heights of the proposed building and ground levels and ridge heights of the nearest neighbouring properties, have been submitted to, and approved in writing by, the local planning authority.
The development shall be carried out in accordance with the approved details.
- 22) Prior to the commencement of the development hereby permitted, other than that necessary to comply with the requirements of this condition, the remediation scheme contained within Section 7 of the submitted Ground Investigation Report by Wilson Associates, Report No.4826/2, shall be implemented in full.

Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to, and approved in writing by, the local planning authority.

- 23) 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.

*****End of Conditions*****

APPEARANCES:

For the Local Planning Authority:

- Lucy White – Principal Planning Officer, Cheltenham Borough Council
- Brenda Yearwood – NHS Gloucestershire ICB
- James Cuthbert - NHS Gloucestershire ICB
- Mary Morgan – Programme Director, Housing Health and Care, NHS Gloucestershire ICB
- Sara Crofts – Outcome Manager, Gloucestershire County Council

For the appellant:

- Alistair Wood – Planning and Development Manager - LNT Care Developments
- Claire Howes – Planning Manager - LNT Care Developments
- Tracey Spencer – LNT Care Developments