



Appeal Decision

Inquiry held on 27 July 2011

Site visit made on 28 July 2011

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 November 2011

Appeal Ref: APP/R3325/A/11/2149385

1 West Street, Somerton TA11 7PS

- 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 Somerton Park Ltd. against the decision of South Somerset District Council.
 - The application Ref 09/03669/FUL, dated 18 September 2009, was refused by notice dated 16 November 2010.
 - The development proposed is a mixed use scheme including a care home, assisted living and extra care apartments. The proposals also include refurbishment and regeneration of retail units along West Street.
-

Decision

1. The appeal is allowed and planning permission is granted for the refurbishment and regeneration of retail units, and creation of a mixed use scheme including a care home, assisted living and extra care apartments at The Courthouse Gallery, 1 West Street, Somerton TA11 7PS in accordance with the terms of the application, Ref 09/03669/FUL, dated 18 September 2009, and subject to the conditions attached in the Annex to this Decision.

Procedural matters

2. The appellants confirmed at the inquiry that they had no objection to the Council's description of the site and proposal as referred to in the decision notice, which I have incorporated in the formal decision above.
3. The application was the subject of a number of amendments prior to its determination, and I shall take those into account in my decision. The main parties also agreed that plan reference CMR/3 should be incorporated into any permission. As it merely clarifies detail shown on an application plan to a different scale, no-one's interests would be prejudiced by my doing so.
4. A planning obligation under Section 106 of the Town and Country Planning Act 1990 was submitted on behalf of the appellants. This aims to secure compliance with a travel plan and to pay for a Traffic Regulation Order in order to prohibit parking on part of Pestors Lane. I shall refer to this in further detail below.
5. After the appeal was made, the appellants wrote to those people who had been notified by the Council about the application when it was originally made, together with those who had commented on it, seeking their views about amended car parking plans showing 21 parking spaces instead of the

17 spaces previously proposed. At the Inquiry, I was asked by the appellants to consider these plans and to impose a condition to require the 21 spaces to be provided, should I find it necessary to do so, although the 17 spaces were nevertheless considered by them to be adequate.

6. I gave a ruling at the Inquiry to the effect that the submission of the plan did not wholly accord with PINS Good Practice Guidance Note 09, but pointed out that the advice was not binding, and did not mean that I was bound to reject the appellants' request. The amended plan does not amount to a significant alteration to the nature or character of the application, and having regard to the extensive consultation undertaken by the appellants, and the numerous responses received, no-one would be prejudiced by my considering it. Whilst the proposal seeks to provide an alternative scheme, this would be in line with the Wheatcroft¹ decision and with the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. I shall refer to this below.

Main Issue

7. The effect of the proposed level of car parking on highway safety.

Reasons

8. The appeal site is located in a central position within the town centre, with pedestrian entrances onto West Street, the main road through the town centre, with the sole vehicular entrance being from Pestors Lane at the rear of the site. It is proposed to provide 17 car parking spaces at the rear of the site, or as an alternative, should I find it necessary, 21 spaces could be provided. The Council and the Highway Authority accept that 19 spaces would be acceptable, and thus the dispute between the main parties is a narrow one, and could be addressed by the "Wheatcroft" scheme. In saying that, Somerton Town Council (STC), Save Somerton's Car Parks Campaign (SSCPC) and others argue that more off-street parking is required.
9. The starting point needs to be the development plan. The Regional Spatial Strategy for the South West (RPG10) is now quite old, and whilst the replacement RSS had reached an advanced stage, the key issue in this case is of limited local scale and impact and local policies are of more relevance.
10. The broader picture is set by saved Policy ST1 of the South Somerset Local Plan (LP) (adopted in 2006) which identifies Somerton as one of a number of Rural Centres, so identified because of their generally superior service provision, better accessibility, generally better employment opportunities and their capacity in terms of both physical and community infrastructure to absorb further development. The explanatory text says that such centres are to act as focal points for local employment and shopping, social and community activity in their areas.
11. After the main towns of Yeovil, Chard, Crewkerne, Wincanton and Ilminster, Rural Centres are the second tier of priority for development, and thus the proposal would fall squarely in accord with this locational strategy. I attach little weight to the suggestions that the status of Somerton may be changed in the emerging Core Strategy, as this is at an early stage of preparation.

¹ Bernard Wheatcroft Ltd. v Secretary of State for the Environment and Another (1982) 43 P&CR 233

12. In Rural Centres, provision is to be made for development necessary to sustain their roles. The refusal alleges a conflict with saved LP Policy ST5 which deals with general development principles. It does not refer specifically to parking and I consider that the criterion relating to infrastructure would not normally include car parking, and therefore I find no conflict with this policy.
13. The decision notice also alleges a conflict with LP Policy TP6 which sets out maximum parking levels for non-residential development, but the main parties agree that the limited retail use of the proposal requires no on-site parking provision, and as it is a town centre location, I agree. The policy does not include any standards for care homes, and nor does Policy TP7 which relates to residential development. Whilst the care home is a business, its predominant function is to offer a place for people to live, and notwithstanding that care is provided, I am satisfied that its character is best described as residential. The categorisation of care homes in the Town and Country Planning (Use Classes) Order 1987 as a "C class" residential use reinforces this view.
14. Thus, the main parties agree that the most relevant standard to look at is the Countywide Parking Strategy (CPS) produced by Somerset County Council as part of the Local Transport Plan. This does not have the status of a development plan document, but it is the only document which provides specific guidance on care homes. It aims, amongst other things to enable a consistent approach to be taken towards parking in development control decisions throughout the county. The CPS refers to accessibility criteria which allow a discount to be applied to the guideline parking figure. The criteria (in Table 4.1) allocate scores to various factors relating to pedestrian links, cycleway links, bus services, and public car parking, and this in turn allows reductions to be applied to the maximum parking provision set out in the CPS.
15. Before looking at the criteria, it is important to look at the parking standards in the context of Policy TP7 which says that where the development is for housing types with less demand for parking than family housing, or where individual locations are particularly accessible, provision will be expected to be substantially below the required maximum. Thus, the Council expects certain kinds of residential development to provide substantially fewer parking spaces than the maximum set out in its standards, and I see no reason why that should not apply to the CPS standards.
16. The maximum standard for C2 residential institutions set out in the CPS is 1 space per 4 beds plus 1 space for each staff member. There are 45 care home bedrooms shown on the submitted drawings. Some of the bedrooms are shown as having double beds. Regardless of whether this indication is architectural licence, or whether there is a very low likelihood of couples wishing to stay in the care home units, Mr Walsh, Managing Director, Care and Operations for the appellant company, was clear that if two people wished to live together in the care home, they would have to have a room each, and that the licence would only provide for 45 residents in total. I am satisfied that on such a basis, there would only be a total of 45 care home residents, and therefore the maximum standard would be 11 spaces.
17. For the extra care and assisted living units (EC & AL), a number of the units have 2 bedrooms. However, the evidence of other care homes operated by

the appellants is that there is a very low level of dual occupancy, it being argued for the appellants that some residents liked to have an extra bedroom to cater for visitors. However, as the appellants point out, if a couple were to occupy one of the units it is likely that such units would be occupied by a couple of a similar age, and that there would be no greater parking requirement for a couple than there would be for a person living on their own.

18. The Council has accepted that notwithstanding the wording of the CPS, the more useful way of assessing the car parking needs is to look at units rather than beds, and for the foregoing reasons, I agree.
19. There are no separate standards for extra care or assisted living units, and thus it is appropriate to use the same standard, leading to an overall requirement of 16.25 spaces. Whilst this is what the standard seeks for parking to serve residents and visitors, it is nevertheless relevant that the empirical evidence of other care homes shows that residents are likely to own very few cars. The occupiers of care home accommodation are those who are in need of personal care, and thus are very unlikely to own cars. The same appears to be true of occupiers of AL units, whilst the car ownership rate of EC units is very low, at 0.24 cars per 1 bedroom unit and 0.39 cars for 2 bedroom units.
20. The CPS standard aims to provide parking for visitors as well as for residents. But here there is an abundance of free public car parking nearby, and in my judgement, visitors to the care home would be aware that in a town centre location there would be an expectation that parking would be in public car parks, and in most cases, visitors would prefer to do so, rather than to seek a parking space on Pestors Lane, where parking is likely to lead to obstruction of the flow of traffic.
21. Regardless of this, the CPS standard would therefore seek 16.25 spaces in order to cater for the number of residents, before any accessibility standard was applied. The standard also seeks 1 space for every 2 members of staff. The appellants say that whilst there will be 45 full time equivalent jobs, there will be 15 staff on site at any one time. The CPS standard does not give any detail as to how staff numbers are to be assessed, but it seems to me to be illogical to apply that standard to the total number of staff and more sensible that provision should only be made for the staff who are actually on site at any one time.
22. Third parties argued that the staff numbers put forward by the appellants were unrealistically low. Comparisons were made with the nearby Wessex House care home, where I was told that proportionately there are much greater staff numbers, with 20-22 people working there at peak times, with 40 beds. Local residents told me that parking in association with Wessex House overflows onto Wessex Rise, but I recognise that there is no travel plan associated with Wessex House, and a different culture towards staff car parking may exist there.
23. Mr Walsh gave detailed evidence of how the staff would be utilised in the proposed operation, and I was told that such staffing regimes complied with Care Quality Commission guidance, and had recently been accepted by them elsewhere. Mr Walsh also explained why he felt Wessex Home might be distinguished from this proposal on the basis of its age, layout and

organisation, but he accepted that he was not familiar with that home, so could not comment further on the differences.

24. I attach considerable weight to Mr Walsh's evidence on the basis of his extensive experience of providing care, and his knowledge of the way in which the appellants run their homes. On the other side of the coin, Mr Cavill of Somerset Care gave evidence about staffing at Wessex House, and whilst I recognise that he has in depth knowledge of care homes operated by Somerset Care, I cannot favour his view of another's likely mode of operation against the specific evidence of how the appellant company operates.
25. Accordingly, there is insufficient evidence for me to doubt that there would be no more than 15 staff on site on any one shift. I expect that for a short time, there may be more than 15 staff at shift changeover times, but I accept that different shift patterns would mean that not all staff would start and finish at the same time. Not all staff may be need to travel by car, and some could walk or cycle, or come by bus, although I recognise that shift hours may not make that practicable. However, the peak changeover time would be at 2pm, which would not coincide with peak visiting times, which are in the evenings, and thus there would be likely to be spare capacity in the car park. I also attach weight to the proposed travel plan, which would provide a mechanism to encourage car sharing and the use of a mini-bus to collect staff.
26. There is the possibility that some residents of the AL/EC units would wish to employ their own carers. Mr Walsh indicated that in his experience this would be an unlikely prospect, but even if this were to occur in some cases, it would not be likely to equate to a one full time staff member, and I consider that this is unlikely to materially affect the overall staffing position.
27. On this basis, the CPS standard would require 16.25 parking spaces to serve residents and their visitors, and 7.5 spaces for staff, leading to an overall requirement of 24 spaces before applying the accessibility discount, referred to in Table 4.1 of the CPS. The Council agrees with this "headline" figure. The scoring system looks at four accessibility factors. In terms of pedestrian links, the highest score is given to sites with direct and safe pedestrian access to local services.
28. The main pedestrian entrance to the site is on West Street, the main road through the town centre, and there are a number of shops very close to the site. A pedestrian crossing would enable residents to cross West Street safely and to access the Brunel Shopping Centre. On my visit it was pointed out that in places the footway along West Street is uneven, and a pinch point on the south side would prevent wheelchair access along it. I accept that in common with many historic town centres, there are places near to the site where pedestrian access is less than ideal, and does not conform to modern engineering standards. But this does not alter the overall picture that the site is ideally placed for pedestrians to access local services, and I see no reason not to allocate the highest score of 2 for this criterion.
29. The second criterion gives the highest score to sites adjacent a designated cycle route. The CPS gives no further guidance on this factor, as a matter of fact, West Street is a designated cycle route, it must attract the highest score of 2.

30. The third criterion is relates to bus services. The highest score is given to a site with a half hourly bus service within 200m. There are two bus services which run through the town centre, and if they are combined, they provide a half-hourly service. I was told at the Inquiry by local residents that recent changes meant that whilst bus services run along West Street, they do so in one direction only, and return along Behind Berry in the other. Behind Berry can be accessed on foot through existing car parks and residential roads, necessitating crossing Behind Berry, a fairly busy road by-passing the town centre, and beyond the 200m referred to in the criterion. Furthermore there are now no Sunday services. Despite this, I consider that the wording of the criterion is met, and attracts a score of 2.
31. The final criterion is accessibility to public car parks, and if there is one within 200m, as there is in this case, it attracts a score of 2. Accordingly, I find that the proposal would have an accessibility score of 8, and the CPS defines scores of 6-8 as being of high accessibility.
32. The CPS provides that a reduction below the maximum standard (in this case, 24 spaces) is dependent on the location of the site and its accessibility. Figure 4.1 says that in places like Somerton a reduction of between 20 and 30% can be applied. It was suggested that a discount of 40% could be applied, as the LP indicates that in certain circumstances this could be done. However, that level of discount has not been applied in the CPS, and I consider that it would be inappropriate to do so. The note at paragraph 4.20 of the CPS says that the system should be used with a certain degree of flexibility and that each case must be considered on its own merits, and this does not preclude the use of professional judgement.
33. A key difference in approach between the appellants and the HA is whether a discount of 20% or 30% should be applied. The Council argues that 20% is appropriate because Somerton does not have the range of shops and services as do other towns, such as Crewkerne, which have larger populations and also have better public transport services.
34. Many of the nearby small towns and villages surrounding Somerton cannot be reached by bus services, and therefore I accept that there is likely to be a greater reliance on travel by car than in other rural centres. Whilst I was told for the appellants that it is expected that the greater proportion of staff would be recruited from within a 5 mile radius of the site, this would include places which cannot be reached by public transport.
35. On the other hand, the appellants say that when exercising professional judgement, a number of factors need to be taken into account. One of these is that the accessibility criteria apply equally to a greenfield site on the edge of town as they do to a town centre. The appeal site is in a highly central position within the town centre and is accessible by foot and by bike for those people living in the town, and more accessible than most edge of centre locations. I consider that this ought to be afforded weight in applying the level of discount.
36. A further factor is that a travel plan has been prepared in this case. I was told that the HA is a leading light in the development, implementation, monitoring and enforcement of travel plans, and that the County Travel Plan Co-ordinator is satisfied that the plan offered in this case is robust. The Council accepted that this was a matter which ought to be taken into

account. The CPS also recognises that car-free development for residential proposals may be appropriate in town centres, and this also needs to be weighed in the balance, especially because on the facts of this case, there would be a very low rate of car ownership amongst the residents.

37. Whilst I have some reservations about the balance of arguments, especially taking into account the limited bus services available here, the factors argued by the appellant carry considerable weight, and therefore I consider that the arguments in favour of a 30% discount are the stronger, in which case, the 17 car parking spaces proposed would comply with the CPS standards.
38. I have also had regard to the advice in Planning Policy Guidance Note 13: Transport (PPG13) which urges local planning authorities not to require developers to provide more parking spaces than they themselves wish, other than in exceptional circumstances which might include, for example, where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls.
39. In this case, the key issue relates to highway safety. Notwithstanding the application of the CPS standards, if I were to have any residual concerns about overspill car parking taking place on Pestors Lane or nearby roads, would such parking result in significant implications for road safety which cannot be addressed through parking controls?
40. Whilst there are a large number of public car parks nearby, the evidence shows that they are well used, and that the number of long-term parking spaces is limited. The number of long-term spaces may also be subject to changes, if the demand requires it. The appellants have also demonstrated (in Mr Rawlinson's evidence Plan Ref: SCG/2) that there are numerous places where people could park on-street. However, I am concerned that in a number of instances where parking is indicated as being available, whilst there are no parking restrictions in force, to park on-street would cause an obstruction or even be physically inaccessible and thus I do not accept that there are as many available on-street parking places as indicated.
41. Moreover, in my experience, people will wish to park as close as they can to their place of work, and I consider that if there is insufficient space on site, they would park wherever they can legally do so, although this is likely to be tempered by individual drivers' assessment of whether it is safe to do so and having regard to any inconvenience that parking may cause. In my experience, such assessments can vary considerably.
42. In Pestors Lane, which is already narrow in places, further on street parking would add to obstructions and would be likely to interfere with the free-flow of traffic. Whilst I accept that there is no history of recorded accidents in this part of Pestors Lane, this does not mean that there is no safety concern. Other roads in the vicinity are also narrow in places, and there is limited scope for on-street parking, and thus I consider that any overspill parking would be likely to be restricted mainly to Pestors Lane.
43. However, the appellants have proposed to fund a Traffic Regulation Order (TRO) to prohibit parking on the south side of Pestors Lane. I recognise that an offer to fund such an order does not necessarily mean that the Highway Authority would agree to impose one. No one at the Inquiry opposed such a

proposal, and it was supported by the STC and at least one resident living opposite.

44. In my view, a TRO would offer an important safeguard, bearing in mind that the appellants may have little or no control over on-street parking. The Highway Authority witness took the view that such an order would be justified, despite not seeking one beforehand. I agree with the appellant that it would be perverse if the Highway Authority were to resist making such an order, in the light of the concerns I have identified, and the support expressed for it. In my view, this, together with the Travel Plan would be necessary to ensure that the parking arrangements would be safe, and would comply with the tests in Circular 05/05 Planning Obligations in all other respects. I therefore attach considerable weight to that obligation.
45. The combined effect of the TRO, the Travel Plan and the car parking management plans (the latter being the subject of a condition) would operate to address any doubts that I might have about the appropriateness of applying a 30% discount from the CPS maximum standard.
46. I am also satisfied that the proposed delivery arrangements using a lay-by at the front of the site would be an effective and safe means of delivering goods to the site, and, supplemented by a delivery management plan which could be required by condition, I am satisfied that deliveries would not interfere materially with parking arrangements or highway safety.
47. As I have found that adequate arrangements have been made for parking by the provision of 17 spaces, I conclude that the proposed parking arrangements would not be harmful to highway safety, or conflict with the development plan policies to which I have referred above.

Other matters

48. Local people expressed a number of other concerns relating to highway safety. I recognise that the junction of Pestors Lane with West Street has limited visibility; however, the number of net additional movements associated with the proposal would not be great, and I share the Highway Authority's view that this is not a reason for withholding permission. Some drivers may stop outside the site on West Street to pick up or drop off people at the main pedestrian entrance to the site. I accept that this is a real prospect, but it would be likely to be infrequent and of short duration, so as not to materially affect highway safety. Concerns were also raised by interested parties about the likelihood of delivery vehicles turning in the junction of Wessex Rise; whilst I acknowledge that this is a possibility, it is not the only option, and lorries could continue to travel along Pestors Lane to connect either to the B3151 or the A372. Under these circumstances, I am not convinced that the prospect of hazardous reversing is so great as to justify dismissing the appeal.
49. SSCPC are particularly concerned that what they perceived as inadequate on-site car parking to serve the proposal would lead to pressure on the existing free public car parks, which in turn would damage the vitality and viability of town centre shops and result in inconvenience to users of the town centre shops and facilities. Somerton is unusual in that it has a low number of national shop brands, and a higher number of small, independent shops. This, along with its historic and architectural interest, makes a

significant contribution to the special character of the town, and I understand why local people feel strongly about the need to protect it.

50. However, opposition to the proposal on this basis is misconceived. Town centres are places which are more likely than other places to be accessible by public transport, walking and cycling, and it is a key planning objective to locate development in such locations. Somerton is specifically identified as a Rural Centre in the LP; after the main towns, which are the primary focus for development, Rural Centres are next in the strategic hierarchy, and will be the focus for local employment, shopping, social and community activity, and some additional housing. Thus, in order to realise the strategic objective of the plan, growth is to be expected, which would inevitably lead to increased use of the town centre facilities, including the use of car parks, and it would be wrong to seek to resist development because it would bring with it increased car park use.
51. At present there are some parking controls in respect of the duration of stay, but parts of the bigger car parks have no such controls. The ability to impose restrictions would enable the overall availability of free car parking to be controlled. Advice in PPG13 indicates that car parking charges should be used to encourage the use of alternative modes of travel. Even if the STC, which operates the public car parks, does not wish to impose charges, it could impose more controls over the duration of stay, which would free up spaces for short-term users, especially shoppers and those using services in the town centre, whilst encouraging employees to use alternative modes of transport.
52. As far as visitors to the care home are concerned, I attach weight to the evidence of Mr Walsh that visits are likely to be few, and are more likely to take place in the evening and at weekends, when (other than on Saturday daytimes) demand for car park space is likely to be less intense.
53. The other side of the coin is that visitors and occupiers of the assisted living and extra care apartments could be expected to spend in local shops, restaurants, pubs, cafes and use other services in the town. Although not all visitors or occupiers would use such facilities, I consider it probable that the large number of occupiers would make a positive contribution to the vitality and viability of the town centre, thereby fulfilling the LP objective of helping to sustain rural centres.
54. The proposal would bring with it a number of benefits, which are important in the balance of arguments, none of which is disputed by the Council. The proposal would provide care for the elderly for which there is a considerable demand in the area, and this would meet the broader housing objectives of Planning Policy Statement 3 (PPS3): *Housing*. The proposal would revitalise the West Street frontage and shops and bring with it physical improvements, which would preserve and enhance the character and appearance of the Conservation Area in which the site lies. It would also bring jobs and spending to the town, and in line with the advice in PPS4 *Planning for Sustainable Economic Growth* and the Ministerial Statement *Planning for Growth*, I attach importance to this. All of these factors weigh in favour of the proposal.
55. The proposal would result in windows of bedrooms and dining room facing adjoining properties. Of particular relevance to this issue is the grant of

planning permission for a previous care home on the site. In respect of overlooking of the rear garden of Longmires, much of the garden would be overlooked at a fairly close distance from facing windows in the first and second floors of the development, and I have some concerns about the impact on the privacy of occupiers of that property.

56. At the Inquiry, in response to my questions, I was told for the appellants that because of the value of the previous permission, if this appeal were not to succeed, the previous permission would be implemented, because it was too valuable to lose. Under these circumstances, I regard the previous permission as a realistic fallback, and there would be little difference between the two proposals in terms of the impact on the living conditions of neighbouring occupiers.
57. The beer garden of the adjoining public house, The White Hart, would also be overlooked from windows in the development, but I do not consider that the same degree of privacy should be afforded to pub beer gardens as would be expected in a private residential rear garden.
58. The fallback position is also relevant to local concerns about the effect of the proposal on the character and appearance of the area. The proposal would involve a high density development projecting well into the rear of the site. The alignment would reflect the nature of the burgage plots behind the West Street frontage, but I recognise that the bulk of the development would be greater than that found elsewhere backing onto Pestors Lane.
59. There would not be a large amount of green space in the development but there would be several outdoor amenity areas. Although no landscaping details were submitted with the scheme, I was told at the Inquiry that potted trees may feature. I consider that it is important to provide natural landscaping, but I am satisfied that this could be dealt with by condition.
60. The buildings immediately fronting Pestors Lane would screen much of the development behind it from views from Pestors Lane. Although I accept that the two storey blocks fronting Pestors Lane would not replicate the lower buildings along this part of the lane, they would nevertheless have a domestic scale, and would not be out of keeping with the mixed development along this part of the road. The site is visible from public viewpoints on footpaths to the south, but the new buildings would be seen from some distance, and I am satisfied that, taking into account the fallback position, the appearance of the development would be satisfactory, and that taken in the round, the proposal would at least preserve the character and appearance of the conservation area.
61. I have also had regard to concerns about noise, odour, light pollution, overlooking of other properties and the other matters raised by interested parties at the Inquiry, but none of these, either on their own or cumulatively, alters my view that the appeal should be allowed.
62. I have taken into account the draft National Planning Policy Framework, but as it is still at an early stage of development, I afford it little weight in this decision.

Conditions

63. A number of conditions were suggested to me as part of the Statement of Common Ground, which I have assessed in the light of national advice and the discussion that took place at the Inquiry.
64. A condition to require the development to be carried out in accordance with the approved plans is necessary in the interests of good planning and for the avoidance of doubt. As I have found in favour of the scheme as submitted, it is not necessary for me to require compliance with the Wheatcroft" plans.
65. Further details of samples, specific architectural features and landscaping are needed in the interests of appearance. Due to the dense nature of the development a scheme to provide a communal radio and television reception as well as the removal of permitted development rights for further aerials and satellite dishes is necessary to protect the appearance of the development.
66. A condition to require the parking and turning area to be provided before occupation is necessary in the interests of highway safety. As the level of proposed car parking is justified by the type of accommodation proposed, it is necessary to impose controls on the occupancy of the 3 different types of residential unit proposed, again in the interests of highway safety. For similar reasons the submissions of delivery and car park management plans are needed.
67. The submission of a construction and environmental management plan is required to protect the living conditions of neighbours and in the interest of highway safety. Details of how surface water is to be dealt with are required to ensure that the site is adequately drained. Although ecological survey information was submitted with the proposal, in view of the time which has passed since then, further survey details are need in order to safeguard protected species. A condition to require a programme of archaeological works is necessary in order to protect heritage assets.

Conclusion

68. For the reasons given above, and having regard to all the representations that have been made in this appeal, I conclude that the appeal should succeed.

JP Roberts

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Christopher Young, of Counsel Instructed by John Sneddon of Tetlow King

He called:

John Sneddon, BSc(Hons), Tetlow King Planning
MRTPI

Paul Walsh, Dip(Adult Nursing), Retirement Villages
BSc (Nursing Studies)

Craig Rawlinson, Eur. Ing., Transport Planning Associates
BEng(Hons), CEng, MCIHT,
CMILT

Nick Thornton, BA(Hons), DKA
BArch, ARB

FOR THE LOCAL PLANNING AUTHORITY:

Amy Cater, Solicitor South Somerset District Council

She called:

Ian McWilliams Somerset County Council

INTERESTED PERSONS:

Barrie Davies	Somerton Town Council
Pat Bennett	Somerton Town Council
Alan Ibbottson	Save Somerton Car Parks Campaign
Carol Randell	Save Somerton Car Parks Campaign
Judith Hurley	Local resident
David Norris	District councillor
Clive Wilson	Local resident

DOCUMENTS

- 1 Notification letter
- 2 Missing plans
- 3 Wheatcroft judgement
- 4 Bundle of appeal decisions relating to amended plans
- 5 Countywide Parking Standards
- 6 Local Plan policies
- 7 Appeal decision re Bath Wellsway TRO
- 8 Errata sheet – John Sneddon’s proof
- 9 Planning for Growth statement
- 10 General Principles
- 11 Compendium of 3rd party representations

- 12 Plan of The Cedars
- 13 Memo from Reggie Tricker
- 14 Footpath plan submitted by Mr Cooper
- 15 Road widths plan submitted by Judith Hurley
- 16 Folder of photographs submitted by Clive Wilson
- 17 List of suggested conditions
- 18 Condition re lighting
- 19 Amended (undated) unilateral undertaking

DOCUMENT SUBMITTED AFTER THE CLOSE OF THE INQUIRY

- 20 Amended unilateral undertaking dated 2 August 2011

ANNEX

- 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 complete accordance with the approved plans listed in Schedule 1 to this Annex.
- 3) No development shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the hours of construction, routing for construction vehicles, parking for construction vehicles, measures to reduce noise and dust from the site together with other measures that will reduce the impact of the construction process on the town. The development shall thereafter be carried out in accordance with such details unless otherwise agreed in writing by the Local Planning Authority.
- 4) Before the development hereby approved is commenced a full surface water drainage proposal, including the supporting calculations, shall be submitted to and approved in writing by the local planning authority. Once agreed the approved drainage scheme shall be fully implemented prior to the first occupation of any of the units and shall be retained at all times thereafter.
- 5) Prior to the first occupation of the development, the parking spaces and turning area shall be laid out as shown on the approved plans, and thereafter the area allocated for parking on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
- 6) The occupancy of each element of the accommodation shall be limited to:
 - i) in the case of the 45 care home bedrooms, persons aged 65 years or over who are in need of and who receive personal care by reason of infirmity or disablement;
 - ii) in the case of the 12 Assisted Living Units, persons aged 65 years and over who are in need of care and who receive personal care by reason of infirmity or disablement and the spouse or partner of such a person, and
 - iii) in the case of the 8 Extra Care Dwellings persons aged 65 years or over and the spouse or partner of such a person.

None of the apartments/ bedrooms shown on the approved plans as being of one of the types referred to in subsections i), ii) and iii) above shall be used as any other type of accommodation.
- 7) No development hereby approved shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and agreed in writing by the Local Planning Authority.
- 8) Before the development (but not the demolition required to implement the permission) hereby approved is commenced, a sample panel of the local natural stonework, indicating colour, texture, coursing, bonding and lime

mortar pointing shall be provided on site for inspection and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved samples.

- 9) The development hereby permitted shall not be commenced until particulars of the materials (including the provision of samples where appropriate) to be used for external walls and roofs have been submitted to and approved in writing by the Local Planning Authority.
- 10) Before the development hereby permitted shall be commenced details of all eaves, verges, water tabling, corbels and abutments, guttering and rainwater pipes including detail drawings at a scale of 1:5, shall be submitted to and approved in writing by the Local Planning Authority. Such details once carried out shall not be altered without the prior written consent of the Local Planning Authority.
- 11) No works shall be undertaken unless details of all external flues, ventilators, extracts, soil pipes, 'sunpipes' terminals have been submitted to and agreed in writing by the Local Planning Authority.
- 12) No development hereby permitted (including any demolition or site clearance) shall commence until the requirements of this condition have been approved in writing by the Local Planning Authority:-

The developer shall submit report(s) for bat and bird surveys to show the likelihood of protected species being affected, and the extent and nature of impact where present. Where the above surveys lead to a conclusion of impact to a legally protected species, details of measures for the avoidance of harm, mitigation, and compensation shall be submitted to and approved in writing by the Local Planning Authority. An expiry time of 12 months, from the date of the most recent relevant protected species survey, will apply to the survey conclusions, and the approved mitigation measures, after which time, if the development has not commenced, a further protected species survey shall be required, along with details of any revised mitigation measures that may be necessary due to changes revealed by the survey. Such further survey and revised mitigation measures shall also require the written approval from the Local Planning Authority before the development can commence. Repeat expiry times of 12 months, and re-survey and mitigation revision requirements shall apply until such time that the development has commenced.

- 13) Before any of the development hereby permitted is first occupied provision shall be made for combined radio, TV aerial and satellite facilities to serve the development and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no individual external radio or TV aerial or satellite dish or aerial shall be fixed on any individual residential property or flat or other unit of living accommodation or on any wall or structure relative thereto without the prior express grant of planning permission.
- 14) Before commencement of the development hereby permitted full particulars detailing design of metalwork, balustrading, and gates shall be submitted to and agreed in writing by the Local Planning Authority. Such details as agreed in writing shall be undertaken on site as part of the development and thereafter retained.

- 15) The development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, to include both hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development, as well as details of any changes proposed in existing ground levels; all planting, seeding, turfing or earth moulding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 16) No development shall take place, including any works of demolition, until a Delivery Management Plan (based on the draft version enclosed with the evidence submitted in the appeal) has been submitted to, and approved in writing by, the local planning authority. The approved Delivery Management Plan shall be adhered to throughout the operation of the development hereby approved. The Delivery Management Plan shall provide:
- i) specification of types of vehicles allowed to make deliveries/collections;
 - ii) hours when deliveries/collections can take place;
 - iii) arrangements for the management of the frequency and control of delivery/collection vehicles, and
 - iv) arrangements for the keeping of a log of dates, times, delivery point and vehicle type for inspection by the local planning authority on request.
- 17) No development shall take place, including any works of demolition, until a Car Park Management Plan (based on the draft version enclosed with the evidence submitted in the appeal) has been submitted to, and approved in writing by, the local planning authority. The approved Car Park Management Plan shall be adhered to throughout the operation of the development hereby approved. The Car Park Management Plan shall provide:
- i) details of categories of people, including car share arrangements and cars with more than one occupant, given access to the car park and specific spaces;
 - ii) barrier control arrangements;
 - iii) valet/concierge service arrangements;
 - iv) the management arrangements of the car park, and
 - v) arrangements for monitoring and logging the Car Park Management Plan for inspection by the local planning authority on request.
- 18) The area allocated for the parking of bicycles and motorised disability buggies on the submitted plan CMR/2 0901-40 shall be kept clear of obstruction and shall not be used other than for the parking of such vehicles in connection with the development hereby permitted.

- 19) No development shall commence until an external lighting scheme has been submitted to and approved in writing by the local planning authority. The submitted scheme shall detail the location and type of lighting which shall be designed to minimize light spillage and pollution. The approved scheme shall be implemented and retained at all times unless otherwise agreed in writing by the local planning authority. No other external lighting shall be installed unless otherwise agreed in writing by the local planning authority.

SCHEDULE 1

List of approved plans:

L05318_FPX-A Rev A Ground Floor – Floor Plans & Levels Measured Building Survey

L05318_FPX-A Rev A First Floor – Floor Plans & Levels Measured Building Survey

M06236 FPX COM – Floor Plans

M06236-SX COM – Building, Boundary & Drainage Survey

286603/Site/P/(-)100 P2 Plan - Site - Existing

286603/Site/P/-/(-)101 Rev P2 Plan - Site - Demolitions

286603/Site/P/-/(-)102 Rev P2 Plan - Site - Proposed

286603/Site/P/0/(-)104 Rev P2 Plan - Site - Use Classes

286603/Site/P/0/(-)/01 Rev P13 Plan - Lower Ground Floor

286603/Site/P/1/(-)/01 Rev P9 Plan - Ground Floor

286603/Site/P/2/(-)/01 Rev P8 Plan - First Floor

286603/Site/P/3/(-)/01 Rev P8 Plan - Second Floor

286603/Site/P/4/(-)/01 Rev P8 Plan – Roof

286603/Site/P0(-)10 Rev P3 Existing Lower Ground Floor - Demolition Plans

286603/Site/P1(-)10 Existing Ground Floor - Demolition Plans

286603/Site/P2(-)10 Rev P3 Existing First Floor - Demolition Plans

286603/Site/P3(-)10 Rev P2 Existing Second Floor - Demolition Plans

286603/Site/P/0/(68.5)/01 Rev P5 Plan - Lower Ground Floor Fire Strategy

286603/Site/P/1/(68.5)/01 Rev P5 Plan - Ground Floor Fire Strategy

286603/Site/P/2/(68.5)/01 Rev P5 Plan - First Floor Fire Strategy

286603/Site/P/3/(68.5)/01 Rev P5 Plan - Second Floor Fire Strategy

286603/Site/E/-/(-)/01 Rev P4 North Elevation - West Street

286603/Site/E/-/(-)/02 Rev P8 West Elevation – Longmires

286603/Site/E/-/(-)/03 Rev P8 South Elevation - Pestors Lane

286603/Site/E/-/(-)/04 Rev P5 East Elevation - White Hart

286603/Site/E/-/(-)/05 Rev P4 South Elevation - West Street

286603/Site/E/-/(-)/06 Rev P7 East Elevation – Courtyard

286603/Site/E/-/(-)/07 Rev P4 West Elevation - Courtyard

286603/Site/E/-/(-)/09 Rev P2 Elevation details - Courtyard

286603/Site/R/0/(-)/01 Rev P5 Room Detail - Assisted Living Unit

286603/Site/R/-/(-) 02 Rev P2 Room Detail - Typical Assisted Living Unit

286603/Site/R/-/(-)03 Rev P2 Room Detail - Typical Care Bedroom

286603/Site/R/0/(-)/04 Rev P4 Room Detail - Assisted Living Unit (alternative)

286603/Site/D-(31.4)01 Detail - Window - Dormer

286603/Site/D-(31.4)02 Detail - Window - Shop front 1

286603/Site/D-(31.4)03 Detail - Window - Shop front 2

286603/Site/D-(31.4)04 Detail - Window - Shop front 3

286603/Site/D-(31.4)05 Detail - Window - Shop front 4

286603/Site/D-(31.4)06 Detail - Window - Residential 1

286603/Site/D-(90.3)01 - P2 Detail - Gate - West Street

286603/Site/D-(90)01 Existing Trees

286603/Site/D-(90)01 P1 Photos Trees and Vegetation

CMR/3