

Development Management

Central Bedfordshire Council

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PLANNING OFFICER DELEGATED REPORT

APPLICATION NUMBER	CB/19/04325/VOC
LOCATION	Fairfield Gardens Fairfield Park Stotfold
PROPOSAL	Variation of Condition 16 to planning permission CB/15/03182/FULL Erection of 131 dwellings with access, parking, landscaping, open space and associated works
PARISH	Fairfield
WARD	Stotfold & Langford
WARD COUNCILLORS	Cllrs Dixon, Saunders & Harris
CASE OFFICER	Stuart Kemp
DATE REGISTERED	31 December 2019
EXPIRY DATE	31 March 2020
APPLICANT	Crest Nicholson Chiltern
AGENT	Savills (UK) Ltd
SUBMITTED PLAN NUMBERS	
RECOMMENDED DECISION	Variation of Condition - Refused

Site Location:

The site is situated on the east side of Hitchin Road, between Stotfold and Fairfield Park which is located opposite to the west. The site lies within the Parish of Fairfield but is outside the Settlement Envelope boundary and therefore within open countryside.

It is currently a construction site providing a development of 131 dwellings. A separate care home facility is being provided immediately adjacent to this site as well. The area subject of this application concerns the approved apartment block which sits at the frontage area of the site facing onto Hitchin Road.

The Application:

This application seeks the removal of an existing condition on the decision notice. Condition 16 requires the occupation of an apartment block of 19 residential units by over 55s only and reads as follows:

'Each unit within the apartment block hereby approved shall be occupied only by:

- a) persons aged 55 or older; or*
- b) a widow or widower of such a person or persons, or*
- c) any resident dependant or dependant's of such a person or persons, or*
- d) a resident carer of such a person or persons.*

Reason: In view of the limited amenity space provided with the apartments and given the need for elderly accommodation in the area and in accordance with the NPPF.'

The applicant notes in its submission that the condition requires occupation by over 55s in perpetuity and that the apartments themselves, as originally approved, had not been designed to any particular specification that would make them desirable to older occupants.

Following marketing and a lack of interest in the units the applicant seeks to remove this condition to enable it to be marketed for sale on the open market.

It is noted that a previous application to remove the above condition under planning reference CB/17/05966/VOC was refused by the Council following resolution by the Development Management Committee at the meeting on the 28/02/2018. Since then the applicant has undertaken additional marketing over a significant period of time (as requested by the Committee), and many of the units remain vacant.

RELEVANT POLICIES:

National Planning Policy Framework (NPPF) (February 2019)

Core Strategy and Development Management Policies - North 2009

CS5 - Providing Homes

DM3 - High Quality Development

DM10 - Housing Mix

Fairfield Neighbourhood Plan

Central Bedfordshire Local Plan - Emerging

The Central Bedfordshire Local Plan has reached submission stage and was submitted to the Secretary of State on 30 April 2018.

The National Planning Policy Framework (paragraph 48) stipulates that from the day of publication, decision-takers may also give weight to relevant policies in emerging plans unless material considerations indicate otherwise.

The apportionment of this weight is subject to:

- the stage of preparation of the emerging plan;
- the extent to which there are unresolved objections to relevant policies;
- the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework.

Reference should be made to the Central Bedfordshire Submission Local Plan which should be given limited weight having regard to the above. The following policies are relevant to the consideration of this application:

LDF Site Allocations (North) April 2011

MA7: Land at Former Pig Development Unit, Hitchin Road, Stotfold
Site Area: 5 ha

Land at the former Pig Development Unit, as identified on the Proposals Map, is

allocated for mixed-use development providing 5 replacement dwellings and B1, B2 and B8 employment land. The site will be developed in accordance with its approved planning permission.

Supplementary Planning Guidance/Other Documents

Central Bedfordshire Design Guide (March 2014)

Relevant Planning History:

Application: Planning
Validated:
Status: Decided
Summary:
Description: Pre-Application Advice Other Developments: Removal of condition 16 (age of occupants of 55 and over) from CB/15/03182/FULL

Number: CB/19/01175/PAPC
Type: Pre-Application Enquiry
Date: 04/06/2019
Decision: Pre-Application Advice Released

Application: Planning
Validated: 20/12/2017
Status: Decided
Summary:
Description: Removal of Condition No. 16 of planning permission ref. CB/15/03182/FULL dated 18/12/15

Number: CB/17/05966/VOC
Type: Variation of Condition
Date: 05/03/2018
Decision: Variation of Condition - Refused

Application: Planning
Validated: 10/09/2015
Status: Decided
Summary:
Description: Erection of 131 dwellings with access, parking, landscaping, open space and associated works.

Number: CB/15/03182/FULL
Type: Full Application
Date: 18/12/2015
Decision: Full Application - Granted

Application: Planning
Validated: 07/11/2014
Status: Decided
Summary:
Description: Demolition of all existing buildings and dwellings. Erection of 116 dwellings and a 70 bedroom care home with access, parking, open space and ancillary works.

Number: CB/14/04048/FULL
Type: Full Application
Date: 24/08/2015
Decision: Full Application - Granted

Consultees:

Fairfield Parish Council FPC OBJECT to this application and if officers are minded recommending approval FPC request it is called into the Development Management Committee for determination.

REASONS

- FPC objected to application made in January 2018 and still object as in FPC's view nothing has changed since that application.
- It seemed acceptable for Crest Nicholson to include this condition in the original application CB/15/03182/FULL made September 2015.
- The feedback presented and seen as representative of both the community of Harlington House and extending to Fairfield Gardens was unanimous in strongly objecting to the removal of Condition 16. Additionally, the community of Harlington House confirmed that no amount of compensation would be considered mitigation for this removal.
- There is little accommodation in this area specifically for

persons aged fifty-five or older.

- Of the nineteen apartments in Harlington House eight have been sold and are already occupied and it is believed a further two are sold subject to contract. A review of completion dates shows a regular frequency of sales over the time the apartments have been available.
- Inquiries from prospective buyers have increased since the General Election in December.
- Crest Nicholson relying on a local sales office and have not engaged local estate agents for support.

The minutes of the Parish Meeting are also to be submitted as evidence of the strong objections from residents.

Stoffold Town Council

We object to the proposed removal of condition 16, as it was intended to encourage a mixed demographics, in terms of age, for the whole settlement of Fairfield.

Housing Development
Officer No comment.

MANOP (Adult Social
Care) Objection (Summary)

There is an overall need for accommodation suitable for older people and concludes that there is a need for this type of accommodation and that the current policy position is that if the original application had been submitted more recently it would have given rise to a requirement for 30 units that were suitable for the needs of older people, a significant shortfall against the 19 flats provided.

In preparing this response I checked the Crest Nicholson website which advises that 75% of the homes on their Fairfield Gardens development are sold. Of the Harlington House apartments 5 of the 19 are still listed as available although one is marked as 'reserved'. This would indicate that 74% of these units are now sold which is not markedly different to the development as a whole.

The applicant submits evidence that the Harlington House units have sold more slowly than the rest of the scheme and that it has made significant additional marketing efforts to attract buyers for the units, although this does not appear to include any financial incentives.

Whilst this is not disputed, consideration needs to be given to whether this is sufficient reason for the removal of the condition - especially as the current owners of apartments in Harlington House would presumably have made their purchasing decision based on the dwellings being sold as a scheme exclusively for people over 55.

The reasons for the slower sales of the Harlington House units than the applicant would expect are worthy of further examination and two aspects may be relevant: location and

amenity space.

The location, whilst not ideal in all respects, does not appear to be one that is by no means unsuitable for older people. In addition, it is noted that the provision of car parking at 2 allocated spaces per apartment is likely to be attractive to people who are car owners, somewhat mitigating the lack of very local facilities.

The flats (apart from a small number with a private balcony space) lack any dedicated amenity space (either individual space in the form of balconies or patios and/or communal space in the form of a dedicated garden).

My conclusion is that the location is not likely to have been a significant issue but that the lack of amenity space has acted to deter some potential buyers. However my view is that even with the condition lifted this situation would prevail albeit with a larger pool of potential purchasers.

At this point, therefore, I am not persuaded that the applicant has made a sound case for the removal of the condition.

The Council's developing policies on accommodation for older people are not specific on the requirements for occupancy conditions although it appears there is a need to consider this matter in light of this application and for future applications.

The occupancy of some types of scheme, such as care homes and affordable rental dwellings can be controlled through other legal and policy means and the need for occupancy conditions in the planning consent is therefore reduced or unnecessary. In addition, the developers of many specialist open market schemes for older people are generally content to accept occupancy restrictions as they wish to promote their development to a specific market.

Conclusion

The conclusion is that we do not support the removal of Condition 16 of CB/15/03182/FULL to allow occupation of the dwellings referred to by people other than people over 55 years of age, but would support an amended condition to restrict occupancy to people over 55 years of age or who have a substantial disability.

I accept that this conclusion differs from a previously-stated position but it has been arrived at following a detailed examination of the matter in question.

I further accept that this position is not yet fully incorporated into the planning authority's adopted plans and policies and that the planning authority may not be able to give it the weight it would if this were the case. However I do consider the content of this submission is material to the application and is supported by national planning practice guidance.

Other Representations:

Neighbours - 11
Objections received

Objections (Summary)

- Current owners / occupiers of Harlington House and nearby residents brought their properties on the basis that Harlington House would be restricted to over 55's only. The age restriction was a key factor in residents option to purchase these properties.
- Expected Harlington House to be a quiet building with like-minded residents, if the age restriction is lifted it is likely that noise levels will increase.
- Increased risk of noisy parties and nuisance from children / teenagers.
- Removing the condition would have a negative effect on the community and house prices.
- The restriction was the reason that no social or affordable housing was built on site, concern that removing the condition will introduce such a requirement.
- Crest used the restriction as part of their sales pitch in the sale of nearby properties, they have miss-advised / miss-sold to customers. We would never have purchased the property without the over 55 restriction.
- The developer chose to impose the condition in the first instance.
- It is the cost of the apartments which has resulted in less sales and not the planning condition.
- Removing the condition would set a precedent
- Not enough effort has been put in to marketing these apartments.
- Crest have not completed the works to Harlington House, still no lighting to the front of the building overlooking the car park nor overlooking the side access.

Determining Issues:

The main considerations of the application are;

1. Principle
2. Previous Application
3. Marketing Evidence
4. The impact of removing the condition
5. Other Considerations
6. Conclusion

Considerations

1. Principle

The proposal seeks to vary conditions relating to an existing consent and therefore the principle of the development is already established. The application is submitted under S73 of the Town and Country Planning Act 1990.

In terms of the principle of the entire development consideration is given to the extant consent on the site for the same quantum of development. The site is

designated by the Core Strategy Proposals Maps however the Site Allocations Document (2001) allocated the application site for 18,000 sq m of B1, B2 and B8 employment land together with 5 replacement dwellings under Policy MA7.

The original application (CB/15/03182/FULL) was submitted against the backdrop of a previous consent (CB/14/04048/FULL) on the site which granted approval for residential development with obligations secured to provide monies towards a new lower school south of this site which has since been approved and is under construction. A principal difference between the two is that the revised proposal included the apartment block for occupation by over 55s only, the apartment included a lift to the upper floors.

It is therefore considered that the principle of development can be considered acceptable. What will be required is suitable evidence to demonstrate that the condition can be removed.

2. Previous Application

At the time of the previous application to remove the condition CB/17/05966/VOC the applicant submitted a number of marketing materials with the application. The apartment units had been marketed since April 2017 and at the time the application was submitted accounted for a period of 8 months, although at time it is noted that the apartments had not been completed and although being marketed could not be occupied.

The previous VOC application was presented to the Development Management Committee on the 28/02/2018 following call-in by the ward Cllr.

The committee resolved to refuse the application and the application was refused with the following refusal reason:

"The applicant, by virtue of the information submitted and marketing undertaken, has failed to adequately demonstrate that there is insufficient interest in the occupation of the apartments by people aged 55 and over. The occupation of these units as unrestricted market homes would reduce the mix of homes achieved in the outline consent to an unacceptable degree and mean residents would be provided with substandard garden and amenity space. The occupation of these units as unrestricted market homes would be contrary to the advice of the National Planning Policy Framework, policies DM3 and DM10 of the Core Strategy and Development Management Policies 2009."

The documents minutes of the DMC meeting provide a detailed record of the DMC debate on the previous application and state:

The application "was moved and seconded that the application be refused on the grounds of prematurity due to the lack of marketing for a sufficient period and would make the development unacceptable in terms of the lack of amenity associated with the apartment block."

It is clear that members considered there to be 2 main issues with the previous application, prematurity in the application due to a lack of sufficient marketing and the lack of amenity space with the apartment block.

Since the previous application was refused the applicant has undertaken a further 18 months of extensive marketing and have now sold 8 units (which are occupied)

and had reservations on a further 3. It is clear from the timeline of submissions to the authority that the applicant has been successful in securing sales for the units in a steady manner.

3. Marketing and Evidence

The applicant has submitted a number of additional marketing materials with the application. The apartment units have been marketed since March 2017 and at the time this application was submitted this accounts for a marketing period of approximately 34 months.

The apartments provide a mix of 2 and 3 bed units and have been advertised online on "rightmove", "zoopla" and the Crest Nicholson website, the units have also been advertised in the local newspaper known as the North Herts Comet (March 2017, April 2017, June 2017 and February 2019) and in Saga Magazine (a specialist magazine for those over 50) in April 2018. The applicant has conducted a series of targeted marketing exercises through "Retiremove" a portal catering specifically for the over 55's and those looking to retire and downsize. In addition the applicant has also conducted a number of on site events to try and attract sales of the apartments in April 2017 (marketing launch for the entire site), September 2018 (afternoon tea), March 2019 (downsizers event) and July 2019 (prosaic afternoon tea). These events were advertised online on Facebook, Rightmove, Silversurfers, in printed magazines such as Retirement Today, Saga, The Lady and Stotfold News, on Heart and Smooth radio stations and through a local leaflet drop and site signage. It is clear that there has been a substantial increase in the marketing of the apartments since the previous application.

It is considered that comprehensive marketing of the over 55s apartments has taken place and as a result of the marketing carried out 11 of the 19 units have now either been sold or reserved.

It is noted that MANOP have objected to the removal of the condition in this most recent application, although they had not objected to the previous application. The objection from MANOP outlines a clear need across Central Bedfordshire for accommodation for the elderly, and this is evidenced through the Authorities most recent Strategic Housing Market Assessment (SHMA). MANOP have also provided an assessment of the proximity of the units to various amenities and facilities concluding that the site is in a suitable location for the elderly, again it is acknowledged that the site is within a sustainable location. MANOP also object given the lack of amenity space but they have noted that this would be the case if the over 55s condition was removed, as such this does not appear to be an issue relating to the condition specifically.

At the time of the previous VOC application being decided (feb 2018) the applicant had secured reservations on 3 of the 19 units, by June 2019 when the applicant submitted details for pre-application advice to once again seek the removal of the condition, 6 of the 19 units had been sold or reserved. Most recently during the progressing of this current application the applicant has confirmed that 11 of the 19 units have now been sold or reserved.

Whilst the authority acknowledge that sales progress has been slightly slower than one may expect it is clear from the information submitted through the various applications that the units have continued to be sold and reserved. There could be any number of reason for the units not having sold at the speed anticipated by the applicant, including the sales price sought and uncertainty in the market. There does not appear to be any evidence presented, given the number of sales / reservations received (some as recently as late 2019 / early 2020) to suggest that

there is no need for over 55 accommodation of this type in this location. As such there does not appear to be any planning justification for the removal of the condition.

4. The impact of removing the condition

It is considered that retaining the condition would ensure that the development delivers a suitable and acceptable housing mix in accordance with the Authorities most recent SHMA and paragraph 61 of the NPPF. It should be made clear that at the time of making the original decision the Council considered that this condition was necessary to make the scheme acceptable in planning terms in order to achieve an appropriate housing mix. The applicant (which was not the current applicant) considered it necessary by way of proposing the accommodation type to the Council in their scheme. Furthermore the condition was not appealed by the applicant once the decision was issued.

The evidence submitted in support of this application is considered to demonstrate a clear demand for the units as over 55 accommodation, especially given the need for specific accommodation for the elderly identified within the Councils SHMA. As such the proposal to remove the condition is considered to conflict with Policy DM10 of the North Core Strategy and Development Management Policies 2019 and paragraph 61 of the NPPF

5. Other Considerations

Objections:

Objections have been received from the current owners / occupiers of the apartments which have sold and those in nearby residential dwellings given who have stated that the removal of the condition is likely to result in occupation of the site by those under 55 which would lead to increased noise and disturbance. Whilst these comments are acknowledged it is not considered that removing the condition would result in undue harm to the current or neighbouring residents by way of increased disturbance purely on the basis that the units may be occupied by those under 55.

Objections have also been received that claim that the provision of the apartments limited to occupation by over 55s was proposed to replace the required on-site affordable housing provision. Whilst the provision of over 55 accommodation was considered to weigh in favour of the development consented in the FULL application the Council did also secure a financial contribution for the off site provision of affordable housing. As such the over 55 accommodation was not considered to have been provided in the place of affordable housing rather it was considered necessary to ensure an appropriate housing mix across the site in accordance with the Councils identified need.

It is also noted that those purchasers claim the applicant used the over 55 condition in marketing material to convince them to purchase homes and apartments on the site, this appears to be a civil matter between the developer and those individuals and does not amount to a material planning consideration.

Amenity Space:

It is noted that the previous reason for refusal referred to future occupiers being provided with substandard garden and amenity space. This is an existing situation on the site as consented within the original full application reference CB/15/03182/FULL. It is not considered that the removal of the over 55s condition would alter the amenity space as already consented on site and as such it is not

considered that the proposal to remove the condition should be refused on this basis.

Human Rights and Equality Act issues:

Based on information submitted there are no known issues raised in the context of Human Rights / The Equalities Act 2010 and as such there would be no relevant implications.

6. Conclusion

In conclusion it is considered that in conducting the additional marketing requested by the Development Management Committee in refusing the previous VOC application the applicant has secured a significant increase in the number of sales / reservations of units (from 3 in February 2018 to 11 in February 2020).

Given the Authorities clear identified need for accommodation specifically for the elderly, as outlined within the Strategic Housing Market Assessment it is considered that the loss of such accommodation is not justified and would conflict with policy DM10 of the North Core Strategy and Development Management Policies and paragraph 61 of the NPPF.

Recommendation:

That Planning Permission be **REFUSED** for the following reasons:

RECOMMENDED CONDITIONS / REASONS

- 1 The proposal would result in the loss of accommodation specifically secured for older persons and would therefore fail to provide an appropriate mix of housing in accordance with the identified need within the Authorities Strategy Housing Market Assessment (2017). As such the development would not provide an appropriate mix of housing in conflict with Policy DM10 of the North Core Strategy and Development Management Policies (2019) and paragraph 61 of the NPPF.

INFORMATIVE NOTES TO APPLICANT

Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 6, Article 35

The Council acted pro-actively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. The applicant was invited to withdraw the application to seek pre-application advice prior to any re-submission but did not agree to this. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

		Tick Box
1	No member has requested that this application be referred to Committee	x

2	Where the proposal is for major development and it is proposed to grant permission	There are no unresolved objections from the Town or Parish Council	x
		The application is not a departure from established planning policies	x
3	The application is not submitted by a member of the Council		x
4	The application is not submitted by an officer of the Council		x
5	The Council is not the Applicant		x
6	The application is made under Regulation 3 or for development of the Council's own land and no representation has been made that is contrary to the recommendation, except where, in the case of an objection, this can be resolved by the imposition of conditions		n/a

This application therefore complies with the criteria laid down for determination under **delegated** powers.