LPA'S APPEAL STATEMENT OF CASE

WRITTEN REPRESENTATIONS SUBMITTED ON BEHALF OF THE LOCAL PLANNING AUTHORITY

APPEAL REFERENCE:	APP/Y3940/W/24/3347261
LPA REFERENCE:	PL/2023/009367
APPEAL PROPOSAL:	The Pippin, Calne, Wiltshire, SN11 8RN

1. Introduction

1.1 This Statement of Case ('SoC') relates to an appeal made by Churchill Retirement Living pursuant to Section 78 of the Town and County Planning Act 1990 (as amended). The appeal relates to an application for *'Change of Use of Commercial Unit 4 (Use Class E) to Residential Accommodation (Use Class C3).'*

1.2 The Decision Notice for the refused application is attached at **Appendix 1** to this SoC. The Officer's Delegated Report prepared at the time of the determination of this planning application is attached at **Appendix 2**. The Officer's Report should be regarded as constituting the Council's statement in respect of this appeal, supplemented by the additional commentary set out in this SoC.

1.3 The application was refused under delegated powers on 26 January 2024 for the following two reasons:

> *"1. The proposed change of use from retail use to residential use would adversely impact the vitality and viability of the town centre. As such the proposed change of use would conflict with Core Policy 38 (WCS), Saved Policy R2 (NWLP) and Section 7 of the NPPF.*
>
> *2. Insufficient information and detail have been provided regarding the proposed parking provision and how this relates to the nature of the occupation. As such the application is contrary to Core Policy 61 (WCS) and Section 9 of the NPPF."*

2. Material Changes in Planning Policy

Wiltshire Design Guide

2.1 Since determination of the application, the Council has now adopted the Wiltshire Design Guide (March 2024)1. Whilst not forming part of the adopted development plan, as supplementary planning guidance it does provide some further support to some of the reasons for refusal of this application – this is referenced throughout this SoC where appropriate.

[1] Wiltshire Design Guide - Wiltshire Council

3. **Points of Clarification**

Additional Documents and Information

3.1 The application was determined within the statutory timescale, based on the submitted information. It is noted that the appeal includes additional details which did not form part of the submitted planning application. In particular, the marketing statement and associated information were not presented as part of the application and did thus not form part of the evidence base upon which the application was determined.

3.2 The latest guidance produced by the Planning Inspectorate ('PINS')[2] regarding amending a scheme once an appeal has been made states:

> *"The appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the LPA and by interested parties at the application stage…"*

3.3 Whilst the additional information does not appear to materially amend, or 'evolve' the scheme, it does represent material information which may well have impacted the consideration and determination of the application.

3.4 Additionally, were this additional information to have formed part of submitted application it is of course possible that this may have resulted in different response from consultees, in particular the Parish Council which objected to the application. Such third parties are potentially prejudiced by accepting additional information regarding a determined application subsequent to its determination, which does not appropriately allow for due process and consultation on any such information.

3.5 Accordingly, the Inspector is respectfully requested to acknowledge this situation and disregard this additional information to determine the appeal based on the submitted details.

4. **Case for the LPA**

Reason for Refusal no.1

4.1 Whilst the points made in the Appellant's Statement of Case ('SoC') regarding the specific applicability of Core Policy 38 (WCS) are noted, it is clear from the supporting text that the very direct objective of the policy is to protect and enhance the vitality and viability of town centres. In particular, paragraph 6.25 states:

> *"In line with government policy town centres, as well as primary and secondary retail frontages, should be identified on the policies map, with policies making clear which uses will be permitted in such locations."*

4.2 In this context, Core Policy 38 is directly related to Saved Policy R2 (NWLP). As well as seeking to specifically ensure that proposals do not 'individually or cumulatively undermine the vitality or viability of the town centre' (criterion (i), criterion (iii) makes it quite clear that *upper floors* could be used for residential (provided suitable access) – implicit in this criterion is that it is not the

[2] 'Procedural Guide: Planning appeals – England (updated 11 December 2023), Section 16

intention that residential use should be acceptable at ground floor level.

4.3 Based on the evidence and information submitted with the application, it was considered that the loss of this unit to residential would erode the vitality and viability of the town centre. This clearly reflected the view of the appeal inspector when the care home was approved[3] – that the use of the unit(s) for retail should be safeguarded through specific Condition ensuring the units remained within Use Class A1 (as fully set out in the Officer's Report).

4.4 Clearly, if it is demonstrably evidenced that there is no demand now, or likely in the future, for a retail use of the site, then that may ultimately lead to a different conclusion regarding the relative impacts on the vitality and viability of the town centre. The marketing statement and information submitted with this appeal may demonstrate this; however, that information has not been reviewed and has not been verified or commented on by the Council's Economic Development Officer as part of this appeal process (as per Section 3 above).

4.5 As such, and based on the scope of the application submission, it remains the Council's position that this reason for refusal was justifiable and reasonable.

Reason for Refusal no.2

4.6 The Appellant's SoC confirmation of agreement to a Condition restricting occupation of the unit to older people is acknowledged and it is noted that, for the original appeal, the Inspector concluded that this would likely result in lower car ownership.

4.7 In this context and with this confirmation regarding occupancy, coupled with the lack of any objection from the Highways Officer on parking or highway safety grounds, this reason for refusal would appear to be addressed.

5. Conclusion

5.1 This SoC has set out the basis upon which the LPA made the decision to refuse the planning application and has fully justified those reasons for refusal.

5.2 This SoC has set out material considerations which have emerged since the determination of the planning application, as well as highlighting the additional detail and information which has been submitted with this appeal but which did not form part of the planning application submission and should thus be disregarded as part of this appeal.

6. Appendices Enclosed

Appendix 1 Decision Notice PL/2023/09367
Appendix 2 Officer Delegated Report PL/2023/09367
Appendix 3 Schedule of Conditions

[3] Planning application: 19/03435/FUL – Appeal: APP/Y3940/W/20/3246442

Wiltshire Council

The Town and Country Planning Act 1990

Refusal of Full Planning Permission

Application Reference Number: PL/2023/09367

Decision Date: 26 January 2024

Applicant:	Churchill Retirement Living Churchill House, Parkside, United Kingdom, BH243SG
Particulars of Development:	Change of Use of Commercial Unit 4 (Use Class E) to Residential Accommodation (Use Class C3)
At:	Orchard Lodge, The Pippin, Calne, SN11 8RN

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), this planning application has been processed in a proactive way. However, due to technical objections or the proposal's failure to comply with the development plan and/or the NPPF as a matter of principle, the local planning authority has had no alternative other than to refuse planning permission.

In pursuance of their powers under the above Act, the Council hereby REFUSE TO GRANT PERMISSION for the development referred to in the above application and plans submitted by you, for the following reason(s):

Refusal Reason(s): (2)

1 The proposed change of use from retail use to residential use would adversely impact the vitality and viability of the town centre. As such the proposed change of use would conflict with Core Policy 38 (WCS), Saved Policy R2 (NWLP) and Section 7 of the NPPF.

2 Insufficient information and detail have been provided regarding the proposed parking provision and how this relates to the nature of the occupation. As such the application is contrary to Core Policy 61 (WCS) and Section 9 of the NPPF.

Parvis Khansari - **Corporate Director, Place**

NOTES

1. **Appeals.** If the applicant is aggrieved by the decision of the local planning authority to refuse permission, they may appeal to the Secretary of State for the Environment in accordance with Section 78(1) of the Town and Country Planning Act 1990 within six months of the date of this decision. (Information and forms relating to the appeals process can be found at the Planning Portal - Appeal a planning decision: Overview - GOV.UK (www.gov.uk)).

DELEGATED REPORT

Application Reference:	PL/2023/09367
Application Type:	Planning Permission

Site Address:	Orchard Lodge, The Pippin, Calne, SN11 8RN
Proposal:	Change of Use of Commercial Unit 4 (Use Class E) to Residential Accommodation (Use Class C3)
Recommendation:	Planning Permission be REFUSED

SITE DESCRIPTION

The site consists of an existing ground floor unit set within a mixed-use building now known as 'Orchard Lodge' which comprises a total of 4no. retail units at ground floor level and 39no. apartments for older people along with associated facilities at first and second floor levels. This specific site (unit) sits in the south-east corner of Orchard Lodge, forming an integral part of that building, and fronts The Pippin highway to the east and an access road to the south, beyond which is a public car park.

The site lies within the Calne Conservation Area and there are number of listed buildings surrounding Orchard Lodge, including Zion Chapel to the north beyond a service lane (Grade II), and a number of buildings to the west which front High Street (Grade II).

PROPOSAL

The application seeks permission for the change of use of 1no. of the 4no. approved retail units to residential use. The living accommodation will comprise a 2-bed unit with associated living spaces. To facilitate this proposed change of use some minor external alterations are proposed with the external retail entrance door being replaced with a bedroom window and the unit will thus be accessed from an internal corridor within Orchard Lodge.

POLICIES

Wiltshire Core Strategy (2015)
Core Policy 1 – Settlement Strategy
Core Policy 2 – Delivery Strategy
Core Policy 8 – Spatial Strategy for the Calne Community Area
Core Policy 38 – Retail and Leisure
Core Policy 57 – Ensuring high quality design and place shaping
Core Policy 58 – Ensuring the conservation of the historic environment
Core Policy 60 – Sustainable transport
Core Policy 61 – Transport and development

North Wiltshire Local Plan 2011, Saved Policies (2006)
Policy R2 – Town centre secondary frontage areas

Calne Community Neighbourhood Plan (made Feb.2018)
Policy WS1 – Employment
Policy WS2.1 – Calne Town Centre
Policy WS2.2 – Calne Town Centre Masterplan
Policy BE2 – Design Principles for Local Distinctiveness
Policy BE4 – Heritage Assets

National Planning Policy Framework ('NPPF', December 2023)
Sections 2, 4, 6, 7, 9, 12, 16

ISSUES

The issues arising for consideration from this application proposal are as follows:

- the principle of the development
- design and appearance
- amenity impacts
- access and highways
- heritage impact

PLANNING HISTORY

The unit, in part along with the wider site, has been subject to the following applications previously:

- PL/2022/00405: Variation of Condition 2 for application 19/03435/FUL – 39 No apartments for older people (sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, access, car parking, landscaping and 4 No retail units – Approved – 19/08/2022
- PL/2021/10589: Non Material Amendment to 19/03435/FUL to allow for minor elevational changes – Refused – 16/12/2021
- 19/03435/FUL: 39 No apartments for older people (sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, access, car parking, landscaping and 4 No retail units – Refused – 31/01/2020; Appeal allowed – 11/03/2021
- 18/09556/FUL: 39 No apartments for older people (sixty years of age and/or partner over fifty five years of age), guest apartment, communal facilities, access, car parking, landscaping and 4 No retail units – Refused – 25/01/2019; Appeal dismissed – 11/03/2021
- 15/12651/FUL: Proposed Erection of a Building Comprising 32 Retirement Apartments with Associated Communal Facilities, Parking, Access & Landscaped Grounds. Rear Access Path & 3 Car Parking Spaces for Bank Premises on High Street Proposed Erection of a Building Comprising 32 Retirement Apartments with Associated Communal Facilities, Parking, Access

& Landscaped Grounds. Rear Access Path & 3 Car Parking Spaces for Bank Premises on High Street – Refused – 12/05/2016

Where relevant, this planning history is considered further below.

CONSULTATIONS

Calne Town Council – Objection, stating:

"The Town Council OBJECTS to the loss of commercial space in this important town centre location. The application site was the subject of an appeal decision by a Planning Inspector on 11th March 2021.

The applicant has not provided evidence that it has adequately sought to market to fill the commercial elements of the development. The decision to sell a long lease rather than rent means that an opportunity for new businesses or expanding businesses has not been fully explored.

The loss of potential to provide new commercial/retail space in the Town Centre was part of the previous objection raised by the Town Council on behalf of residents.

The Appeal Inspector stated in their decision document:

41. There would be the delivery of 39 specialist apartments for older people and a brown field site would be developed, resulting in improvement to the public realm. There would be four new retail units within the town centre and economic benefits both in the short term in respect of the building process and in the longer term with respect to the spending of residents in the local economy

45. To ensure that the retail units are retained as such I have imposed a condition removing certain permitted development rights.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re- enacting or amending that Order with or without modification), the four units (1-4) allocated as 'non residential units' on the submitted drawings (10100CN-PA103) shall be used solely for purposes within Class(es) A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re enacting that Order with or without modification).

It was clear that in making their decision the Inspector considered the importance of the retail element to the site.

Therefore, the Town Council objects and cites:

Core Policy 38 – has an assessment been undertaken with demonstrates that the proposal will not harm the vitality or viability of any nearby centres by the loss of part of the Planning Inspector approved retail provision.

Core Policy 8
5.40 The strategy for Calne will help to maintain the economic base in the town with mixed growth of employment alongside housing, thus improving the self-containment

5.42 Calne will be an active and attractive centre for the Community Area, offering a range of retail outlets accessible by public transport. The town will have services that are well used, including entertainment and recreational facilities.

The proposal does not conform with the Calne Community Neighbourhood Plan

Policy WS2.1 – Calne Town Centre Development proposals within Calne Town Centre must consider, assess and address their impact on the streets, pavements, parking areas and other public spaces and the opportunities provided to improve the quality, accessibility and safety of the public realm and benefit businesses and customers alike
Policy WS2.2 – Calne Town Centre Masterplan Development proposals within or immediately adjacent to the defined Calne Town Centre must consider and address their relationship to the vision set out in the Calne Town Centre Masterplan (April 2014) and the evolving plans deriving from that. Proposals should demonstrate how they contribute to the Masterplan objectives and dovetail with ambitions for the Town Centre as a whole. In particular, proposals that have the potential to benefit vehicular, pedestrian and cycle movement within the Town Centre, helping to tackle issues identified within the Masterplan, should consider and address opportunities as part of their scheme

The loss of the retail unit on this town centre site would therefore not comply with

Policy WS1 – Employment which states for Calne Town Centre
120. Calne Town Centre needs to become an essential part of the fabric of life in Calne & Calne Without, providing a variety of shops, facilities and services. Some key objectives for the Town Centre are:

- *providing an exciting and vibrant centre which supports an active community;*
- *supporting the growth of retail operations in the town centre;*
- *improving the public realm;*
- *encourage new young retail businesses via start-up/seed units and pop-up shops;*

The applicant has not stated demonstrated that the proposal would not further reduce the interest in the commercial units but introducing a residential use on the ground floor."

Highways Officer – No objection, stating:

"I refer to the above planning application received on 16th November 2023 for the change of use of a commercial unit to residential accommodation.

The commercial unit 4 was approved as part of the 19/03425/FUL permission for 39 apartments for older people, which also included 3 other commercial units to replace a former hardware store on the site.

The proposal would provide a two-bedroom apartment which would be accessible through the communal corridor for the adjoining apartment building.

There are no changes proposed to the car parking provision.

On the basis that the parking provision and the means of access and servicing for the proposed additional unit would be provided within the existing arrangements for the apartment building, I would recommend that no highway objection is raised."

Conservation Officer – No objection, stating:

"Site Description:

Orchard Lodge is a new Churchill Retirement Lodge built on a former site of a hardware shop fronting The Pippin and opposite the Sainsbury Superstore. The development is three storey with setback upper floor and includes 4 shop units on ground floor. The site is located in the Calne Conservation Area.

Heritage Assets:
No's 8, 9, 10, 11, 12, 13, 15, 16, 17 and 19 & 21 High Street Calne grade II listed
St Marys Church grade I
Calne Conservation Area

Relevant planning History:

The Proposal:
Change of Use of Commercial Unit 4 (Use Class E) to Residential Accommodation (Use Class C3)

Relevant Policy:
Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 also requires the Council to pay ***special attention*** *to the desirability of preserving or enhancing the character or appearance of designated Conservation Areas.*

The NPPF outlines government policy, including its policy in respect of the historic environment. Section 16 of the NPPF 'Conserving and enhancing the historic environment' sets out the Government's high-level policies concerning heritage and sustainable development. Paragraphs 201-3 of the NPPF require a balanced approach with any harm which would be caused being weighed against the potential public benefits which might be achieved.

Paragraph 197 requires local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and of new development making a positive contribution to local character and distinctiveness.

National Planning Practice Guidance provides guidance on interpreting the NPPF.

The Council's Core Strategy Policy CP58 'Ensuring the conservation of the historic environment' requires that "designated heritage assets and their settings will be conserved, and where appropriate enhanced, in a manner appropriate to their significance."

Wiltshire Council's Core Strategy Policy CP57 'Ensuring high quality design and place shaping': A high standard of design is required in all new developments, including extensions, alterations, and changes of use of existing buildings. Development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality.

Historic England Advice Note 2 – Making changes to Heritage Assets illustrates the application of policies set out in the NPPF in determining applications for PP and LBC.

Issues: *Impact on the Conservation Area character and appearance, design and materials.*

Significance of assets and contribution of setting: *The NPPF defines significance as the "value of a heritage asset to this and future generations because of its heritage interest.*

The interest may be ***architectural****, or* ***historic*** *as set out in the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 S 1.*

The NPPF defines significance as the "value of a heritage asset to this and future generations because of its heritage interest. The interest may be, ***architectural****, or* ***historic****. Significance derives not only from a heritage asset's physical presence, but also from its setting." Historic England assesses significance in a similar manner, referring to evidential, historic, aesthetic, and communal values of a place.*

The Orchard Lodge block is a new build located within the rear of original High Street plots. These setting of the High Street buildings would have been considered as part of the planning permission for Orchard Lodge and the unit subject of the application fronts The Pippin which forms the Conservation Area boundary to the east. St Marys Church is a visible feature form views looking south form The Pippin and the Orchard Lodge south and east elevation will be seen in this context.

Most of the development on The Pippin is modern including the back of High Street and Sainsburys. The site is located in the Conservation Area and the impact on the character and appearance needs to be considered.

Assessment:
Paragraph 194 requires that applicants describe the significance of any heritage assets affected, including any contribution made by their setting. This should include sufficient information to provide a clear understanding of the significance of the heritage asset and its setting and the potential impact of any proposals on that significance.

Paragraph 195 also provides for the local planning authority to make its own assessment of impact and the following heritage recommendations are offered on this basis.

The new Orchard Lodge building incudes 4 retail units however the applicant advises that the marketing of the site has generated little interest in the retail units. Unit 4 to the south east corner is considered to have the worst siting for retail purposes.

It is proposed to change the use of this unit to residential 2 bed unit and make minor elevational treatment alterations to achieve the new use. The east façade onto The Pippin has required the retail entrance door to become a bedroom window to match the windows on the first floor above.

The minor change in elevational appearance is considered to have a neutral impact on the character and appearance of the Conservation Area and the setting of the listed buildings on the High Street.

In respect to the setting of St Marys Church as the changes are minor there would be a neutral impact on the strategic views and setting from The Pippin toward the St Marys Church.

Summary: *The NPPF confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). It makes clear that any harm to a designated heritage asset requires clear and convincing justification.*

The minor change in elevational appearance of the Orchard Lodge ground floor retail unit to the south east corner is considered to have a neutral impact on the character and appearance of the Conservation Area and the setting of the listed buildings on the High Street.

In respect to the setting of St Marys Church as the changes are minor there would be a neutral impact on the strategic views and setting from The Pippin toward the St Marys Church."

REPRESENTATIONS

2no. representations have been received with respect to the application, both objecting and raising the following points:

- more housing is not needed
- the applicant should comply with the basis of the planning permission
- the building is within a primary retail area of the town centre and commercial/retail uses should be retained
- active marketing of commercial/retail uses should be required

ASSESSMENT

Under the provisions of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, and the provisions of the Framework (para. 2), applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The statutory development plan in respect of this application consists of the Wiltshire Core Strategy ('WCS', adopted January 2015), the 'saved' policies of the North Wiltshire Local Plan 2011 ('NWLP', adopted June 2006) and the Calne Community Neighbourhood Plan ('CCNP' made Feb.2018).

Principle of development

The driving force of Section 7 of the NPPF is to ensure the vitality of town centres is supported by: "… taking a positive approach to their growth, management and adaptation" (paragraph 90). It continues on to advise that planning policies should: *"… define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre."* In line with this national guidance, areas within the central area of Calne have been designated as 'Town centre primary frontage area' and 'Town centre secondary frontage area' – this application site falls within the latter.

Within this area, Core Policy 38 (WCS) and Saved Policy R2 (NWLP) are relevant. The former sets out the sequential approach to retail and / or leisure uses, aiming to ensure that such development is: *"… on the most central site available."* The supporting text to this policy introduces the Council's aim that: *"The Core Strategy seeks to enhance the vitality and viability of the town centres in Wiltshire through policies promoting the regeneration of central areas and delivery of new growth at settlements to support the vitality of centres"* (para.6.24). It continues on to state that: *"In line with government policy town centres, as well as primary and secondary retail frontages, should be identified on the policies map, with policies making clear which uses will be permitted in such locations"* (para.6.25).

Similarly, Saved Policy R2 seeks to support the vitality and viability of town centres. At paragraph 11.5, the supporting text notes the importance that retail, offices and community and leisure uses can bring to supporting the vitality and viability of town centres; that paragraph also confirms the aim of ensuring that: *"… retailing remains the primary function of town centres."*

The loss of one of these recently approved retail units to a residential use would conflict with the specific aims and objectives of these relevant national and local policy objectives.

Planning history

In this context and to support this policy position, it is relevant that Condition no.3 on the allowed appeal decision for application ref no 19/03435/FUL (under which the 4no. retail units and associated accommodation was allowed) states that:

> *"3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re- enacting or amending that Order with or without modification), the four units (1-4) allocated as 'non residential units' on the submitted drawings (10100CN-PA103) shall be used solely for purposes within Class(es) A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or reenacting that Order with or without modification)."*

Importantly, the Inspector determined that this Condition was necessary in order to protect the provision of the retail facilities, with the reasoning given at para.45 that: *"… To ensure that the retail units are retained as such I have imposed a condition removing certain permitted development rights."* This planning history is a material consideration which supports and further underpins the policy context summarised above.

Housing land supply position

The NPPF, within the context of a presumption in favour of sustainable development, aims to significantly boost the supply of housing. For housing supply and delivery, the revised NPPF (December 2023) contains important updates which are relevant. For the purposes of the revised NPPF, Wiltshire Council is a 'paragraph 77 authority'; and, because Wiltshire Council has an emerging local plan that has reached an advanced stage, it is now required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing, rather than five years.

The council's most recent Housing Land Supply Statement (published May 2023) sets out the number of years' supply against our local housing need – 4.60 years. It is likely that this figure is a little higher than 4.6 years because the NPPF has removed the need to apply a 'buffer' to authorities that 'deliver' housing sites. As these figures exceed the 4-year threshold, in the context of paragraph 11 of the NPPF the planning balance is now 'level' rather than 'tilted'.

As such, there is not considered to be any specific demonstrable reason which would warrant the LPA to support a change of use of this unit to residential use such as to outweigh the policy conflicts set out above.

Scale, design and appearance

Core Policy 57 requires that development be of a suitable design and quality for the site and immediate area. Externally, the building will require only limited alteration: the external retail entrance door being replaced with a bedroom window. This change is not considered to represent any particularly adverse impact which would warrant refusal of the application against the aims and objectives of Core Policy 57.

Amenity

The use of the unit for residential rather than retail purposes is not considered to give rise to any particular amenity issues or impacts, indeed one of the approved residential units as a similar shared boundary with approved retail unit no.1. There is not considered to be any conflict arising with Core Policy 57 or Section 12 of the NPPF which would warrant refusal of the application for any specific amenity reasons.

Access, highways and parking

As a two-bed unit, the proposed dwelling would have a parking requirement of 2no. car parking spaces. There is a lack of clarity in the application submission as to whether the accommodation proposed would form part of the sheltered accommodation as the other units within Orchard Lodge. It is relevant that the level of parking provision at Orchard Lodge was justified on the basis of the nature of the accommodation – an open market dwelling in this location would not necessarily be caught be the same justification in terms of reduced parking provision.

Thus, although the Highways Officer has raised no highway objection, there is considered to be insufficient detail regarding this point to allow for proper consideration of this issue and potential impacts, in the context of Core Policy 61 and Section 9 of the NPPF.

Heritage impact

The site falls within the designated conservation area and the Council's Conservation Officer has been duly consulted. Given the very minimal external changes required, the impact on this designated heritage asset, as well as the setting of nearby listed buildings, is considered to be neutral and there is no conflict with Core Policy 58 or Section 16 of the NPPF arising.

CONCLUSION

The principle of the change of use of this town centre – within the designated 'secondary frontage area' – retail unit to residential use would run contrary to the aims and objectives of both national and local policy, which both seek to maintain and enhance the vitality and viability of town centres. Saved Policy R2 seeks to support the vitality and viability of town centres, with the aim of ensuring that: *"… retailing remains the primary function of town centres"* set out in the supporting text.

Specifically, the proposal conflicts with Core Policy 38 (WCS), Saved Policy R2 (NWLP) and Section 7 of the NPPF. This conflict with national and local policy is also evidenced through the

planning permission for the site, which removes permitted development rights for any change of use of this retail unit.

To add weight to this policy position, the fact that these retail units were only relatively recently allowed at appeal, with the appeal decision protecting the provision of these through the removal of permitted development rights for any change of use away from retail, confirms the importance of these units.

There are no material planning considerations, including relating to the Council's housing land supply position, which would justify any reason to over-ride these planning policy conflicts and the application is recommended for refusal for this reason.

RECOMMENDATION: That Planning Permission be REFUSED for the following reason:

1. The proposed change of use from retail use to residential use would adversely impact the vitality and viability of the town centre. As such the proposed change of use would conflict with Core Policy 38 (WCS), Saved Policy R2 (NWLP) and Section 7 of the NPPF.

2. Insufficient information and detail have been provided regarding the proposed parking provision and how this relates to the nature of the occupation. As such the application is contrary to Core Policy 61 (WCS) and Section 9 of the NPPF.

Appendix 3: Schedule of Conditions

1. The works for which Planning Permission is hereby granted shall be begun before the expiration of three years from the date of this consent.

   REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, amended by the Planning and compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

   PA-200: Location Plan
   PA-03-A: Existing Ground Floor Plan
   PA-107-D: Existing Elevations
   PA-103-C: Proposed Ground Floor Plan
   PA-108-E: Proposed Elevations

   REASON: For the avoidance of doubt and in the interests of proper planning

3. The dwelling hereby permitted shall be occupied only by:
   (1) a person aged 60 years or older
   (2) persons aged 55 or older living as part of a single household with the above person in (1)
   (3) persons aged 55 or older who were living as part of a single household with the person identified in (1) who has since died

   REASON: The development is designed specifically for older people who are likely to have lower levels of car ownership commensurate with the provision on the site.