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## Appeal Decision

Hearing held on 25 November 2015

Site visit made on 25 November 2015

**by Kenneth Stone Bsc(Hons) DipTP MRTPI**

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

**Decision date: 15 December 2015**

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**Appeal Ref: APP/L3625/W/15/3130740**  
**Eversfield Court, Reigate Road, Reigate RH2 0QP**

- 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 McCarthy and Stone Retirement Lifestyles Ltd against the decision of Reigate & Banstead Borough Council.
  - The application Ref 15/00270/F, dated 6 February 2015, was refused by notice dated 29 June 2015.
  - The development proposed is the erection of 36 retirement apartments (category II type) with communal facilities, car parking, landscaping and new access.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The description of development in my banner heading above varies slightly from that on the original application but is as set out in the Statement of Common Ground and agreed at the start of the hearing.
3. At the start of the hearing I was provided with a planning obligation under the terms of a signed and sealed Unilateral Undertaking which made for a financial contribution towards affordable housing in lieu of on site provision. It was confirmed by the appellant that the signatory of the Bank of Scotland PLC was indeed an authorised signatory and included on the list of such signatories provided to the Council. I return to the planning obligation further below.
4. At the hearing the appellant drew attention to an amendment to the scheme to remove the smaller area of car parking on the site, containing 6 parking spaces. This would have the effect of reducing the total parking provision on the site from 23 to 17 spaces. This amendment was identified in the appellant's appeal documents which were open to public scrutiny. In addition the appellant wrote to all those who had an interest in the application to inform them of the suggested change to afford them an opportunity to comment. Given that the proposed change did not alter the description of development, the number of units to be provided, the form, scale, mass, design or siting of the building, I am satisfied that it does not fundamentally change the proposal. Furthermore, given that the amendment was identified within the appeal papers and brought to interested parties' attention by way of further

correspondence I am satisfied that the suggested alteration is in accordance with the Wheatcroft principles.

5. The appellant maintains that the original scheme is acceptable but suggested that, should the appeal turn on the issue of the hard surfacing of the parking areas, this area could be utilised to provide additional soft landscaping and reduce the amount of hard surfacing on the site.
6. I have therefore considered the appeal on the basis of the original plans but also taken account of any ameliorating impact that could result from the suggested amendment and I address this matter at the relevant part of my decision below.

## **Main Issues**

7. The main issues in this appeal are:
  - The effect of the proposals on the character and appearance of the area, including the setting of the Chart Lane Conservation Area (CLCA);
  - The effect of the proposals on the living conditions of the occupants of Victoria Almshouses, with particular reference to outlook; and
  - Whether the proposal would make appropriate provision for the delivery of affordable housing.

## **Reasons**

### *Character and appearance*

8. The appeal site is a triangular site located on the north side of Reigate Road on the approaches into Reigate town centre. Reigate Road is a major distributor road, the A25, relatively wide with footways on either side of the carriageway and street lighting; there are bus stops directly outside the site and on the opposite side of the road close by.
9. Reigate Grammar school is set in extensive grounds opposite and Eversfield, a care home, again in extensive grounds, abuts the site to the east. In general the wider area can be characterised as containing a mix of building styles, and designs of varying ages; it is predominantly residential, but not exclusively, with some institutional and other uses interspersed. The appeal site accommodates a group of three post war two storey buildings providing 12 maisonettes. The buildings are set on an elevated site, in excess of 1m above the adjoining footway, and which is retained by a low brick wall. The site is relatively open with the open space primarily laid to lawn and low level planting with the exception of a few trees. There is a small parking garage court at the western end of the site.
10. To the north the site is segregated from a public footpath by a high brick wall and a small change in levels. The land to the north falls away relatively steeply and beyond the footpath are the properties 83 Deerings Road, Victoria Almshouses and 28 to 34 (evens) Durfold Drive.
11. The appeal site holds a location of transition in terms of the character and appearance of the surrounding area and street scene. To the south and east the area is characterised by large properties in substantial plots that are heavily treed. To the west are more closely spaced Edwardian houses and to

- the north more modern estate developments. The area to the south and east is included in the CLCA whose significance is derived in part from the Victorian architecture of the buildings and large plot sizes, including extensive landscaping and tree coverage.
12. The open appearance of the appeal site contrasts with the heavily treed and larger plots of the sites to the east and south and within the wider CLCA. Similarly it does not relate well in character or street scene terms to the finer grain detail and more urban form of the Edwardian properties to the west. In terms of its contribution to the Reigate Road street scene it is an individual element that affords a sense of openness. It does not reflect the more enclosed frontages of the surrounding sites and in that sense does not add to the significance of the CLCA or positively contribute to the general character of the surrounding area.
  13. However, whilst the buildings are set on an elevated plinth they are positioned in an open arc such that their presentation to the road is recessive and does not result in a significant or assertive feature in the street scene.
  14. The proposed development would result in significant changes in the ground level to remove the elevated ground and reduce the level of the site to a level equivalent to Reigate Road at the existing access to the site. This would involve the removal of the raised ground and some additional cutting into the land levels to create a level platform, as the road rises towards the east. The proposed building would be provided with a three storey elevation which the appellant has sought to demonstrate would not substantially increase the eaves and overall height substantially above that of the existing buildings. However, this does not reflect the full scale of the visible elevation. The elevation would be a full three storeys and, although being broken down in blocks that are modulated in relation to the road, would still present a substantial and visible elevation, significantly greater than any of the existing buildings. When taken together with the proximity of the building to the road this would present a strident and assertive building on the site with a long elevation that would dominate the frontage of the site.
  15. Whilst the elevation would be broken up the scale and mass of the building would be significantly greater than those that are presently on site or are readily visible in the surrounding street scene. Many of the larger scaled buildings in the area are set in substantial grounds behind mature landscaping and are not significant elements in the existing street scene.
  16. The corner tower feature, at the eastern end of the building, would do little to reduce the impact in the street scene, but instead add to the presence of the building and the force with which it would be read on this section of the road. There would be a substantial change in the appearance of the site, which, in my view, would remove a recessive low key development that does not substantively add to the street scene and replace it with an excessively strident and dominant building that, due to its proximity to the footway associated with its scale and mass, would appear out of keeping with the existing street scene and general character of the area. This would result in material harm to the street scene and the wider character of the area.
  17. The neutral contribution of the existing site to the character of the area would be replaced by a building, which for the reasons given above, would result in a negative contribution to the character of the area and therefore the setting of

the adjoining CLCA. The more strident building, with its three storey façade, close position in relation to the road and the limited landscaping to the boundary would conflict with the greater set backs of the properties in substantial grounds immediately surrounding to the east and south with the heavy mature landscaping to their frontages. The elements which make a significant contribution to the character and appearance of the CLCA.

18. The appellant has suggested that additional landscaping could be introduced by the removal of an area of car parking and its replacement with landscaping. However, whilst this may add some small area for additional landscaping it does not address the principal scale, mass and bulk of the building, its proximity to Reigate Road and the lack of available space for mature landscaping along the frontage to assist in integrating the development into the wider character and street scene.
19. For the reasons given above I conclude that the proposed development would result in material harm to the character and appearance of the area, including the setting of the Chart Lane Conservation Area. Consequently it would conflict with policies CS1 and CS4 of the Reigate and Banstead Core Strategy (CS), and policies Ho9, Ho13, and Pc13 of the Reigate and Banstead Local Plan 2005 (LP). Collectively these policies seek sustainable development that respects the historic environment and historic assets, is of a high standard of design that promotes or reinforces local distinctiveness, maintaining the character of the area, or in conservation areas complementing and enhancing its character. These policies are consistent with the National Planning Policy Framework (the Framework).

### ***Living conditions***

20. To the north the site is segregated from neighbouring properties by a high brick wall, narrow footway and the boundary treatments of those properties, primarily high hedges. The appeal site is at a slightly higher level than the footway and the land beyond to the north falls away sharply such that the Almshouses and the properties in Durfold Drive are at a significantly lower level.
21. The Almshouses are a group of two storey buildings accessed off Deering Road and which provide accommodation to elderly occupants in the form of maisonettes. Numbers 12 to 18 face towards the southern boundary and would be those directly facing the appeal site. This section of the building contains two properties on the ground and two properties on the first floor. They contain habitable rooms with windows with a southerly aspect.
22. The proposed building has a substantially greater footprint than the existing buildings and would result in sections of the building being closer to the northern boundary than the existing buildings. In order to mitigate the impact the design of the building provides for the rear wings closest to the boundary being two storeys and the central section of the building being recessed such that it would be further from the boundary than the original buildings. The proposed removal of the raised ground level would also reduce the overall apparent height of the building. Section BB, on Drawing AAL-14-209-P09, demonstrates that of the rear wing closest to flats 18 to 21 only the receding slope of the hipped roof would be visible above the existing hedge to the ground floor residents, given the change in levels; and the first floor residents would only view this and a small section of the first floor. Section AA, on

Drawing AAL-14-209-P08, demonstrates that the line of sight would not reveal any of the central section of the building to the Ground floor residents and the second floor and above to the first floor residents. These sections were not contested by the Council.

23. Whilst it is evident that a larger and bulkier building would be provided on the site, given the nature of the changes proposed in ground level, the modulation in plan form and the variations in storey heights on the building there would not be a significant impact on the outlook for the residents of the ground floor units of Victoria Almshouses. Taking account of the already restricted outlook provided for the residents of these properties, given the existing level changes within that site, this would not lead to a material worsening of the outlook they currently have.
24. In terms of the occupants of the first floor flats more of the building would be visible to them and the extent of the scale and mass of the building would be more apparent. However, this is ameliorated by the variations in building heights, changes in land levels on the appeal site and roof scape of the building such that the development would not appear oppressive or excessively enclosing. The Council do not contend that there would be a direct loss of sunlight, daylight or overshadowing resulting from the building. In these circumstances I am satisfied that the proposed development would not significantly loom over the Almshouses, as is contended by the Council, such that it would be overbearing. The proposed building would be a visible element on the skyline but would not be so close as to significantly or harmfully affect the outlook from the upper floor properties given the above mentioned factors and the separation distances.
25. In terms of the impact on the external communal amenity space the closer to the boundary the greater the effective screening provided by the existing hedge and given the steepness of the slope and age of residents this area would be primarily for passive enjoyment and the setting of the site.
26. The Council did not object to the scheme in terms of the impact on other surrounding residents however a number have objected to the scheme and attended the hearing. I visited the gardens of Numbers 28 and 30 Durfold Drive and viewed the site from those properties. They are at a similar level to the Almshouses but there is greater separation distances to the site. I formed the same principal opinion in respect of the impact of the development on those properties as in relation to the Almshouses. The proposed building would have two storey rear wings closest to the boundary which would reduce the impact of the scale and height of the building; the reduced ground level, which would be greater at this end of the site to accommodate the rising ground along Reigate Road, would further reduce the effective height of the building. When associated with the plan form, roofscape, building heights and ground levels the proposed building would not substantially interfere with the outlook presently enjoyed by the occupants of those properties.
27. The Council did not raise the issue of loss of privacy, albeit that this was raised by residents. The rear elevations of the closest wings to the northern boundary contain only limited openings and do not contain windows to habitable rooms. Conditions could be imposed to ensure any windows were obscure glazed and non-opening and this would address any residual concerns. The central section of the building would contain windows to habitable rooms which would look

towards the north but these are at a greater distance than the existing first floor windows of the existing properties and would not be substantially higher. They would not significantly increase the overlooking of the surrounding properties. At the eastern end of the building there is a window and balcony at the first floor level in the north east corner of the building. Given the elevation and section it would not appear that this would result in significant overlooking taking account of the direction of view and the location of the adjacent properties. However, if it was a critical issue a condition requiring a screen on the northern elevation of the balcony would address any concerns in that regard.

28. Overall, for the reasons given above, I am satisfied that the proposed development would not result in material harm to the living conditions of the occupants of Victoria Almshouses, with particular reference to outlook; or indeed to the living conditions of the occupants of any surrounding residents. Consequently it would not conflict with policies Ho9 or Ho13 of the LP. Collectively these seek, amongst other matters, to ensure that development does not affect the amenities of adjoining properties. This is consistent with the core planning principles in the Framework which include the need to secure a good standard of amenity for all existing and future occupants of land and buildings.

### ***Affordable housing***

29. The appellant provided a signed and sealed Unilateral Undertaking (UU) at the hearing which makes provision for the payment of an affordable housing contribution. This was originally raised as an issue by the Council who were concerned that the proposed level of the contribution being offered was not justified and was below the level required in their Affordable Housing Supplementary Planning Document 2014 and therefore also conflicted with policy CS15 of the CS. The UU now provided has increased the level of the contribution and the Council confirmed that the level of contribution secured by the UU was now acceptable to them and they therefore withdrew this reason for refusal.
30. The provision of an affordable housing contribution is in line with CS15 and the **Councils' Affordable Housing SPD which provides for** an economic viability test. The parties have now reached agreement on the level of contribution that could be viably supported by the development and that contribution is secured by the UU. In these circumstances I am satisfied that the obligation is necessary, directly related to the development and fairly and reasonably related in scale and kind to the development as is required by paragraph 204 of the Framework.
31. As the obligation makes provision for a commuted sum to support the provision of affordable housing in the Borough it is a material benefit of the scheme which I will add to my overall positive benefits when balancing my overall conclusions on the scheme.

### ***Other matters***

32. The statement of common ground identifies those matters which are agreed by the parties and which includes benefits of scheme. These include economic benefits including direct employment, support for the local economy and revitalising the housing market through the release of under-occupied family

housing. To this I would also add the economic benefit arising from the development works and construction phase of the development. In terms of social benefits the scheme would provide for specialist housing for older people increasing choice and maintaining their independence within the community and reducing the pressure on health care facilities. In terms of environmental benefits it is noted that the scheme would make an effective and efficient use of the land delivering housing and reducing pressure on unallocated greenfield sites. The Council however are concerned that the development would result in harm to the character and appearance of the area and therefore do not accept that there are environmental benefits.

33. To these matters attention is also drawn to the critical need for housing for elderly people and the benefits that accrue from downsizing as referred to in the Planning Practice Guidance. This would also support the Council's **'aging well' agenda**. **Other agreed matters** refer to the lack of objection on specific matters, however, the lack of an objection is not of itself a benefit deriving from the scheme.

### **Overall conclusions**

34. It is evident that there are a number of positive benefits that would arise from the proposed development not least given the nature of the accommodation and the policy objectives this would support and the economic and social benefits that would arise. To this I also add the positive benefit that would be provided by the financial contribution towards affordable housing that would be secured through the planning obligation and the financial receipts that would arise from the new homes bonus from the new properties.
35. However, at the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking, paragraph 14. At Paragraph 7 the Framework identifies that sustainable development has three dimensions; an economic role a social role and an environmental role. It further advise, at paragraph 8, that these roles should not be undertaken in isolation and to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously. Paragraph 9 confirms that pursuing sustainable development involves seeking positive improvements in **the quality of the built, natural and historic environment as well as in people's** quality of life. I have identified significant and substantial harm to the character and appearance of the area and the setting of the adjoining CLCA. This harm, in my view, is not outweighed by the positive benefits of the development and the scheme does not therefore represent sustainable development.
36. For the reasons given above therefore, I conclude that the appeal should be dismissed.

*Kenneth Stone*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Robert Walton	Barrister Landmark Chambers
Mathew Shellum BA(Hons) DipTP MRPTI	The Planning Bureau Ltd
David Beardmore FRTPI CMLI and IHBC	Beardmore Urban
Malcolm Jux	Amasia Architects Ltd
Dr A J Burns	Dr A J Burns Traffic and Transportation Consultant

### FOR THE LOCAL PLANNING AUTHORITY:

Natalia Achilleos BSc(Hons) MA MRTPI	Senior Planning Officer Reigate and Banstead Borough Council
John McNally BA(Hons) Dip DUPI DNST AA DIP Con MRTPI IHBC	Design and Conservation Officer Reigate and Banstead Borough Council
Billy Clements BSc(Hons) MA MRTPI	Senior Planning Officer (Policy) Reigate and Banstead Borough Council
Councillor C T H Whinney	Local Ward Councillor

### INTERESTED PERSONS:

Ed Stock	Local Resident
Geoff Stock	Local Resident
Irene Stock	Local Resident
Colin Knott	Chair of the Victoria Almshouses trust
Peter Lloyd	Local Resident
Councillor R D Pay	Local Councillor
Sheila Apicella	Local Resident and Secretary of Eversfeild Court Management Company

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Signed and sealed Unilateral Undertaking dated 25<sup>th</sup> November 2015 submitted by the appellant.

2. List of properties and consultees contacted by the appellant in respect of the amended site plan, submitted by the appellant.
3. Copies of letters **submitted to the Council in response to the appellant's** notification of the amended plan, submitted by the Council.
4. A finalised and signed version of the Statement of Common Ground, submitted by the Council.
5. A copy of the Affordable Housing Supplementary Planning Document 2014, submitted by the Council.
6. A copy of the Reigate and Banstead Local Distinctiveness Design Guide, submitted by the Council.
7. A copy of the Chart Lane Conservation Area Appraisal Draft November 2014, submitted by the Council.
8. A copy of the list of signatories with the power of attorney for the execution of documents on behalf of the Bank of Scotland PLC, submitted by the Council.