

---

## Appeal Decision

Site visit made on 11 July 2016

**by Philip Lewis BA (Hons) MA MRTPI**

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

**Decision date: 12 August 2016**

---

**Appeal Ref: APP/L3625/W/16/3146402**

**Little Ambrook, Nursery Road, Walton on the Hill, Surrey KT20 7TU**

- 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 Denton Homes against the decision of Reigate & Banstead Borough Council.
  - The application Ref 15/01954/F, dated 21 August 2015, was refused by notice dated 17 November 2015.
  - The development proposed is described as retention of existing dwelling and outbuildings and erection of a building comprising 7 apartments, a refuse store, gates and utilising the existing access.
- 

### Decision

1. The appeal is dismissed.

### Procedural matter

2. I have also dealt with another appeal (Ref: APP/L3625/W/16/3146401) on this site. That appeal is the subject of a separate decision.
3. During the course of the appeal, a signed unilateral undertaking was received from the appellant to address the Council's third reason for refusal which relates to the failure to provide an agreed contribution towards affordable housing. I return to this later under my second main issue.

### Main Issues

The main issues for the appeal are:

- Whether the proposed development would preserve or enhance the character or appearance of the Walton on the Hill Conservation Area; and
- Whether the proposal makes adequate provision for any additional need for affordable housing arising from the development.

### Reasons

#### *Walton on the Hill Conservation Area*

4. Little Ambrook is a substantial detached dwelling, set within a very large plot within the Walton on the Hill Conservation Area. The appeal site also falls within a Residential Area of Special Character (RASC), designated under saved policy Ho15 of the Reigate and Banstead Borough Local Plan 2005 (Local Plan).
-

5. The Conservation Area and RASC derive character from the large dwellings set in substantial verdant plots, which are defined by significant mature hedges and trees. I understand that the Nursery Road Estate was developed in the early twentieth century and includes a number of houses by Sir Edward Lutyens and Morley Horder in the arts and crafts style.
6. Little Ambrook is situated towards one corner of its plot, set in extensive verdant grounds and is an attractive arts and crafts style property. In this regard, the appeal site is reflective of the character and appearance of the Conservation Area and the RASC. I note that the Secretary of State for Culture, Media and Sport has decided not to add Little Ambrook to the List of Buildings of Special Architectural or Historic Interest and that the building is not listed locally. I concur however with the findings of Historic England, that Little Ambrook has interest in a local context of part of the development of the estate, and as one of a large group of Morley Horder's houses. Whilst I note the comments by the appellant that Horder may have been a secondary figure in the development of the estate and that the dwelling has had some alterations, I nevertheless consider that Little Ambrook and its grounds have significance within the Conservation Area and rather than the property being neutral, I agree with my colleague in the previous appeal in that it makes a positive contribution to the Conservation Area and also to the RASC.
7. It is proposed that a two and a half storey block of 7 apartments would be erected adjacent to Little Ambrook, in part of the open grounds presently occupied by tennis courts. The proposed building would have a relative wide and deep footprint in relation to nearby dwellings and would appear as being considerably larger than Little Ambrook from Nursery Road. It would also occupy a significant part of its plot and be relatively large in relation to the proposed communal amenity space. Whilst I note that the existing tennis courts are a 'hard area' and the garden is already divided into different compartments, it nevertheless has a spacious character. In terms of scale, the appeal building would present significant elevations to both Nursery Road and Nursery Close and consequently would significantly erode the spaciousness of this part of the Conservation Area and RASC. The proposed siting of the building close to the boundary with Nursery Close, whilst the boundary would be landscaped, would nevertheless give rise to a cramped form of development in the street scene.
8. In terms of the design of the proposed flats, they do not follow the typically rectangular form of the arts and crafts houses in Nursery Road and would, due to their proportions, the mix of architectural styles and detailing proposed would appear inconsistent with existing properties. Although the proposed scheme would maintain landscape planting, it would nevertheless be harmful to the Conservation Area and the RASC.
9. The appellant has referred to a development of 7 flats on Heath Drive 'Lavington' (Ref: APP/L3625/A/14/2226095). Whilst the communal areas in the appeal proposal may be more generous than provided at Lavington, I note that the circumstances of that case differ to that before me and I am not convinced that the circumstances of that development are sufficiently similar to be an example of what should be followed in this case. In any event, I consider that the proposed building and associated communal area would be out of proportion in relation to other dwellings in this part of the Conservation Area and RASC and would erode the spacious character.

10. Paragraph 131 of the National Planning Policy Framework (the Framework) states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. This is in line with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of development affecting conservation areas, which states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. Paragraph 132 of the Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the conservation of the asset.
11. Paragraph 126 of the Framework recognises that historic assets are an irreplaceable resource that local authorities should conserve in a manner appropriate to their significance. The harm found in this case would be less than substantial to the Conservation Area as a whole. Paragraph 134 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal including securing its optimum viable use. I will return to this.
12. To conclude on this matter, the appeal scheme would not preserve or enhance the character and appearance of the Walton on the Hill Conservation Area and would also give rise to harm to the RASC. The proposal would conflict Policies CS1 and CS10 of the Reigate and Banstead Local Plan Core Strategy (Core Strategy) which are concerned with sustainable development and Core Strategy Policy CS4 which includes that development will be designed sensitively to respect, conserve and enhance the historic environment. The proposal also conflicts with saved Local Plan Policies; Ho9 which is concerned with achieving high standards of design, Ho13 which includes that only those proposals which conform to the pattern of development in the surrounding area will be permitted and Ho15 which is concerned with Residential Areas of Special Character. It also does not conform with saved Local Plan Policies Pc12 which includes that the Council will resist the loss of buildings which are important to the character of conservation areas and Pc13 which is concerned with development in Conservation areas.

#### *Affordable housing*

13. The Council's third reason for refusal relates to the lack of any contribution to affordable housing as set out in Policy CS15 of the Reigate and Banstead Core Strategy 2014 (Core Strategy) and the Council's Affordable Housing SPD 2014. During the appeal, the appellant provided a Unilateral Undertaking (UU) regarding a contribution towards affordable housing.
14. The Written Ministerial Statement of 28 November 2014 (WMS) includes that for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. The appeal scheme would provide an increase of 7 dwellings and therefore the WMS would be applicable. The planning application was determined on 17 November 2015 after the High Court issued a judgement in respect of the WMS which stated that the policies of the statement must not be treated as a material consideration. Subsequent to this, Court of Appeal's

judgment of 11 May 2016, has effectively reinstated the WMS and the Planning Practice Guidance (PPG) has been revised.

15. The Council in its appeal statement has set out that the provisions of section 38(6) of the Planning and Compulsory Purchase Act 2004, are clear that, whilst the determination of planning applications must be made in accordance with the development plan, that requirement is conditioned by the phrase '...unless material considerations indicate otherwise'. There is a long-established precedent that Ministerial Statements are a material consideration and should carry substantial weight. Furthermore, the Written Ministerial Statement by the Secretary of State of 25 March 2015 emphasised that his Statement of 28 November 2014 in setting out the position regarding contributions to affordable housing from small schemes was a change in national policy. In these circumstances, it seems to me that it must carry substantial weight as a material consideration. Accordingly Core Strategy Policy CS15 is now not wholly consistent with national policy as expounded in the PPG.
16. I have considered the submissions by the Council that there is no evidence that the requirement for affordable housing contribution would affect the viability of the appeal scheme, regarding the Community Infrastructure Levy Regulations and the particular housing circumstances for the Borough of Reigate and Banstead. However, whilst I appreciate the position of the Council and accord significant weight to the objective of Core Strategy Policy CS15, this does not outweigh Government policy. Accordingly, I find there is no longer a policy imperative for an affordable housing contribution to be made in respect of this proposal and such a contribution would not be necessary to make the development acceptable in planning terms in this regard.

#### **Other matters**

17. The appeal site is situated opposite 'Chussex', a Grade II listed building by Lutyens. Paragraph 131 of the Framework states that in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. This is in line with Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 which makes clear that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The proposed building would be situated relatively close to the boundary with Nursery Close, along which the boundary landscaping would be retained and reinforced. Although it would be possible to view the proposed building and Chussex together, the separation of the two by Nursery Close, the landscape planting and the separation distance would be such that the effect upon the setting of Chussex would be neutral and thereby its setting not harmed.
18. I have considered the policies of the Framework, development plan and the local distinctiveness guide referred to by the appellant. I have also considered the submitted specialist reports. In respect of sustainable development, I note the economic and social benefits which have been put to me, but consider that the proposal would not meet the environmental dimension of sustainable development as set out in the Framework given the harm found. As the Framework in paragraph 8 states that the roles should not be taken in

isolation, the proposed development does not constitute sustainable development for which the Framework sets a presumption.

19. The appellant has referred to a number of developments in Walton on the Hill in their design and access statement and has stated that the appeal proposal is not out of scale with them. I have considered the evidence regarding the number of plots which have been sub-divided and the new dwellings in Egmont Park Road, Chequers Road, Dorking Road, Deans Lane, Heath Drive, Hurst Drive, Meadow Walk and Sandlands Road cited by the appellant. I have not however been provided with sufficient details of these to enable me to determine whether, considering the harm identified, they should provide an indication of what should be followed in this case.
20. I note that the appeal proposal would give rise to an increase of 7 dwellings which would make a small contribution towards the housing supply in the Borough. The appellant has also offered to make financial contributions towards affordable housing, but I have found that this is not necessary to make the development acceptable in planning terms.

### **Conclusions**

21. In conclusion, I have found that the appeal proposal would not preserve or enhance the character or appearance of the Conservation Area and in respect of paragraph 134 of the Framework, would give rise to less than substantial harm to the Conservation Area. In accordance with paragraph 132 of the Framework I attach great weight to the conservation of the heritage asset and any harm to a heritage asset requires clear and convincing justification. Whilst the proposal would give rise to public benefits to which I attach some weight, they do not outweigh the harm found. Despite the change in circumstances in respect of the affordable housing contributions, I would nevertheless have concluded that the public benefit would not outweigh the harm found.
22. For the reasons given above and having considered all matters raised, I consider that the appeal should be dismissed.

*Philip Lewis*

INSPECTOR