



RIDGE

PLANNING STATEMENT OF CASE

**FONTHILL, 58 REIGATE ROAD,
REIGATE, SURREY, RH2 0QN**

**FOLLOWING REFUSAL OF
APPLICATION 21/03270/F**

**FOR BEEHCROFT
DEVELOPMENT LIMITED**

January 2023

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Prepared for

Beechcroft Developments Limited
1 Church Lane
Wallingford
Oxfordshire
OX10 0DX

Prepared by

Ridge and Partners LLP
Regent House
65 Rodney Road
Cheltenham
Tel: 01242 230066

Contact

Giles Brockbank
Partner
gbrockbank@ridge.co.uk
01242 230066

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EXECUTIVE SUMMARY

13.1 This Planning Statement of Case has been prepared by Ridge and Partners LLP on behalf of Beechcroft Developments Limited (hereafter referred to as 'The Appellant') in support of an appeal against the refusal of planning application reference 21/03270/F by Reigate and Banstead Borough Council.

13.2 The proposal is for:

"The conversion of a former nursing home to 8 flats, including the addition of dormer windows, and fenestration changes, demolition of modern extensions, conversion and sunroom/terrace extension of the Coach House to two flats, erection of 27 flats and ancillary accommodation in the form of a two new 3 storey blocks all for people aged 55 and over with associated car parking."

13.3 The site benefits from an extant planning application 20/02081/F which was granted on 20th August 2021. This appeal proposal differs from this extant permission insofar as it provides for an additional 8 flats within the new build accommodation on site.

13.4 The council's decision notice is dated 11th October 2022, it gives the following reasons for refusal:

- 1. "The proposed development, by way of the design, scale, and spread of development of the two new blocks of flats, as well as associated levels of car parking, would sit uncomfortably in the setting of the locally listed building due to their lack of subservience and affinity with the Locally Listed building and would harm both the Conservation Area and Locally Listed Building. The benefits associated with the proposal are considered insufficient to outweigh the harm, and the proposal is thereby contrary to policies DES1 and NHE9 of the Reigate and Banstead Borough Council Development Management Plan 2019 and Section 16 of the NPPF.*
- 2. The proposed development would, by virtue of the proximity of the north elevations of both proposed blocks of flats and north facing balconies, result in a development which would have a harmful impact upon the amenities of the neighbouring dwellings Hilliers Ringley Park Road and 62 The Cedars and their gardens by way of overlooking and loss of privacy. The proposal would thereby be contrary to policy DES1 of the Development Management Plan 2019.*
- 3. The proposed development would, by virtue of the proposed layout, spread of development and proximity to protected trees, diminish the landscape visual amenity of the site and result in future pressure for the loss of trees protected by Tree Preservation*

Order RE 964 and the Chart Lane Conservation Area, which positively contribute to the visual appearance of the local landscape. The development would therefore be contrary to Policies NHE3 of the Development Management Plan 2019.

4. The proposed development, by virtue of the absence of a S106 legal agreement to secure affordable housing on site or a commuted sum, would be contrary to policies DES6 of the Reigate and Banstead Development Management Plan 2019 and the National Planning Policy Framework.”

13.5 It is the Appellant’s contention in the first scenario presented that the proposal accords with the Development Plan, as demonstrated in chapters 7-10 which address the individual reasons for refusal and should therefore be allowed in accordance with paragraph 11c) and Section 38(6) of the Planning and Compulsory Purchase Act 2004.

13.6 Notwithstanding the above, if the Inspector considers there to be conflict with the Development Plan, then in accordance with Section 38(6), the other scenario which exists is that in relation to paragraph 11(d) of the NPPF, planning permission should be granted unless the provisions of Limb 1 of Limb 2 apply.

13.7 Limb 1 of paragraph 11(d) advises that planning permission shouldn’t be granted where the policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 6 sets out an exhaustive list of policies which are of a type referenced by Limb 1, which include designated heritage assets. As established in chapter 7 of this report the public benefits, significantly outweigh the less than substantial harm to the significance of Chart Lane Conservation Area, thus the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed and thus Limb 1 is consequently not engaged.

13.8 The benefits and impacts set out above, have been summarised in the below table:

Contributing Factor	Weight to be attributed in the planning balance
Provision of Specialist Retirement Housing	Significant/substantial (Benefit)
Making the Most Efficient Use of Land	Significant/Substantial (Benefit)
Economic Impacts	Significant (Benefit)
Affordable Housing	Significant (Benefit)
Ecology Impacts	Limited (Benefit)
Energy Credentials Impacts	Limited (Benefit)
Less Than Substantial Harm to Chart Lane Conservation Area	Limited Weight

Impact to locally listed building	Limited Weight
Tree Impacts	Neutral Impact
Loss of Care Home Impact	Neutral Impact
Transport and Access Impacts	Neutral Impact
Contamination Impacts	Neutral Impact
Impact on Amenity	Neutral Impact
Flooding	Neutral Impact

13.9 Through the balancing exercise required by Limb 2, the cumulative benefits of the appeal proposal are substantial. In this case, the only adverse impact identified is the Less Than Substantial Harm to Chart Lane Conservation Area (at the lower end of the scale) and the slight harm to the locally listed building. However as has been identified earlier within the proof the public benefits exercise required by paragraph 202 and 203 of the NPPF outweigh this harm. The adverse impacts of the proposals therefore do not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole and therefore the appeal should be allowed.

13.10 The Appellant’s tertiary contention is that there is an Extant Permission in respect to the Site which amounts to a fallback position through which the benefits of the proposal are justified.

13.11 Notwithstanding the assertions made above, should an alternative view be taken by the Inspector that the proposals do not accord with planning policy and for any reason that the ‘tilted planning balance’ is not engaged, then the overall package of benefits identified above in this instance are considered to outweigh any conflict with the development plan that may be identified.

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Qualifications and Experience

- 1.1 My name is Giles Brockbank and I am presenting this case on behalf of Beechcroft Developments Ltd. who is the Appellant for this appeal.
- 1.2 I am a member of the Royal Town Planning Institute and I hold a Postgraduate Diploma in Town Planning. I am a Partner at Ridge and Partners LLP, based at their offices in Cheltenham.
- 1.3 I previously worked for Hunter Page Planning for 17 years prior to its purchase by Ridge and Partners LLP in 2018 and before that worked for Cotswold District Council.
- 1.4 I have obtained during that time considerable experience in dealing with a wide range of planning matters relating to a variety of developments, with particular experience in schemes for specialist housing and care related developments. I undertake, and am responsible for, a wide range of consultancy tasks including the preparation of site appraisals, the preparation of planning briefs, planning applications, local plan representations, and representing clients at planning appeals and at Local Plan Examinations.

1. INTRODUCTION

1.1 This Planning Statement of Case has been prepared by Ridge and Partners LLP on behalf of Beechcroft Developments Limited (hereafter referred to as 'The Appellant') in support of an appeal against the refusal of planning application reference 21/03270/F by Reigate and Banstead Borough Council.

1.2 The proposal is for:

"The conversion of a former nursing home to 8 flats, including the addition of dormer windows, and fenestration changes, demolition of modern extensions, conversion and sunroom/terrace extension of the Coach House to two flats, erection of 27 flats and ancillary accommodation in the form of a two new 3 storey blocks all for people aged 55 and over with associated car parking."

1.3 The site benefits from an extant planning application 20/02081/F which was granted on 20th August 2021. This appeal proposal differs from this extant permission insofar as it provides for an additional 8 flats within the new build accommodation on site.

1.4 This statement should also be read in conjunction with the reports and plans that accompany the appeal, including the separate statements of case concerning:

- Arboricultural Appeal Statement (Prepared by David Archer Associates)
- Hearing Statement on Housing Need and Supply (Prepared by Pegasus Group)
- Heritage Appeal Statement (Prepared by HCUK Group)
- Urban Design Statement of Case (Prepared by Pegasus Group)

1.5 The complete list of plans sought for approval are agreed with the council and can be found in the SoCG.

1.6 The council's decision notice is dated 11th October 2022, it gives the following reasons for refusal:

1. *"The proposed development, by way of the design, scale, and spread of development of the two new blocks of flats, as well as associated levels of car parking, would sit uncomfortably in the setting of the locally listed building due to their lack of subservience and affinity with the Locally Listed building and would harm both the Conservation Area and Locally Listed Building. The benefits associated with the proposal are considered insufficient to outweigh the harm, and the proposal is thereby contrary to policies DES1*

and NHE9 of the Reigate and Banstead Borough Council Development Management Plan 2019 and Section 16 of the NPPF.

- 2. The proposed development would, by virtue of the proximity of the north elevations of both proposed blocks of flats and north facing balconies, result in a development which would have a harmful impact upon the amenities of the neighbouring dwellings Hilliers Ringley Park Road and 62 The Cedars and their gardens by way of overlooking and loss of privacy. The proposal would thereby be contrary to policy DES1 of the Development Management Plan 2019.*
- 3. The proposed development would, by virtue of the proposed layout, spread of development and proximity to protected trees, diminish the landscape visual amenity of the site and result in future pressure for the loss of trees protected by Tree Preservation Order RE 964 and the Chart Lane Conservation Area, which positively contribute to the visual appearance of the local landscape. The development would therefore be contrary to Policies NHE3 of the Development Management Plan 2019.*
- 4. The proposed development, by virtue of the absence of a S106 legal agreement to secure affordable housing on site or a commuted sum, would be contrary to policies DES6 of the Reigate and Banstead Development Management Plan 2019 and the National Planning Policy Framework.”*

2. SITE AND SURROUNDING AREA

- 2.1 An agreed description of the site, surrounding area, designations and relevant planning history are provided within the SoCG.

3. PRE-APPLICATION DISCUSSIONS

- 3.1 A pre-application meeting was undertaken with the LPA on 15th September 2021. Whilst no formal pre-application response was issued, the below provides a summary of the pre-application discussion undertaken and sets out how the proposals have sought to address those comments.
- 3.2 Given the planning history attached to the site, officers were accepting of its redevelopment in principle. However, the pre-application proposals were seeking advice on the increase of density on site and included an additional 11 units above the permission granted under 20/02081/F on the 20th of August 2021. Officers considered that the proposals represented an overdevelopment of the site, and in coming to that conclusion commented that:
1. The proposed new build block toward the rear of the site was too close to the boundary of the site;
 2. There was concern that the development encroached on the landscape setting of the main house; and
 3. There was a concern over loss of trees.
- 3.3 The appeal proposals have been amended since pre-application stage, reducing the overall number of units from 40 to 37, reducing the height by 1.2 metres, and removing proposed built form to the west and north of 1 Fonthill House. In dealing with point 1, the proposed new build has been pulled away from the boundary achieving an acceptable separation distance to the neighbouring properties. In response to point 2, the development provides a similar separation when compared to the existing consent and as a consequence the character of the garden proposed remains. Finally, in dealing with point 3, the development has been designed to lie outside of important root protection zones and the tree within the centre of the site is to be retained as per the extant permission. Given its protection it will experience no pressure in its felling.
- 3.4 In response to other officer comments, the floor to ceiling heights have been confirmed as matching those in the existing scheme. Further, the distance across the lawned garden to the north of Fonthill House has been increased, and parking has been redistributed to the edges of the site where possible and reduced in front of the main building to preserve the setting and space around the building.

4. THE APPEAL PROPOSAL

4.1 A full description of the proposals is set out within the SOCG.

5. PLANNING POLICY

5.1 The relevant planning policy context is set out in further detail in the accompanying SoCG.

6. PRINCIPLE OF DEVELOPMENT

- 6.1 The application site sits within an existing urban area which, as set out within Policy CS13, at least 5,800 homes will be provided, contributing towards the (at least) 6,900 homes to be delivered between 2012 and 2027 and significantly boosting the supply of homes nationwide as advocated in Paragraph 60 of the NPPF. Therefore, the proposals are in line with the Council's development strategy.
- 6.2 The conversion element of the scheme uses existing buildings that are redundant, and the proposals seek the redevelopment of brownfield land, which in their own right comprise sustainable forms of development and which are supported by Local Plan Policy CS10 and Paragraphs 119, 120 and 152 of the NPPF.
- 6.3 The new build element of the scheme in principle is acceptable given new residential development should be focused in existing urban areas as above.
- 6.4 The proposals relate to the delivery of residential development, including the conversion of two buildings on site and the erection of new units in the form of apartment blocks. The proposed development is similar to the previously approved scheme (ref. 20/02081/F) where officers accepted the principle of development given the site's planning history. As there have been no critical changes to planning policy in relation to the proposed development, it is considered that the proposals are equally as acceptable in this instance.
- 6.5 Indeed, there are no reasons for refusal in the council's decision notice that object to the principle of development.
- 6.6 The Appellant's primary contention is that there is no conflict with the policies in the development plan.

Tilted Balance

- 6.7 If, however, it is found that there is conflict with some policies, the Appellant's secondary contention is that the presumption in favour of sustainable development is engaged.
- 6.8 Chapter 11 of this statement and the accompanying Hearing Statement on Housing Need and Supply sets out in full that this is due to relevant policies being out of date, owing to the fact that the development plan does not reflect the need for specialist housing for older people, as required by paragraph 62 of the NPPF. Further, the policies underscoring the Council's housing requirement are

out of date, given that they are out of step with the local housing need and the actual need for housing. Consequently, the presumption in favour of sustainable development is engaged.

- 6.9 This presumption is reflected within Policy CS1 of the Core Strategy. Thus, the development plan invites the decision maker to apply the tilted balance, found at paragraph 11(d)(ii) of the NPPF.
- 6.10 Within this context, chapter 13 of this report weighs the benefits and impacts of the proposals in the tilted planning balance and concludes that any harm **does not** significantly and demonstrably outweigh the benefits and thus the proposal conforms with the development plan as a whole.

Fallback Position

- 6.11 The Appellant's tertiary contention is that there is an Extant Permission in respect to the Site which amounts to a fallback position. The Appellant contends that the design is largely similar to the existing approved scheme with the accompanying Urban Design Statement of Case setting out that the change in the level of privacy and overlooking is not significant and will not lead to an adverse impact on neighbouring properties either by overlooking or loss of privacy. The relationships created between the appeal proposals and the existing dwellings to the northern boundary are acceptable and would not give rise to unacceptable levels of overlooking or loss of privacy. Views into and out of the appeal site are heavily screened by the mature, vegetation which is to be retained and managed to ensure its longevity.
- 6.12 As demonstrated in the accompanying Heritage Statement of Case and subsequent chapter of this statement, the effect of the appeal proposal is, in heritage terms, the same as the effect of the previously permitted scheme (20/02081/F). Any differences in detail are relatively minor for the purposes of the consideration of the issues surrounding the balancing exercise in paragraph 202 of the NPPF and local policies DES1 and NHE9 of the Reigate and Banstead Borough Council Development Management Plan 2019.
- 6.13 However, should the inspector find any additional harm arising from the development proposal, which is greater than the Extant Permission, this is offset by the benefits associated with providing an additional 8 units, as set out in full in the planning balance section of this statement. Thus, balanced against the fallback position, the benefits of the proposal are justified.

Flat Balance

- 6.14 The Appellant's final contention is that, even applying a straight balance, the benefits of the proposal outweigh any harm, as demonstrated in chapter 13 of this statement.

7. REASON FOR REFUSAL 1 – HERITAGE HARM

7.1 In the first reason for refusal the decision notice states that:

"The proposed development, by way of the design, scale, and spread of development of the two new blocks of flats, as well as associated levels of car parking, would sit uncomfortably in the setting of the locally listed building due to their lack of subservience and affinity with the Locally Listed building and would harm both the Conservation Area and Locally Listed Building. The benefits associated with the proposal are considered insufficient to outweigh the harm, and the proposal is thereby contrary to policies DES1 and NHE9 of the Reigate and Banstead Borough Council Development Management Plan 2019 and Section 16 of the NPPF."

7.2 Chart Lane Conservation Area is a designated heritage asset. Fonthill is a locally listed building and non-designated heritage asset.

7.3 The accompanying Heritage Appeal Statement identifies that the appeal proposals will have an effect on the setting of non-designated heritage asset, resulting in a slight amount of harm to its heritage significance within the context of paragraph 203 of the NPPF. Consequently, the statement also identifies that there will be less than substantial harm to the significance of Chart Lane Conservation Area, within the category in paragraph 202 of the NPPF, the extent of which is very slight, falling at the bottom of the scale.

7.4 The statement also finds the that:

None of the principal attributes of the conservation area, as identified in the council's appraisal (2014) will be affected, and there will be no material change in views from the public realm. The change will be visually contained, and will take effect in an area that has already been modified and altered by the adjacent Mount Green Estate of c.1965. There will be consequential heritage benefits, including the preservation of the locally listed building known as Fonthill, and any harm is a low level.

The effect of the appeal proposal is, in terms of the assessment of harm under paragraph 202 of the NPPF, the same as the previously permitted scheme (20/02081/F). Any differences in detail are relatively minor for the purposes of the consideration of the issues surrounding the balancing exercise in paragraph 202 of the NPPF and local policies DES1 and NHE9 of the Reigate and Banstead Borough Council Development Management Plan 2019.

Paragraph 202 Balancing Exercise

7.5 Paragraph 202 requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

7.6 In summary, the appeal proposals result in the following significant public benefits:

- Provision of Specialist Retirement Housing - The provision of sheltered/retirement housing not only addresses the substantial unmet need for housing more generally and the substantial need for sheltered/retirement housing in particular, it also gives rise to numerous other benefits including:
 - Enabling older people to live independently for longer;
 - Reducing the prospects of falls and injuries amongst residents;
 - Improving the physical health and social well-being of residents;
 - Decreasing the chances of residents becoming lonely;
 - Reducing the cost burden on health and social care systems; and
 - Releasing suitably sized and currently under-utilised housing for overcrowded households.
- Making the Most Efficient Use of Land - Paragraph 120 c) of the NPPF is clear that planning decisions should give significant weight to the value of using suitable brownfield land within settlements for homes and other identified needs.
- Economic Impacts – The proposals will generate economic benefits at both construction and occupation stages, supporting employment, generating tax revenue and contributing to the viability and vitality of local services and facilities.
- Affordable Housing – Nationally we are in the midst of a housing crisis with a pressing need for additional housing to address the needs of the population. However, this is more pronounced in some areas than in others and the need is particularly pronounced in Reigate and Banstead which is within the 44 least affordable LPAs nationally and this continues to worsen. The provision of a policy compliant level of affordable housing is therefore a significant public benefit.

- Ecology Impacts – The proposals deliver a net enhancement to biodiversity post development.
- Heritage Benefits – The accompanying Heritage Statement identifies that there will be consequential heritage benefits resulting from the proposals, including the preservation of the locally listed building known as Fonthill and removing additions that date mainly from the use as a nursing home.

7.7 It can therefore be concluded that the above public benefits, together with those set out in more detail within the planning balance chapter of this statement significantly outweigh the less than substantial harm to the significance of Chart Lane Conservation Area, the extent of which is very slight, falling at the bottom of the scale.

Paragraph 203 Balanced Judgement

7.8 Additionally, paragraph 203 of the Framework requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Policy NHE9(5) of the development plan allows Councils to give weight to the conservation of a non-designated heritage asset.

7.9 The accompanying Heritage Appeal Statement in chapter 3 provides a full statement of significance of the non-designated asset. Based on this it finds that the appeal proposal will cause a slight amount of harm to the significance of Fonthill, as a non-designated heritage asset, within the context of paragraph 203 of the NPPF.

7.10 In the light of paragraph 203 that requires a balanced judgement and the fact that the level of harm has been found to be 'slight' the above public benefits, together with those set out in more detail within the planning balance chapter of this statement significantly outweigh this slight amount of harm to the significance of Fonthill, a non-designated heritage asset. The proposals are therefore policy compliant in this regard.

Heritage Harm Conclusions

7.11 NHE9 reflects the NPPF, insofar as it does not preclude development that would harm a heritage asset. Rather, as with paragraph 202 of the NPPF, Policy NHE9(3)(c) it allows for less than substantial harm to heritage assets where the harm is outweighed by benefits. Similarly, as with paragraph 203

of the NPPF, Policy NHE9(5) allows Councils to give weight to the conservation of a non-designated heritage asset.

- 7.12 Given that the heritage harm is outweighed by the benefits of the proposal, the proposal accords with the development plan in relationship to heritage policies.
- 7.13 Furthermore, the accompanying Heritage Appeal Statement finds that the effect of the appeal proposal is, in terms of the assessment of harm under paragraph 202 of the NPPF, the same as the previously permitted scheme (20/02081/F). Adding that:

Any differences in detail are relatively minor for the purposes of the consideration of the issues surrounding the balancing exercise in paragraph 202 of the NPPF and local policies DES1 and NHE9 of the Reigate and Banstead Borough Council Development Management Plan 2019.

8. REASON FOR REFUSAL 2 – IMPACT ON NEIGHBOURING AMENITY

8.1 In the second reason for refusal the decision notice states that:

“The proposed development would, by virtue of the proximity of the north elevations of both proposed blocks of flats and north facing balconies, result in a development which would have a harmful impact upon the amenities of the neighbouring dwellings Hilliers Ringley Park Road and 62 The Cedars and their gardens by way of overlooking and loss of privacy. The proposal would thereby be contrary to policy DES1 of the Development Management Plan 2019.”

8.2 This reason for refusal is addressed in full in Chapter 7 of the accompanying Urban Design Statement of Case, which is also accompanied by illustrative 3d views have been prepared to further represent the proposals in their context, see Core Document CD1.40.

8.3 The Urban Design Statement of Case identifies that “harmful impact upon the amenities of the neighbouring dwellings Hilliers Ringley Park Road and 62 The Cedars and their gardens by way of overlooking and loss of privacy” as the only area of contravention from policy DES1 cited by the council in their decision notice. It is noted that RfR refers to number 62 The Cedars. It is assumed that this is an error and instead number 53 The Cedars was the intended reference.

8.4 The Urban Design Statement of Case finds that the relationships created between the appeal proposals and the existing dwellings to the northern boundary are acceptable and would not give rise to unacceptable levels of overlooking or loss of privacy. Views into and out of the appeal site are heavily screened by the mature, vegetation which is to be retained and managed to ensure its longevity.

8.5 It should also be noted that the landscape design approach, including retained and proposed boundary planting, for the original application has been approved (20/02081/DET12) and therefore constitutes common ground as an acceptable approach.

8.6 The proposals are found by the accompanying statement, and not disputed by the council, to comply with the remaining criteria of policy DES1 and therefore the proposals are considered to be fully compliant with this policy.

9. REASON FOR REFUSAL 3 - TREES

9.1 In the third reason for refusal the decision notice states that:

“The proposed development would, by virtue of the proposed layout, spread of development and proximity to protected trees, diminish the landscape visual amenity of the site and result in future pressure for the loss of trees protected by Tree Preservation Order RE 964 and the Chart Lane Conservation Area, which positively contribute to the visual appearance of the local landscape. The development would therefore be contrary to Policies NHE3 of the Development Management Plan 2019.”

9.2 The proposals have been the subject of a comprehensive tree survey and arboricultural impact assessment and are accompanied by a clear tree protection plan and arboricultural method statement showing how trees identified for retention can be successfully protected during the construction process. The LPA has accepted these as being satisfactory and compliant with BS 5837: 2012. The trees on site are also protected by the provisions in section 211 of the Town and Country Planning Act 1990 owing to the siting within a conservation area.

9.3 No additional tree removals are required over those which have previously been approved under 20/02081/F.

9.4 The accompanying Arboricultural Appeal Statement assesses the council’s reason for refusal in full, where it finds that the LPA’s concerns as to inevitable pressure for tree works, which it could not reasonably resist, are not substantiated in this case. It is concluded in the Statement that the LPA’s third reason for refusal of the application is not supported by adequate evidence and should thus not attract weight in the determination of this appeal.

9.5 Policy NEH3 requires that development resulting in the loss, or the deterioration of a protected tree will be refused unless the need for, and benefits of, development in that location clearly outweigh the loss. It is agreed that the proposed new layout retains the significant trees on site (with those to be felled not disputed) and suitable mitigation for the proposed development. The Appellant considers therefore that proposals comply with Policy NEH3 and the layout accords with best practice set out within BS5837: 2012.

10. REASON FOR REFUSAL 4 – SECTION 106 AGREEMENT

10.1 In the final reason for refusal the decision notice states that:

“The proposed development, by virtue of the absence of a S106 legal agreement to secure affordable housing on site or a commuted sum, would be contrary to policies DES6 of the Reigate and Banstead Development Management Plan 2019 and the National Planning Policy Framework.”

10.2 An agreed S106 Agreement will be submitted prior to the hearing which secures the provision of age restricted affordable housing. The Appellant also intends to agree with the Council a clause for the affordable housing to revert to discounted market sales should the agreed tenure not be transferred to a preferred registered provider. This is detailed in the accompanying SoCG.

11. PROVISION OF SPECIALIST RETIREMENT HOUSING AGAINST RECOGNISED NEED

11.1 Matters relating to housing need and supply are covered in full in the accompanying Hearing Statement on Housing Need and Supply. The key findings of this Statement are summarised in this chapter for the purposes of demonstrating the appellant's secondary contention that the presumption in favour of sustainable development is engaged should the decision maker find there is conflict with the development plan. Additionally, to demonstrate the acute housing need generally and for sheltered housing, and therefore why the benefits of such provision should be attributed significant weight within the tilted planning balance.

Currency of the Development Plan Policies and Engagement of the Tilted Planning Balance

- 11.2 The Hearing Statement on Housing Need and Supply sets out that notwithstanding the fact that the core strategy has been reviewed and found not to require updating, and in many cases because of this, some of the policies of the Development Plan are now out-of-date. This is because the policies no longer provide a framework to plan for housing and other development needs for even five-years and for this reason, Policy MLS1(2b) is no longer able to be applied and is therefore clearly out-of-date.
- 11.3 Additionally, the same will shortly be true of Policy MLS1(2a) owing to the fact that from April 2023, a 5YLS will no longer be able to be assessed or demonstrated in accordance with national policy.
- 11.4 The housing need figure has changed significantly since the CS was adopted and as such paragraph 33 of the NPPF requires that the housing requirement and the policies which support this are updated given that they are clearly out-of-date. The housing requirement and the policies which support this were reliant upon a level of constraints which now demonstrably does not exist and so are clearly out-of-date.
- 11.5 The consequence of this is that the presumption in favour of sustainable development of paragraph 11d of the NPPF is engaged for the purposes of this appeal.

The Need for Housing

- 11.6 The accompanying Hearing Statement on Housing Need and Supply finds that the need for housing has increased substantially from 600-640 per annum at the time the CS was adopted to 1,287 per annum now – an increase of over 100%.

- 11.7 Rather than update the Development Plan to respond to this substantially increased need for housing either within Reigate and Banstead or through the duty to co-operate, the Council instead opted to take no action, such that it remains the case that there is no plan-led solution or emerging plan-led solution to address the critical need for housing within the area.
- 11.8 Accordingly, it is currently the case that notwithstanding the fact that the Council is able to demonstrate a 5YLS against the adopted out-of-date housing requirement, it is able to demonstrate only a 1.77yIs with a shortfall of 4,368 homes relative to the need for housing.
- 11.9 This provides an indication of quite how acute the need for housing is within the Borough. In this context, it would be expected that at least substantial weight would be afforded to the provision of housing arising from the appeal proposals especially in recognition of the limited opportunities to deliver housing elsewhere within the Borough given the extent of constraints.

The Need for Sheltered Housing

- 11.10 Within this overall figure, there is also a substantial unmet need for sheltered/retirement housing. Indeed, there is a critical need for specialist housing for older people nationally and this is also true in Reigate and Banstead owing to the increasing older population and the related social and health and well-being issues associated with many in this population.
- 11.11 Based on the Council's outdated assessment of need, there remains a net need for an additional 838-915 sheltered/retirement homes for sale by 2027. On the basis of updated assessments using different methodologies there is currently a need for 411 sheltered/retirement homes for sale increasing to c.593 by 2023 and to c.705 by 2027.

12. BALANCING EXERCISE / BENEFITS AND IMPACTS

- 12.1 As has been set out above, it is the Appellant's contention in the first scenario presented that the proposal accords with the Development Plan and should therefore be allowed in accordance with paragraph 11(c) and Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 12.2 Notwithstanding the above, if the Inspector considers there to be conflict with the Development Plan, then in accordance with Section 38(6), the other scenario which exists is that in relation to paragraph 11(d) of the NPPF, planning permission should be granted unless the provisions of Limb 1 of Limb 2 apply.
- 12.3 Limb 1 of paragraph 11(d) advises that planning permission shouldn't be granted where the policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 6 sets out an exhaustive list of policies which are of a type referenced by Limb 1, which include designated heritage assets. As established in chapter 7 of this report the public benefits, significantly outweigh the less than substantial harm to the significance of Chart Lane Conservation Area, thus the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed and thus Limb 1 is consequently not engaged.
- 12.4 Limb 2 is therefore the mechanism by which the appeal should be determined in this scenario. It requires that planning permission is granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits

Provision of Specialist Market Housing against Recognised Need

- 12.5 Paragraph 62 of the Framework requires that planning policies reflect and are informed by an assessment of the housing needs of different groups including older people. Whilst Policy CS14 encourages the provision of such accommodation, the Development Plan was not informed by an assessment of the needs of older people and has not responded to these needs as required by national policy. As set out above and in the accompanying Hearing Statement on Housing Need and Supply, the development plan does not accord with national policy and is out of date in this regard.
- 12.6 Based on the Council's outdated assessment of need, there remains a net need for an additional 838-915 sheltered/retirement homes for sale by 2027. On the basis of updated assessments using different methodologies there is currently a need for 411 sheltered/retirement homes for sale increasing to c.593 by 2023 and to c.705 by 2027.
- 12.7 The proposals seek to provide 37 specialist retirement dwellings which will make a considerable contribution towards helping meet the demand for specialist retirement housing, which is apparent within Reigate and the wider District.

- 12.8 The provision of sheltered/retirement housing not only addresses the substantial unmet need for housing more generally and the substantial need for sheltered/retirement housing in particular, it also gives rise to numerous other benefits including:
- Enabling older people to live independently for longer;
 - Reducing the prospects of falls and injuries amongst residents;
 - Improving the physical health and social well-being of residents;
 - Decreasing the chances of residents becoming lonely;
 - Reducing the cost burden on health and social care systems; and
 - Releasing suitably sized and currently under-utilised housing for overcrowded households.
- 12.9 Therefore, **substantial weight** should be attributed to the provision of Specialist Retirement Housing in this instance.

Housing Mix and Affordable Housing

- 12.10 The appeal proposals provide a policy compliant 11 affordable units. At the time of writing the tenure is still to be agreed with the Council, with the units being offered as a Shared Ownership tenure. The appellant will also seek a suitable clause within an agreed S.106 that confirms if a registered social landlord cannot be secured then the affordable provision will be offered as discounted market sale.
- 12.11 This is consistent with the findings of the accompanying Hearing Statement on Housing Need and Supply which finds no need for any sheltered/retirement homes for rent within the district. Accordingly, the entirety of the sheltered/retirement housing proposed should be available for sale including within the market sector and within the affordable sector.
- 12.12 Nationally we are in the midst of a housing crisis with a pressing need for additional housing to address the needs of the population. However, this is more pronounced in some areas than in others and the need is particularly pronounced in Reigate and Banstead which is within the 44 least affordable LPAs nationally and this continues to worsen.
- 12.13 The proposals therefore meet the requirements of Policies CS15 and DES6 of the development plan, and **significant weight** therefore should be attributed to the provision of 11 affordable dwellings in this location.

- 12.14 As part of this planning balance, the need for housing more generally, the provision of housing for the elderly and affordable housing are all given significant weight in the planning balance, and this reflects the key paragraphs 60 and 62 of the Framework on boosting the supply of homes and providing a range of housing to meet the differing needs of the community.

Making the Most Efficient Use of Land

- 12.15 The proposals seek to increase the density of the site compared to previously approved application to make best use of this sustainable previously developed site.
- 12.16 During the pre-application meeting the LPA raised concerns over the increase in density and considered the proposals comprised an overdevelopment of the site. The application proposals have responded to this by reducing the number of additional units from that presented at the pre-application meeting, which has resulted in an overall decrease in height 1.2 metres and removing the proposed built form to the west and north of 1 Fonthill House. Further, the increase in density of the new build does not encroach into the landscape setting of the main house as the built form is no closer than what was previously approved. Finally, parking has been reduced since the pre-application proposals to protect existing trees and landscaping setting of the site.
- 12.17 Given this, the proposals meet the requirements of Policy CS10 and Paragraph 124 of the NPPF insofar that the density of development is considered wholly appropriate for the site, having regard to the viability of the scheme, availability of the land which is suitable for redevelopment as demonstrated above, the services and facilities within the local area, and that a high quality design can be achieved that is sympathetic to the heritage constraints associated with the site.
- 12.18 Paragraph 120 c) of the NPPF is clear that planning decisions should give **significant weight** to the value of using suitable brownfield land within settlements for homes and other identified needs.

Economic Impacts

- 12.19 There are two different strands to the economic impacts of the appeal proposals: during construction and post construction. The House Builders Federation Calculator Tool identifies some of the key benefits building new homes can generate for the national and regional economy as well as for a local community's wellbeing and sustainability. It estimates that the provision of 37 dwellings in this Local Authority Area would have the following construction phase economic benefits:

- Support the employment of 114 people including 1 apprentice, graduate, or trainee.

12.20 As well as the following post construction phase economic benefits:

- Generate £445,961 in tax revenue, including £41,790 in council tax revenue.
- The development would contribute to the viability and vitality of local services and facilities and is estimated to increase spending in local shops by £974,550.

12.21 Taken as a whole, the economic benefits should attract **significant weight** in accordance with paragraph 81 of the Framework and as consistent with the precedents set by Inspector's rulings on the weight to be given to economic benefits in appeal decisions as follows:

"Paragraph 81 of the Framework requires that significant weight should be placed on the need to support economic growth and productivity. The expenditure and employment from the construction is therefore a matter of significant weight"

Appeal Decision Reference APP/Y3940/W/19/3236860, Paragraph 59, residential development of up to 26 dwellings (Core Document CD9.3).

"There would be economic benefits associated with the additional spending from the new housing, along with temporary construction spend. It is agreed between both parties that this should be afforded significant weight, as detailed by paragraph 81 of the Framework."

Appeal Decision Reference APP/Y3940/W/21/3275477 Paragraph 74, residential development for up to 32 dwellings (Core Document CD9.4).

Loss of Existing Care Home

12.22 Policy DES7 seeks to protect against the loss of existing care facilities within the Borough and the current use of the site is a nursing home. That said, the site has not been occupied for that purpose since 2001, so it would not be appropriate to consider it as an existing facility given that it has not provided specialist accommodation for 20 years. Coupled with this is the fact that during the last 20 years, consent has been granted on three separate occasions for the conversion of the existing facility to residential use (C3), which should be attributed weight when determining the appeal as it demonstrates that there is clearly a lack of demand for the continued use of the property as a nursing home. It would therefore be wrong to consider it as an existing facility.

- 12.23 The above assessment is reflected in the conclusions of the officer's report attached to permission granted under 20/02081/F on the 20th of August 2021:

"The site has been vacant for approximately 20 years. Given the significant period of time the site has not been used a care home, the need for this particular site to remain as a care home is not considered to be such that the change of use would have detrimental impact upon provision of care homes in the locality. In terms of alternative provision, the neighbouring Eversfield 56 Reigate Road is an existing care home providing alternative provision in the immediate locality. On the basis of the vacant nature of the site over a significant period of time, one of the exceptions set out in DMP Policy DES7 would apply to this proposal."

- 12.24 Additionally, the extant permission (20/02081/F) has been implemented and thus the care home use on site is no more.
- 12.25 The proposals are therefore considered to meet Policy DES7, the impact of which in the planning balance should be seen as **neutral**.

Ecology

- 12.26 Accompanying this appeal is the Ecological Assessment submitted as part of the application to comply with Policy NHE2 and Paragraph 175 of the NPPF.
- 12.27 In summary, a bat survey was undertaken and concluded none of the buildings on site support bat roosts. In addition, badger surveys were conducted concluding no evidence of badgers was found on site. Bird surveys were also undertaken to where a small number of common bird species were recorded. It is considered the existing vegetation on site provides suitable foraging and nesting opportunities for birds.
- 12.28 In terms of habitats, all amenity planting is to be lost as part of the development proposals however this has limited ecological value. In terms of hedgerows and trees, the majority of these are to be retained apart from a hedgerow located in the east of the site (H1). Existing vegetation to be lost is offset through replacement planting of species-rich grassland and new native trees, helping to diversify the habitats present on site.
- 12.29 A number of mitigation measures are proposed as part of the development in relation to presence of bats, bird and invertebrates. Consequently, the proposals deliver a net enhancement to biodiversity post development.

- 12.30 As there are no objections to the scheme on ecological grounds, it is considered the proposals comply with Policy NEH2 and Paragraph 175 of the NPPF, and the net enhancement should be seen as a **limited benefit** of the proposals.

Flooding and Drainage

- 12.31 The site is at the lowest risk of flooding as demonstrated within the accompanying Drainage Strategy Report. As the proposals constitute major development, sustainable drainage measures are proposed detailed within the accompanying Drainage Strategy Report. To summarise, surface water will drain to soakaways on site with each property containing a water butt or undertaking rainwater harvesting to provide potable water solutions.
- 12.32 The Council's SUDS consultee concluded the following:
- "We are satisfied that the proposed drainage scheme meets the requirements set out in the aforementioned documents [drainage strategy] and are content with the development proposed, subject to our advice below" [suggested conditions].*
- 12.33 The proposals comply with Policy CCF2 and Paragraph 165 of the NPPF, and therefore the impact in the planning balance is considered of **neutral**.

Transport and Access

- 12.34 The site is to be served by its existing access along its southern boundary off Reigate Road. It is considered that access is safe and suitable for the proposed development, which is reflected in the response from the County's Highways Authority who do not raise an objection to the scheme.
- 12.35 Further, the design of the internal road layout is considered acceptable and car parking and cycle spaces are proposed in line with the Council's adoptable standards. In terms of accessibility, it has already been demonstrated above that the site sits in walking distance from a number of services and facilities within Reigate and can access those further afield via bus from opposite the site on Reigate Road. In line with Paragraphs 105 and 110 of the NPPF, the site is in a sustainable location for development.
- 12.36 Given the above and the fact that the Local Highway Authority raise no objections to the proposals, it is considered the proposals comply with Policy TA1 and Paragraphs 105, 110 and 111 of the NPPF by not causing an unacceptable impact on highway safety or severe residential cumulative impacts

on the road network. The proposals are there considered to have a **neutral impact**, in transport and access terms, in the planning balance.

Energy Credentials

- 12.37 Accompanying this application is an Energy Statement that seeks to comply with Policy CS11 by ensuring the residential development will provide a minimum of Code for Sustainable Homes (CSH) Code Level 4 or equivalent given that CSH is no longer applicable.
- 12.38 The statement confirms that the proposals have been designed to meet the relevant Building Regulation requirements and beyond, and as such will reduce energy consumption using highly efficient heat sources, high levels of insulation and enhanced energy efficient measures.
- 12.39 As such, the proposals comply with Policy CS11 and aim to support a low carbon future as advocated at Paragraph 152 of the NPPF. These measures are considered to be a **limited benefit** in favour of the proposals in the planning balance.

Contamination

- 12.40 Accompanying the application is a Site Investigation and Risk Assessment Report which confirms no unacceptable risk from contamination will be present following recommendations for remediation of the site. As such the proposals comply with Paragraph 174 e) of the NPPF. A **neutral impact** in the planning balance.

Heritage

Less Than Substantial Harm to Chart Lane Conservation Area

- 12.41 As above, it is acknowledged that the proposals will incorporate less than substantial harm to the significance of Chart Lane Conservation Area, the extent of which is very slight, falling at the bottom of the scale. In attributing weight to this harm in the planning balance the following points should be considered.

- 12.42 The appeal proposal will be barely perceptible from Ringley Park Road and Reigate Road because of the strong boundaries on those sides. The effect will only be brought to bear on private land within the appeal site, and there will be no effect on the principal characteristics of the conservation area.
- 12.43 The change within the conservation area is very small, and it has positive heritage-related effects in:
- helping to preserve a locally listed building and its attendant coach house, and
 - removing additions that dated mainly from the use as a nursing home.
- 12.44 As the accompanying Heritage Appeal Statement sets out the only harm caused to the significance of the conservation area arises from the fact that it contains a locally listed building (and non-designated heritage asset) that is, itself, affected by the new-build element in the north of the appeal site. As it established within the statement that the amount of harm to the significance of the non-designated heritage asset itself will be slight, so the amount of harm to the significance of the conservation area must (at its very highest) be described as slight.
- 12.45 Hence the assessment that there will be less than substantial harm to the significance of Chart Lane Conservation Area, the extent of which is very slight, falling at the bottom of the scale.
- 12.46 Additionally, the above chapter finds that this heritage harm is outweighed by the benefits of the proposal as required by paragraph 202 of the framework and NEH9, the proposal therefore accords with the development plan in relationship to heritage policies.
- 12.47 Furthermore, the accompanying Heritage Appeal Statement finds that the effect of the appeal proposal is, in terms of the assessment of harm under paragraph 202 of the NPPF, the same as the previously permitted scheme (20/02081/F). Any differences in detail are relatively minor for the purposes of the consideration of the issues surrounding the balancing exercise.
- 12.48 For these reasons it is considered that less than substantial harm to the significance of Chart Lane Conservation Area, the extent of which is very slight, falling at the bottom of the scale, should be attributed **limited weight** in the planning balance.

Impact to locally listed building

- 12.49 As above, it is recognised that the accompanying Heritage Appeal Statement finds a slight amount of harm to the significance of Fonthill, as a non-designated heritage asset. The following factors are also relevant in determining the weight to be attributed in the planning balance.

- 12.50 The setting of Fonthill has already been significantly altered by the demolition of Firlands and the construction of the Mount Green Estate over part of the grounds c.1965.
- 12.51 The original use of Fonthill as a single-family dwelling ceased about a century ago, since which time it has been used as a hotel and nursing home. Therefore, the original use has long since been altered.
- 12.52 The effect on the significance of Fonthill will only be appreciable from private land within the appeal site. While it is generally accepted that no distinction should be made between public and private views when considering matters to do with setting, the effect is so contained (not only within the site, but largely towards the rear) that the impact is ameliorated.
- 12.53 Additionally, the slight harm occurs from by introducing an uncharacteristic relationship to the rear (north), which slightly reduces the heritage significance of the NDHA, it should be noted that this uncharacteristic relationship has already been accepted by the council in granting planning permission for application 20/02081/F.
- 12.54 Furthermore, as identified above this heritage harm is outweighed by the benefits of the proposal as required by paragraph 203 of the framework and NEH9, the proposal therefore accords with the development plan in relationship to heritage policies.
- 12.55 For these reasons it is considered that the slight harm to the significance of Fonthill as a non-designated heritage asset should be attributed **limited weight** in the planning balance.

Summary of Benefits/Impacts

- 12.56 The above benefits set out above, have been summarised in the below table:

Contributing Factor	Weight to be attributed in the planning balance
Provision of Specialist Retirement Housing	Significant/substantial (Benefit)
Making the Most Efficient Use of Land	Significant/Substantial (Benefit)
Economic Impacts	Significant (Benefit)
Affordable Housing	Significant (Benefit)
Ecology Impacts	Limited (Benefit)
Energy Credentials Impacts	Limited (Benefit)
Less Than Substantial Harm to Chart Lane Conservation Area	Limited Weight
Impact to locally listed building	Limited Weight
Tree Impacts	Neutral Impact
Loss of Care Home Impact	Neutral Impact

Transport and Access Impacts	Neutral Impact
Contamination Impacts	Neutral Impact
Impact on Amenity	Neutral Impact
Flooding	Neutral Impact

Concluding Comments in Respect of The Balancing Exercise

12.57 Returning to the balancing exercise required by Limb 2, it is my view that the cumulative benefits of the appeal proposal are substantial. In this case, the only adverse impact identified is the Less Than Substantial Harm to Chart Lane Conservation Area (at the lower end of the scale) and the slight harm to the locally listed building. However as has been identified earlier within this statement, the public benefits exercise required by paragraph 202 and 203 of the NPPF outweigh this harm. The adverse impacts of the proposals therefore **do not** significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole and therefore the appeal should be allowed.

Fallback Position

12.58 The Appellant’s tertiary contention is that there is an Extant Permission in respect to the Site which amounts to a fallback position

12.59 The effect of the appeal proposal is, in heritage terms, is the same as the effect of the previously permitted scheme (20/02081/F). Any differences in detail are relatively minor for the purposes of the consideration of the issues surrounding the balancing exercise in paragraph 202 of the NPPF and local policies DES1 and NHE9 of the Reigate and Banstead Borough Council Development Management Plan 2019.

12.60 In design terms, the accompanying Urban Design Statement of Case finds that the design is largely similar to the existing approved scheme with the change in the level of privacy and overlooking found to be not significant. The nature of the site boundaries, being heavily and densely vegetated by mature landscape screens the vast majority of views into and out of the site. It is demonstrated in the accompanying statement that the design and layout of the proposed development has been formulated following a well-considered design, with the design approach founded on good urban design practice and the proposals do not give rise to adverse neighbour amenity.

12.61 Therefore, should the decision maker find that harm arising from the development proposal, which is greater than the Extant Permission, such harm will be very limited and offset by the benefit of providing an additional 8 units.

- 12.62 The uplift in housing numbers therefore in this instance from the extant 29 units to 37 on a sustainable previously developed site should be considered a substantive benefit of the scheme, for the reasons given above in the planning balance and owing to the benefits associated with the provision of Specialist Retirement Housing in the context of a recognised significant need.
- 12.63 Thus, balanced against the fallback position, the benefits of the proposal are justified.

'Flat' Planning Balance

- 12.64 Notwithstanding the assertions made above, should an alternative view be taken by the Inspector that the proposals do not accord with planning policy and for any reason that the 'tilted planning balance' is not engaged, then the overall package of benefits identified above in this instance are considered to outweigh any conflict with the development plan that may be identified.

13. CONCLUSIONS

13.1 This Planning Statement of Case has been prepared by Ridge and Partners LLP on behalf of Beechcroft Developments Limited (hereafter referred to as 'The Appellant') in support of an appeal against the refusal of planning application reference 21/03270/F by Reigate and Banstead Borough Council.

13.2 The proposal is for:

"The conversion of a former nursing home to 8 flats, including the addition of dormer windows, and fenestration changes, demolition of modern extensions, conversion and sunroom/terrace extension of the Coach House to two flats, erection of 27 flats and ancillary accommodation in the form of a two new 3 storey blocks all for people aged 55 and over with associated car parking."

13.3 The site benefits from an extant planning application 20/02081/F which was granted on 20th August 2021. This appeal proposal differs from this extant permission insofar as it provides for an additional 8 flats within the new build accommodation on site.

13.4 The council's decision notice is dated 11th October 2022, it gives the following reasons for refusal:

- 1. "The proposed development, by way of the design, scale, and spread of development of the two new blocks of flats, as well as associated levels of car parking, would sit uncomfortably in the setting of the locally listed building due to their lack of subservience and affinity with the Locally Listed building and would harm both the Conservation Area and Locally Listed Building. The benefits associated with the proposal are considered insufficient to outweigh the harm, and the proposal is thereby contrary to policies DES1 and NHE9 of the Reigate and Banstead Borough Council Development Management Plan 2019 and Section 16 of the NPPF.*
- 2. The proposed development would, by virtue of the proximity of the north elevations of both proposed blocks of flats and north facing balconies, result in a development which would have a harmful impact upon the amenities of the neighbouring dwellings Hilliers Ringley Park Road and 62 The Cedars and their gardens by way of overlooking and loss of privacy. The proposal would thereby be contrary to policy DES1 of the Development Management Plan 2019.*
- 3. The proposed development would, by virtue of the proposed layout, spread of development and proximity to protected trees, diminish the landscape visual amenity of the site and result in future pressure for the loss of trees protected by Tree Preservation*

Order RE 964 and the Chart Lane Conservation Area, which positively contribute to the visual appearance of the local landscape. The development would therefore be contrary to Policies NHE3 of the Development Management Plan 2019.

4. The proposed development, by virtue of the absence of a S106 legal agreement to secure affordable housing on site or a commuted sum, would be contrary to policies DES6 of the Reigate and Banstead Development Management Plan 2019 and the National Planning Policy Framework.”

13.5 It is the Appellant’s contention in the first scenario presented that the proposal accords with the Development Plan, as demonstrated in chapters 7-10 which address the individual reasons for refusal and should therefore be allowed in accordance with paragraph 11c) and Section 38(6) of the Planning and Compulsory Purchase Act 2004.

13.6 Notwithstanding the above, if the Inspector considers there to be conflict with the Development Plan, then in accordance with Section 38(6), the other scenario which exists is that in relation to paragraph 11(d) of the NPPF, planning permission should be granted unless the provisions of Limb 1 of Limb 2 apply.

13.7 Limb 1 of paragraph 11(d) advises that planning permission shouldn’t be granted where the policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 6 sets out an exhaustive list of policies which are of a type referenced by Limb 1, which include designated heritage assets. As established in chapter 7 of this report the public benefits, significantly outweigh the less than substantial harm to the significance of Chart Lane Conservation Area, thus the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed and thus Limb 1 is consequently not engaged.

13.8 The benefits and impacts set out above, have been summarised in the below table:

Contributing Factor	Weight to be attributed in the planning balance
Provision of Specialist Retirement Housing	Significant/substantial (Benefit)
Making the Most Efficient Use of Land	Significant/Substantial (Benefit)
Economic Impacts	Significant (Benefit)
Affordable Housing	Significant (Benefit)
Ecology Impacts	Limited (Benefit)
Energy Credentials Impacts	Limited (Benefit)
Less Than Substantial Harm to Chart Lane Conservation Area	Limited Weight

Impact to locally listed building	Limited Weight
Tree Impacts	Neutral Impact
Loss of Care Home Impact	Neutral Impact
Transport and Access Impacts	Neutral Impact
Contamination Impacts	Neutral Impact
Impact on Amenity	Neutral Impact
Flooding	Neutral Impact

- 13.9 Through the balancing exercise required by Limb 2, the cumulative benefits of the appeal proposal are substantial. In this case, the only adverse impact identified is the Less Than Substantial Harm to Chart Lane Conservation Area (at the lower end of the scale) and the slight harm to the locally listed building. However as has been identified earlier within the proof the public benefits exercise required by paragraph 202 and 203 of the NPPF outweigh this harm. The adverse impacts of the proposals therefore do not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole and therefore the appeal should be allowed.

- 13.10 The Appellant’s tertiary contention is that there is an Extant Permission in respect to the Site which amounts to a fallback position through which the benefits of the proposal are justified.

- 13.11 Notwithstanding the assertions made above, should an alternative view be taken by the Inspector that the proposals do not accord with planning policy and for any reason that the ‘tilted planning balance’ is not engaged, then the overall package of benefits identified above in this instance are considered to outweigh any conflict with the development plan that may be identified.

- 13.12 Taking the above into account, all evidence supports that the appeal proposals should be allowed.