

 <p>Reigate & Banstead BOROUGH COUNCIL Banstead Horley Redhill Reigate</p>	TO:	PLANNING COMMITTEE
	DATE:	16 th May 2018
	REPORT OF:	HEAD OF PLACES & PLANNING
	AUTHOR:	Billy Clements
	TELEPHONE:	01737 276087
	EMAIL:	billy.clements@reigate-banstead.gov.uk
AGENDA ITEM:	8	WARD: Merstham

APPLICATION NUMBER:	18/00375/F	VALID:	26 February 2018
APPLICANT:	Earlwood Homes	AGENT:	None
LOCATION:	THE LIMES PUBLIC HOUSE, 58 ALBURY ROAD, MERSTHAM		
DESCRIPTION:	Demolition of a public house with flat over, and construction of ten new dwellings consisting of five houses and a block of five flats, with associated parking and landscaping.		
All plans in this report have been reproduced, are not to scale, and are for illustrative purposes only. The original plans should be viewed/referenced for detail.			

SUMMARY

This is a full application for the demolition of the existing public house and redevelopment of the site to provide a block of seven apartments, two detached houses and a pair of semi-detached dwellings with associated access, parking and landscaping.

This application follows a previously dismissed appeal for 11 dwellings in total which included a 2.5 storey block containing 7 flats at the corner of Albury Road and Southcote Road along with four houses. The appeal was dismissed (decision attached) solely on harm to the character of the area arising from the bulk and massing of the block of flats, having considered other matters including objection to the loss of the public house.

The issue of the loss of the public house was considered at length by the Inspector in the previous appeal. Whilst acknowledging the pub as a community facility, the Inspector ultimately concluded that – taking account of its trading performance, marketing and the availability of alternatives in the surrounding area – the loss of the pub was justified and not sufficient grounds for refusal. The loss of such local facilities is lamentable and it is acknowledged that public support for the current pub remains strong; however, given the appeal decision (which is a significant material consideration) continued objection to the application on this point would not therefore be sustainable.

In terms of effect on character, the current application is considered to represent a marked improvement. The apartment block, which was the sole offending element identified by the Inspector, has now been redesigned as a purely two storey building

with no roof accommodation, removing the need for dormers and enabling the ridge height to be lowered compared to the appeal proposal. Together with the revised footprint and generally improved articulation to the elevations, this is felt to significantly reduce the overall bulk and mass of the building, particularly as viewed at the corner, such that it is no longer felt to appear out of keeping with the nearby houses or unduly dominant in the street scene. The revised design of the flats is therefore felt to overcome this issues raised by the Inspector.

As a consequence of the amendments to the block of flats, the current proposals introduce an additional detached unit has been introduced along Albury Road. Whilst this is a change compared to the appeal scheme, it is not felt to be a negative one and - taken together – the three buildings proposed in the Albury Road street scene are considered to be of a scale, massing and spacing which responds appropriately to the rhythm and grain of development along that streetscene. The quality of design and appearance of the proposed units has also been enhanced compared to the appeal scheme and better reflects the conventions and style of the Victorian/Edwardian properties which are distinctive to Albury Road and Southcote Road.

The proposal is not considered to give rise to any adverse impact upon the amenity of adjacent properties. The relationship and separation distances between the proposed dwellings and neighbours is similar to the previous scheme in which neighbour amenity was not considered to be an issue. Whilst the relationship between the flats and gardens of the adjoining dwellings would remain reasonably close, the reduction in the scale of the block and arrangement of fenestration to the rear is such that occupants of all units would be afforded adequate amenity.

A total of 15 parking spaces would be provided through a combination of some on-plot bays for individual houses and a parking court to the rear. The County Highway Authority has reviewed the application and raised no objection to the parking or access arrangements on the grounds of highway safety or operation. The ratio of parking provision would be similar to the previous scheme to which no issue was raised.

The scheme would make a positive contribution towards local housing requirements on a brownfield urban site with consequent social and economic benefits, including contributions through CIL.

RECOMMENDATION(S)

Planning permission is **GRANTED** subject to conditions.

Consultations:

Highway Authority: No objection subject to conditions.

Tree Officer: No objection subject to conditions, offers the following comments:

“The updated arboricultural report by DAA dated April 2018 has addressed the concerns I raised in previous applications, the tree protection plan and arboricultural method statement identifies the relevant measures necessary to ensure the protected Lime tree is integrated into the proposed layout.

It is worth noting that since the last application neighbours submitted a TPO request form to protect a line of conifers along the boundary with 60 Albury Road. A site visit to assess whether they were suitable was carried out by the council tree officer who determined they did not merit inclusion within a TPO.

The revised layout allows a landscape scheme to be implemented which over time will mature and enhance the immediate area. At the moment no detailed landscape information has been provided but this can be secured by condition which will include a substantial tree to be planted on the green space.”

Thames Water: No objection with regard to sewerage infrastructure capacity. Informatives provided.

UK Power Networks: No objection

Surrey Police – Crime Prevention Design Adviser: Unable to find reference in submission to security or creation of a safe and secure environment. [Informative proposed].

Representations:

Letters were sent to neighbouring properties on 5th March 2018, a site notice was posted on 08th March 2018 and the application was advertised in the local press on 15th March 2018.

A total of 37 responses have been received (including duplicates on the original and amended plans), raising the following issues:

Issue	Response
Noise & disturbance	See paragraphs 6.30 – 6.32 and condition 6
Overdevelopment	See paragraphs 6.11 – 6.19
Overshadowing	See paragraphs 6.26 – 6.29
Overlooking and loss of privacy	See paragraphs 6.26 – 6.29
Overbearing relationship	See paragraphs 6.26 – 6.29 and condition 3
Out of character with surrounding area	See paragraphs 6.11 – 6.19 and conditions 3, 5, 8 and 9

Overdevelopment	See paragraphs 6.11 – 6.19
Poor design	See paragraphs 6.11 – 6.19 and conditions 3, 5 and 8
Loss of light	See paragraphs 6.26 – 6.29
Hazard to highway safety	See paragraphs 6.20 - 6.25 and conditions 6, 10, 11 and 12
Increase in traffic and congestion	See paragraphs 6.20 - 6.25 and conditions 6, 11, 12 and 13
Inconvenience during construction	See paragraphs 6.24 and 6.31 and condition 6
Inadequate parking	See paragraph 6.20-6.25 and conditions 12 and 13
Loss of buildings/community facility/social hub/asset of community value	See paragraphs 6.3 – 6.10
Flooding and drainage	See paragraph 6.48 and conditions 4 and 14
Harm to wildlife habitat	See paragraphs 6.34 – 6.40 and conditions 5 and 7
Health fears	See paragraph 6.47
Crime fears	See paragraph 6.47
Impact on infrastructure	See paragraphs 6.44 – 6.45
Loss of/harm to trees	See paragraphs 6.37 – 6.42 and conditions 5 and 7
No need for development	See paragraph 6.46 – each proposal must be considered on its own merits
Loss of private view	Not a material planning consideration
Property devaluation	Not a material planning consideration
Harm to Green Belt/countryside	The site is not within an area of countryside and is not within or adjacent to the Green Belt
Harm to Conservation Area	The site is not within or in close proximity to a Conservation Area
Harm to listed building	The existing buildings are not listed from a heritage perspective. See paragraph 6.8 in respect of issues relating to the ACV designation
Alternative proposal preferred (replacement pub with residential)	Each proposal must be considered on its own merits. No legal compulsion to consider alternatives.

In addition, a petition of 20 signatories has also been received seeking protection (by TPO) for several trees in and around the site. This is addressed under the Assessment below.

1.0 Site and Character Appraisal

- 1.1 The application site comprises of The Limes Public House, which is situated on the corner of Southcote Road and Albury Road. The site consists of the part single storey, part two storey pub with large surface car park to the front on Albury Road which occupies the northern half of the site along with a large garden area which occupies the southern half of the site. A mature protected Lime Tree is positioned centrally in the garden area.
- 1.2 The site is within a predominantly residential area and is bounded by residential properties on all side which are typically detached/semi-detached and generally two storeys in scale. The Local Distinctiveness Design Guide identifies the site as lying within an area of Victorian/Edwardian development: buildings of this architectural era typify the immediate environs of the site; however, there are some instances of more modern 1950s/60s architecture, including the two semi-detached properties which adjoin the site on Albury Road.
- 1.3 The neighbouring properties on the southern side of Southcote Road are detached and set within long but relatively narrow plots often with generous landscaping and tree cover along the rear and side boundaries. Along Albury Road, the site is joined by a pair of semi-detached dwelling in more modest plots. The area has a relatively tightly space, fine urban grain.
- 1.4 As a whole, the application site has a site area of approximately 0.21ha.

2.0 Added Value

- 2.1 Improvements secured at the pre-application stage: No formal pre-application advice was sought on this application; however, changes have been made in response to refusals.
- 2.2 Improvements secured during the course of the application: Changes to parking layout and access to the parking court for the flats. Additional frontage landscaping along Albury Road and Southcote Road.
- 2.3 Further improvements could be secured: Conditions regarding landscaping and materials are recommended to ensure the development is high quality and complements the character of the area.

3.0 Relevant Planning and Enforcement History

- 3.1 16/01772/F Redevelopment of Public House for residential use, comprising block of 8 x 2 bed and 1 x 1 bed apartments, and 4 x 3 bed semi-detached dwellings. Refused 9th December 2016

16/02909/F	Redevelopment of public house for residential use comprising block of 7 apartments (6 x 2 bed & 1 x 1 bed) and 4 x 3 bed detached/semi-detached dwellings.	Refused Appeal dismissed 28 th November 2017
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- 3.2 Application 16/02909/F was dismissed at appeal. The Inspector identified two main issues: loss of the pub and impact on the character of the area.
- 3.3 On the issue of the loss of the pub, the Inspector concluded that – whilst this could be considered a community facility – its loss was justified and would not have an unacceptable effect on the provision of community facilities in the Merstham area.
- 3.4 With respect to character, the Inspector agreed with the Council that the flat block at the corner of Albury Road/Southcote Road would be harmful, commenting as follows:

“The flat block would be sited at the junction of Albury Road and Southcote Road and it would therefore occupy a prominent position within the street scene, which is primarily characterised by two storey houses dating from the Victorian and Edwardian periods. The flat block by comparison with the nearby houses would have a mass and bulk that I consider would be harmful to the character of the area. The flat block would be sited in quite close proximity to the back edge of the footways in Albury Road and Southcote Road and I consider that the block’s siting would accentuate its prominence in the street scene.”

4.0 Proposal and Design Approach

- 4.1 This is a full application for the demolition of the existing public house and erection of 10 dwellings comprising a block of 5 flats and five semi-detached/detached three bedroom properties.
- 4.2 As with previous schemes, the block of flats would be situated on the corner of Albury Road and Southcote Road. This would be an L-shaped, 2 storey building with frontages onto both Albury Road and Southcote Road.
- 4.3 Flanking the block to the east on Southcote Road would be two gable fronted detached dwellings. The form and style of these properties would echo the existing neighbouring dwelling on Southcote Road, and would follow the prevailing building line. On Albury Road, the block of flats would be adjoined by a single detached dwelling and a pair of semi-detached dwellings.
- 4.4 Each house would be provided with a private garden to the rear. The block of flats would have a modest communal garden immediately to the rear of the block, but the layout also includes for a larger area of communal open space around the retained, protected Lime Tree. The majority of parking for the development would be provided in a shared parking court to the rear which would be served from an access road off Albury Road which runs alongside the proposed semi-detached pair.

- 4.5 The proposed development has been designed to address previous reasons for refusal by reducing the height, scale and general bulk of the proposed buildings and through building forms which better integrate with their immediate street scene.
- 4.6 A design and access statement should illustrate the process that has led to the development proposal, and justify the proposal in a structured way, by demonstrating the steps taken to appraise the context of the proposed development. It expects applicants to follow a four-stage design process comprising:
Assessment;
Involvement;
Evaluation; and
Design.
- 4.7 Evidence of the applicant's design approach is set out below:

Assessment	<p>The existing street scene is varied in terms of the age and character of houses. This is particularly true of Southcote Road (fig.2). The existing houses in the vicinity were built from the 1890s onwards, with some infill development from the 1920s and 1930s. The houses are generally set back 2-3 metres from the pavement with a small front garden behind a low brick wall. The predominant style of the area is late Victorian/Edwardian. Existing houses in Albury Road are predominantly closely-spaced semidetached or short terraces (typically of four dwellings), giving a characteristic urban texture.</p> <p>An existing tree subject to a preservation order would be retained.</p>
Involvement	No community consultation took place. Formal pre-application advice was not sought on the latest proposals.
Evaluation	The statement outlines how the proposal has evolved from the previous proposals for flats and semi-detached houses. This includes lessening the height and bulk of the buildings, most notably the block of flats as well as design changes.
Design	The applicant's rationale for the design approach taken to overcome previous concerns regarding scale and bulk. The block of flats has been designed to act as a corner feature but has been reduced in height and scale. One of the flats and the maisonette have their own front doors, which helps the continuity of the street scene and gives the impression that the corner block consists of three houses rather than an anomalous block of flats. The current pub was built to the rear of the old, and the old pub was then demolished, leaving a spatial gap in the

	street scene. We believe it is appropriate for the new scheme to heal this gap, which improves the containment of space and restores the urban character of the area.
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4.8 Further details of the development are as follows:

Site area	0.21ha
Existing use	Public house, car park and garden area
Proposed use	Residential
Proposed parking spaces	15 (approx. 5 un-delineated on-street parking bays spaces exist on Albury Road)
Parking standard	16 (maximum)
Net increase in dwellings	9 (10 less existing flat above pub)
Proposed site density	48dph
Density of the surrounding area	Southcote Road – 38dph Albury Road (opposite site) – 30dph Endsleigh Road/Avenue Villas – 60dph
Estimated CIL contribution	£36,500 (prior to indexation)

5.0 Policy Context

5.1 Designation

Urban Area
Tree Preservation Order RE1464 (Lime)

5.2 Reigate and Banstead Core Strategy

CS1 (Presumption in favour of sustainable development)
CS4 (Valued townscapes and historic environment)
CS5 (Valued people/economic development)
CS10 (Sustainable development),
CS11 (Sustainable construction)
CS12 (Infrastructure delivery)
CS13 (Housing delivery)
CS14 (Housing needs of the community)
CS15 (Affordable housing)
CS17 (Travel options and accessibility)

5.3 Reigate & Banstead Borough Local Plan 2005

Landscape & Nature Conservation Pc4

Housing	Ho9, Ho13, Ho16
Community Facilities	Cf1
Movement	Mo4, Mo5, Mo7
Utilities	Ut4

5.4 Other Material Considerations

National Planning Policy Framework	
National Planning Practice Guidance	
Supplementary Planning Guidance	Local Distinctiveness Design Guide Surrey Design Affordable Housing SPD Developer Contributions SPD
Other	Human Rights Act 1998 Community Infrastructure Levy Regulations 2010 (as amended)

6.0 **Assessment**

The application site is situated within the urban area where there is a presumption in favour of sustainable development and where the principle of residential development is acceptable in land use terms. The current proposal has been designed to address the reasons identified in the previously dismissed appeal.

6.2 The main issues to consider are:

- Loss of public house
- Design appraisal
- Neighbour amenity
- Trees and landscaping
- Access and parking
- Affordable Housing
- Infrastructure contributions

Loss of the public house

6.3 The proposed development would result in the loss of the existing public house on the site, an A4 use.

6.4 It is acknowledged that the existing pub is, and remains, a valued asset to some local residents and the continued body of local representation to this application which variously highlights the activities which occur at the pub as well as its position as a social “focal point” for the community.

6.5 The previous application was refused – in part – by the Council on the basis that the loss of the pub constituted a conflict with local policies Cf1 and CS12, as well as national policy. This issue was subsequently considered at length by the Inspector and two key conclusions can be drawn out from this.

- 6.6 In terms of policy position, the Inspector - having examined the wording and genesis of both policy Cf1 in the Local Plan and CS12 in the Core Strategy – concluded that neither were drafted with pubs in mind and thus were not relevant to the consideration of public houses. He did however acknowledge that there were provisions in national policy (notably paragraph 70 of the NPPF) which were nonetheless relevant.
- 6.7 However, even applying the considerations of paragraph 70, the Inspector ultimately concluded that, based on the pubs trading performance, the outcomes of a marketing exercise for the sale of the pub and the availability of alternatives in the surrounding area, its loss was justified in this case and would not give rise to an unacceptable impact on the provision of community facilities in Merstham.
- 6.8 It is acknowledged that the public house is also listed as an Asset of Community Value (ACV) following nomination by the local community. This process is largely separate from planning and whilst the ACV listing is a material consideration and provides some indication of community value, it is not considered to be of significant weight or, in itself, determinative in the overall decision. The ACV designation was in place at the time of the last appeal and even acknowledging this the Inspector did not support refusal on loss of the pub.
- 6.9 This very recent appeal decision is a significant material consideration and no material change in circumstances has been identified since that decision which would warrant reaching a contrary conclusion in this application.
- 6.10 On that basis, whilst the loss of such local facilities is lamentable and it is acknowledged that public support for the current pub remains strong; the proposal is not considered to conflict with national policy regarding community facilities and thus refusal on this point would not be sustainable.

Design and effect on the character of the area

- 6.11 The proposed development would result in the demolition of the existing public house, and its replacement with a pair of semi-detached dwellings, three detached dwellings and a block of five flats.
- 6.12 In the previous scheme, the proposed block of flats on the corner was felt to be of a bulk, scale and massing which was harmful to the character of the area. As set out above, this is a position which was supported by the appeal Inspector and ultimately led to the appeal being dismissed.
- 6.13 The current application is considered to represent a marked improvement in this respect. The apartment block, which – as above – was the sole offending element identified by the Inspector, has now been redesigned as a purely two storey building with no roof accommodation, removing the need for dormers and enabling the ridge height to be lowered compared to the appeal proposal.
- 6.14 Together with the revised footprint and generally improved articulation to the elevations, this is felt to significantly reduce the overall bulk and mass of the

building, particularly as viewed at the corner, such that it is no longer felt to appear out of keeping with the nearby houses or unduly dominant in the street scene. This is perhaps best embodied in the elevation facing onto Southcote Road, which has been designed with a subservient element and the inclusion of ground floor entrances to each flat, giving the appearance of three houses rather than a single, more dominant flatted block.

- 6.15 The proposed flatted building – in terms of its form and appearance within the street scene – now more closely echoes the appearance of the dwelling on the opposite corner of Southcote Road and thus reads as a more comfortable and sympathetic insertion into the street scene. Whilst the building would remain a similar distance back from the footway to the previous scheme, this set back (around 3-4m) is consistent with the Victorian/Edwardian properties which characterise the area and, given the reduced height and scale of the building, is not in itself felt to be objectionable. The revised design of the flats is therefore felt to overcome this issues raised by the Inspector.
- 6.16 As a consequence of the amendments to the block of flats, the current proposals introduce an additional detached unit has been introduced along Albury Road. Whilst this is a change compared to the appeal scheme, it is not felt to be a negative one and - taken together – the three buildings proposed in the Albury Road street scene are considered to be of a scale, massing and spacing which responds appropriately to the rhythm and relatively tight urban grain of development along that streetscene. The quality of design and appearance of the proposed units has also been enhanced compared to the appeal scheme, with the introduction of detailing such a bay windows, red brick quoins and dentil courses and stone window details which better reflects the conventions and style of the Victorian/Edwardian properties which are distinctive to Albury Road and Southcote Road.
- 6.17 The overall layout of the site is largely similar to the previous appeal scheme and, broadly speaking, this layout was not considered unacceptable by the Inspector. The frontage dwellings would form a perimeter to the site with a parking court provided to the rear, served by an access road adjacent to the proposed semi-detached pair. The gaps between the units – which are broadly consistent with the relatively tight urban grain and existing building spacing along Southcote Road and Albury Road – are not considered to be harmful or to give rise to a cramped appearance.
- 6.18 As above, the development would be largely serviced by a parking court to the rear, with the access road running adjacent to the boundary with Plot 10 on Albury Road. Whilst the building would be in relatively tight to the edge of the access road, there would be space for some hedge planting to soften the intersection between the two and as such, it is not considered that the access would appear cramped or squeezed in, particularly given the extensive area of soft landscaping which is proposed on the southern side of the access road. No issues in this regard were identified by the previous appeal Inspector. All of the proposed units would have front gardens, including to the front of the corner building, with the plans suggesting a consistent hedgerow which would help soften the development and contribute to the street scene. Through the course of

the application, the position of proposed parking spaces to Plot 10 has been revised – these would now be sited in behind the existing substation providing for a more generous area of landscaping to be created between the substation and no.60 Albury Road with space for structural tree planting to supplement the protected Lime.

- 6.19 In summary, the revised scheme – most notably due to the reduced scale, height, bulk and massing of the proposed flatted block – but also through the enhanced design detailing is considered to overcome the previous Inspectors concerns and assimilate successfully into the character of the area. The proposal would thus comply with policies Ho9 and Ho13 of the Borough Local Plan and policies CS4 and CS10 of the Core Strategy.

Accessibility, parking and traffic implications

- 6.20 The development would be predominantly served by an 11 space parking court located to the rear of the proposed dwellings which would be accessed from Albury Road. A further two spaces are proposed off the access road to serve Plot 2 and two on-plot spaces would be provided in a driveway to serve Plot 1, bringing the total to 15 spaces. This would be just short of the maximum standard in the Borough Local Plan which would advise 16 spaces based on the mix proposed. The plans identify a number of on-street parking bays adjacent to the site which would be available for parking; however, these would be outside of the control of the developer and could not reasonably be considered as part of the parking provision for the scheme.
- 6.21 The County Highway Authority has reviewed and assessed the application in terms of the likely net additional traffic generation, access arrangements and parking provision and has raised no objection subject to a number of conditions.
- 6.22 The proposals show that a cycle store would be provided in the rear parking court for the use of residents of the flats. Based on the plans, this shows space for 8 cycles (2 per Sheffield stand); which is considered adequate. A condition will be imposed requiring this to be installed prior to occupation.
- 6.23 Whilst it is noted that the surrounding roads experience parking pressures (which can be exacerbated at some points with the use of the adjoining park/football club), the parking provision on the proposed scheme would be only slightly short of the maximum standards set out in the Borough Local Plan. As the standards are maxima, this is not considered to warrant refusal – and, given the nature of the area where on-street parking is already common – it is not considered that the shortfall would give rise to harm to character of the area or pose a significant detriment or inconvenience to residential amenity such that refusal on this basis could be justified. As above, the Highway Authority does not consider that the parking provision would give rise to a detriment to highway safety or operation.
- 6.24 The County Highway Authority has recommended the imposition of a Construction Transport Management Plan condition. Mindful of the tight residential nature of surrounding roads and the nearby park and football club which is likely to give rise to children and pedestrian activity, it is considered

necessary and reasonable to impose such a condition in order to ensure that construction activities are managed and would not prejudice highway safety.

- 6.25 On this basis, the proposal is considered to be acceptable in respect of its parking provision and impact on the highway and therefore complies with policies Ho9, Ho19, Mo4 and Mo7 of the 2005 Borough Local Plan and Policy CS17 of the Core Strategy.

Effects on the amenity of neighbouring properties

- 6.26 The proposed development has been considered with regards to its impact on the amenity of neighbouring properties.
- 6.27 The relationship between the proposed development and properties opposite on Albury Road and Southcote Road would be similar to the relationships that were achieved in the previous appeal scheme – in that case, the Inspector identified no issues. The front to front distances of around 18-19m, which are dictated by the width of the road, are typical of an urban environment and not considered to give rise to unacceptable levels of overlooking, overbearing or overshadowing.
- 6.28 Plots 1 and 2 generally follow the same building line as the neighbouring property within Southcote Road. Plot 1 would have a side driveway adjacent to the neighbour on Southcote Road such that it would be around 2.9m from the boundary – whilst it would be slightly deeper in footprint than this neighbour (no.14) – this would be modest and given the separation would not give rise to any significant adverse loss of light or overbearing impact on 14 Southcote Road. Plot 1 would not have any side facing windows towards this neighbour and, whilst there would be additional rear facing first floor windows; this would not give rise to a level of overlooking which would be harmful to the amenities of this property.
- 6.29 The proposed buildings are sufficiently separated from no.60 Albury Road by an area of landscaping/amenity space and the access road to the rear parking court. As such, it is not considered that the proposal would cause any adverse harm to this property in terms of overlooking or overbearing.
- 6.30 The proposed parking forecourt and amenity space serving the proposed development would adjoin the rear gardens of no.14 Southcote Road and 60 Albury Road. This may result in some noise and disturbance to these properties by way of slamming of car doors etc. or through use of the amenity area. However, this part of the application site currently accommodates the beer garden serving the public house, and as such these properties are already likely to experience noise and disturbance when it is in use. As a result of this existing position, it is not considered that the use of the parking forecourt or amenity area would give rise to a materially greater level of disturbance or harm to amenity than the existing use (as a pub garden). Instances of noise from the car park are also likely to be more fleeting and less sustained than those from the existing pub garden area. Again, this arrangement is not materially different from the previous scheme and the Inspector did not find this to be an issue in that case.

- 6.31 Concern has been raised from residents regarding inconvenience that may occur during the construction process if the application were to be granted. Whilst this is acknowledged, such impacts would be temporary and would not constitute a sustainable reason for refusal. Other legislative regimes, including statutory nuisance legislation, exist to protect neighbours and surrounding residents should significant unacceptable events and disturbance occur. The County Highway Authority has recommended a Construction Transport Management Plan be required to ensure that activities do not have a prejudicial effect on highway safety or operation.
- 6.32 The introduction of a residential development on this site, in an existing residential location and in place of an existing pub, is not – in itself – considered to be incompatible or objectionable in terms of potential noise and disturbance for neighbours. As above, other legislative regimes would protect neighbours from unneighbourly or anti-social behaviour of new occupants.
- 6.33 For the reasons above and mindful of the conclusions of the previous Inspector, it is not considered that the proposals would give rise to an unacceptable impact on neighbour amenity. As such, it would comply with policies Ho9 and Ho13 of the 2005 Borough Local Plan in this regard.

Trees and landscaping

- 6.34 The main feature of arboricultural interest on the site is the mature Lime Tree which is protected by order RE1464 and is presently situated within the beer garden of the pub. There are also lower quality groups of trees on the boundaries of the beer garden and on adjoining neighbours gardens.
- 6.35 The development has been laid out to respect, retain and ensure that there would be no ill effects on the Lime tree. Whilst there would be some incursions into the RPA from the proposed access road and parking area, the submitted Tree Protection Plan proposes an above soil surfacing solution which would avoid any harm to, or undue impact on, the long term health of the tree.
- 6.36 Given the presence and potential for impact on the protected tree, the Tree Officer was consulted on the application. His full comments are set out in detail in the consultation section of this report; however, in summary the Tree Officer has raised no objection subject to conditions, noting that the submitted arboricultural information identifies the relevant measures necessary to ensure the protected Lime tree is integrated into the proposed layout.
- 6.37 The proposals would also see the loss of other boundary trees within the south-west corner of the site, including a group of Lawson Cypress and other mixed species. During the course of the application, a petition was received requesting that these trees are subjected to a Tree Preservation Order. This request was considered in the normal way by the Tree Officer and, as his response above confirms, they were not considered to be of sufficient quality or landscape value to warrant formal protection. Refusal of the application on the basis of the removal of these trees would not be sustainable (and their loss was not considered objectionable by the previous Inspector).

- 6.38 Furthermore, whilst these losses would occur, the site, based on the amended plans, is considered to offer meaningful opportunity for a high quality landscaping scheme which would both enhance the Albury Road street scene. There would also be scope for replacement structural tree planting within the generous area of amenity space proposed adjacent to the existing Lime Tree – this would be of value both in terms of contributing to the overall tree cover in the area but also due to the limited long term life expectancy of the protect lime.
- 6.39 The site is not subject to any specific nature conservation designations and no specific adverse impacts on ecology or habitat have been identified. A high quality landscaping scheme within the site could support enhanced biodiversity.
- 6.40 Subject to the recommended conditions, the proposal would not therefore impact upon the tree stock and has the potential to enhance long term tree cover in the area, and thus would comply with policies Pc4 and Ho9 of the Borough Local Plan.

Affordable housing and infrastructure contributions

- 6.41 Core Strategy Policy CS15 and the Council's Affordable Housing SPD require financial contributions towards affordable housing to be provided on housing developments of 10-14 net units. This scheme, at 10 units gross (9 net), technically falls within this local policy requirement.
- 6.42 However, in November 2014, the Government introduced policy changes through a Written Ministerial Statement (WMS) and changes to the national Planning Practice Guidance which restrict the use of planning obligations to secure affordable housing contributions from developments of 10 units or less and with a gross floor area of 1,000sqm or less. These changes were given legal effect following the Court of Appeal judgement in May 2016. This scheme falls within the scope of this exception.
- 6.43 In view of the above, and the resolution of the Planning Committee in November 2016, greater weight is therefore given to the national policy position in the WMS than the Council's adopted policy. For this reason, it is not considered justified to seek contributions towards affordable housing in this case and the absence of an agreed undertaking does not therefore warrant a reason for refusal in this case.
- 6.44 As the proposals involve the creation of new dwellings, the development would be CIL liable. The exact amount of liability would be determined and collected after the grant of planning permission and, at this stage, it is difficult to determine the potential charge which might be due. Taking account of existing buildings on site, it is estimated that the charge due could be approximately £36,500 (subject to indexation and information to demonstrate existing buildings are "in-use").
- 6.45 Legislation (Regulation 122 of the CIL Regulations) and national policy requires that only contributions that are directly required as a consequence of development can be secured through planning obligations. Requests of this nature must be fully justified with evidence including costed spending plans to

demonstrate what the money requested would be spent on. In this case, no such requests have been made. Concerns about pressure/adequacy of local infrastructure have been raised by a number of objectors to the application. Whilst it is recognised that there may be pressure on some local services, in view of the above, it is not considered that site specific contributions would meet the legislative tests and, in absence of further evidence and given the scale of development, it is not considered that impact on infrastructure would be a sustainable reason for refusal.

Other matters

- 6.46 The proposal would make a positive contribution towards meeting the identified housing needs and requirements of the borough, with consequent local financial, economic and social benefits. There is no requirement for the applicant to demonstrate a specific need for this development, in this location. The development would make effective use of a previously developed (brownfield) site, consistent with national and local policies which prioritise the use of sustainable urban sites. Both of these are considered to add further, albeit modest, weight in favour of the proposal.
- 6.47 Comments have been received raising fears regarding the impact of the development on health. The matter of noise and disturbance, including during construction, and any potential impact on neighbours health is addressed above. Concerns have also been raised in relation to positioning and nature of bin stores for the flats and potential impact on human health. The space allowed for this on the plans is considered to be acceptable; however, a condition requiring full details of bin stores is recommended. Beyond this, no specific issues have been identified and refusal on this basis is not therefore considered to be sustainable. Concerns have also been raised in respect of crime; however, no specific issues have been cited within the representations nor otherwise identified. The proposals are not considered to cause any particular crime risk than any other conventional residential development.
- 6.48 The site is within Flood Zone 1 according to the Environment Agency Flood Maps and is not therefore considered to be at particular risk of fluvial flooding. A finalised drainage strategy and SuDS system will be secured through condition, along with appropriate evidence (including infiltration testing) to demonstrate that it will effectively manage surface water flood events.

CONDITIONS

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

Plan Type	Reference	Version	Date Received
Street Scene	J002564-DD18	C	01.03.2017
Site Layout Plan	J002564-DD05	C	01.03.2017
Roof Plan	J002564-DD15	C	01.03.2017
Elevation Plan	J002564-DD16	C	01.03.2017
Elevation Plan	J002564-DD17	C	01.03.2017

Floor Plan	J002564-DD14	C	01.03.2017
Location Plan	J002564-DD01		13.12.2016
Elevation Plan	J002564-DD08		13.12.2016
Elevation Plan	J002564-DD09		13.12.2016
Floor Plan	J002564-DD06		13.12.2016
Floor Plan	J002564-DD07		13.12.2016
Site Plan	J002564-DD03		13.12.2016
Elevation Plan	J002564-DD11		13.12.2016
Elevation Plan	J002564-DD13		13.12.2016
Floor Plan	J002564-DD12		13.12.2016
Floor Plan	J002564-DD10		13.12.2016
Block Plan	J002564-DD02		13.12.2016

Reason:

To define the permission and ensure the development is carried out in accord with the approved plans and in accordance with National Planning Practice Guidance.

2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason:

To comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

3. No development shall take place until the developer obtains the Local Planning Authority's written approval of details of both existing and proposed ground levels across the site and the proposed finished ground floor levels of the buildings. The development shall be carried out in accordance with the approved levels.

Reason:

To ensure the Local Planning Authority are satisfied with the details of the proposal and its relationship with adjoining development and to safeguard the visual amenities of the locality with regard to Reigate and Banstead Borough Local Plan 2005 policy Ho9.

4. No development shall commence until the following details and drawings have been submitted to and approved in writing by the local planning authority:
 - a) A design that satisfied the SuDS Hierarchy and that is compliant with the national non-technical Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS.
 - b) The results of infiltration testing completed in accordance with BRE Digest 365
 - c) Evidence to confirm that the proposed drainage solution will effectively manage the 1 in 30 & 1 in 100 (+CC%) allowance for climate change storm events, during all stages of the development. Associated discharge rates and storage rates shall be provided using a greenfield discharge rate of 1 litre/second.
 - d) Detailed drawings to include: a finalised drainage layout detailing the exact location of SUDs elements, pipe diameters, levels, long and cross sections of each drainage element including details of any flow restrictions and how the elements will be protected from blockage/damage.

- e) A plan showing exceedance flows and how property on and off site will be protected
- f) Details of how the runoff (including any pollutants) from the development site will be managed during construction
- g) Details of maintenance and management regimes and responsibilities for the drainage system

The development shall thereafter be carried out in strict accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To ensure that the SuDS are adequately planned, delivered and that the development is served by an adequate and approved means of drainage and to prevent flooding with regard to Policy Ut4 of the Reigate and Banstead Borough Local Plan 2005 and Policy CS10 of the Reigate and Banstead Core Strategy 2014, as well as the requirements of the Non-statutory technical standards.

5. No development shall commence on site until a scheme for the landscaping and replacement tree planting of the site including the retention of existing landscape features has been submitted and approved in writing by the local planning authority. Landscaping schemes shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities and an implementation and management programme.

All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to occupation or within the first planting season following completion of the development hereby approved or in accordance with a programme agreed in writing with the local planning authority.

Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, and shrubs of the same size and species.

Reason:

To ensure good arboricultural and landscape practice in the interests of the maintenance of the character and appearance of the area and to comply with policies Pc4 and Ho9 of the Reigate and Banstead Borough Local Plan 2005 and the recommendations within British Standard 5837.

6. No development shall commence until a Construction Transport Management Plan, to include details of:
- (a) parking for vehicles of site personnel, operatives and visitors
 - (b) loading and unloading of plant and materials
 - (c) storage of plant and materials
 - (d) provision of boundary hoarding behind visibility zones
 - (e) measures to prevent deposit of materials on the highway
 - (f) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused

Has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

Reason:

To ensure that the development would not prejudice highway safety nor cause inconvenience to other highway users to satisfy policies Mo5 and Mo7 of the Reigate and Banstead Borough Local Plan 2005 and the objectives of the NPPF 2012.

7. No development shall commence including groundworks preparation and demolition until all related arboricultural matters, including arboricultural supervision, monitoring and tree protection measures are implemented in strict accordance with the approved details contained in the Tree Protection Plan and Arboricultural Method Statement compiled by David Archer Associates dated April 2018.

Reason:

To ensure good arboricultural practice in the interests of the maintaining the character and appearance of the area and to comply with policy Pc4 of the Reigate and Banstead Borough Local Plan 2005 and the recommendations within British Standard 5837.

8. No above ground or superstructure works on the dwellings hereby approved shall take place until written details of the materials to be used in the construction of the external surfaces, including fenestration and roof, have been submitted to and approved in writing by the Local Planning Authority, and on development shall be carried out in accordance with the approved details.

Reason:

To ensure that a satisfactory external appearance is achieved of the development with regard to Reigate and Banstead Borough Local Plan 2005 policies Ho9 and Ho13.

9. The development hereby approved shall not be occupied until details of the proposed facility for the storage for refuse and recycling bins for Plots 3-7 erected has been submitted to and approved in writing by the Local Planning Authority. The refuse and recycling store shall be completed and in place before the occupation of the development hereby permitted and thereafter retained and maintained.

Reason:

To preserve the visual amenity of the area and protect neighbouring residential amenities with regard to the Reigate and Banstead Borough Local Plan 2005 policies Ho9 and Pc4.

10. The development hereby approved shall not be first occupied unless and until the proposed vehicular access to Albury Road has been constructed in accordance with the approved plans.

Reason:

In order that the development should not prejudice highway safety nor pedestrian safety or cause inconvenience to other highway users with regard to policies Mo5 and Mo7 of the Reigate and Banstead Borough Local Plan 2005, Policy CS17 of the Reigate and Banstead Core Strategy and the objectives of the NPPF 2012.

11. The development hereby approved shall not be first occupied unless and until the existing accesses from the site to Southcote Road and Albury Road have been closed or amended in accordance with the approved plans and any kerbs, verge, footway, fully reinstated in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason:

In order that the development should not prejudice highway safety nor pedestrian safety or cause inconvenience to other highway users with regard to policies Mo5 and Mo7 of the Reigate and Banstead Borough Local Plan 2005, Policy CS17 of the Reigate and Banstead Core Strategy and the objectives of the NPPF 2012.

12. The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

Reason:

In order that the development should not prejudice highway safety nor pedestrian safety or cause inconvenience to other highway users with regard to policies Mo5 and Mo7 of the Reigate and Banstead Borough Local Plan 2005, Policy CS17 of the Reigate and Banstead Core Strategy and the objectives of the NPPF 2012.

13. The development hereby approved shall not be first occupied unless and until secure and covered parking of a minimum of 8 bicycles has been provided within the development site in accordance with the approved plans.

Thereafter, the said approved facility shall be provided, retained and maintained to the satisfaction of the Local Planning Authority.

Reason:

To ensure that the development would promote sustainable transport choices with regard to Policy CS17 of the Reigate and Banstead Core Strategy 2014 and in recognition of Section 4 "Promoting Sustainable Transport" in the National Planning Policy Framework 2012

14. The development hereby approved shall not be first occupied unless and until a verification report to demonstrate that the Sustainable Drainage System has been constructed as per the agreed scheme has been submitted to and approved by the Local Planning Authority. Such a report shall be carried out by a suitably qualified drainage engineer.

Reason:

To ensure that the SuDS are adequately planned, delivered and that the development is served by an adequate and approved means of drainage to comply with Policy Ut4 of the Reigate and Banstead Borough Local Plan 2005 and Policy CS10 of the Core Strategy 2014, as well as the requirements of the Non-statutory technical standards.

INFORMATIVES

1. Your attention is drawn to the safety benefits of installing sprinkler systems as an integral part of new development. Further information is available at www.firesprinklers.info.
2. The applicant is encouraged to provide renewable technology within the development hereby permitted in order to reduce greenhouse gas emissions.
3. Your attention is drawn to the benefits of using the Secured by Design award scheme.
4. The applicant is advised that prior to the occupation of the development, adequate provision should be made for waste storage and collection. You are advised to contact the Council's Recycling and Cleansing team to discuss the required number and specification of wheeled bins for both the individual dwellings and the communal dwellings/flats on rc@reigate-banstead.gov.uk or on the Council's website at http://www.reigate-banstead.gov.uk/info/20051/commercial_waste.
5. You are advised that the Council will expect the following measures to be taken during any building operations to control noise, pollution and parking:
 - (a) Work that is audible beyond the site boundary should only be carried out between 08:00hrs to 18:00hrs Monday to Friday, 08:00hrs to 13:00hrs Saturday and not at all on Sundays or any Public and/or Bank Holidays;
 - (b) The quietest available items of plant and machinery should be used on site. Where permanently sited equipment such as generators are necessary, they should be enclosed to reduce noise levels;
 - (c) Deliveries should only be received within the hours detailed in (a) above;
 - (d) Adequate steps should be taken to prevent dust-causing nuisance beyond the site boundary. Such uses include the use of hoses to damp down stockpiles of materials, which are likely to generate airborne dust, to damp down during stone/slab cutting; and the use of bowsers and wheel washes;
 - (e) There should be no burning on site;
 - (f) Only minimal security lighting should be used outside the hours stated above; and
 - (g) Building materials and machinery should not be stored on the highway and contractors' vehicles should be parked with care so as not to cause an obstruction or block visibility on the highway.

Further details of these noise and pollution measures can be obtained from the Council's Environmental Health Services Unit. In order to meet these requirements and to promote good neighbourliness, the Council recommends that this site is registered with the Considerate Constructors Scheme - www.ccscheme.org.uk/index.php/site-registration.

6. The use of a suitably qualified arboricultural consultant is essential to provide acceptable supervision and monitoring in respect of the arboricultural issues in respect of the above conditions. All works shall comply with the recommendations and guidelines contained within British Standard 5837.

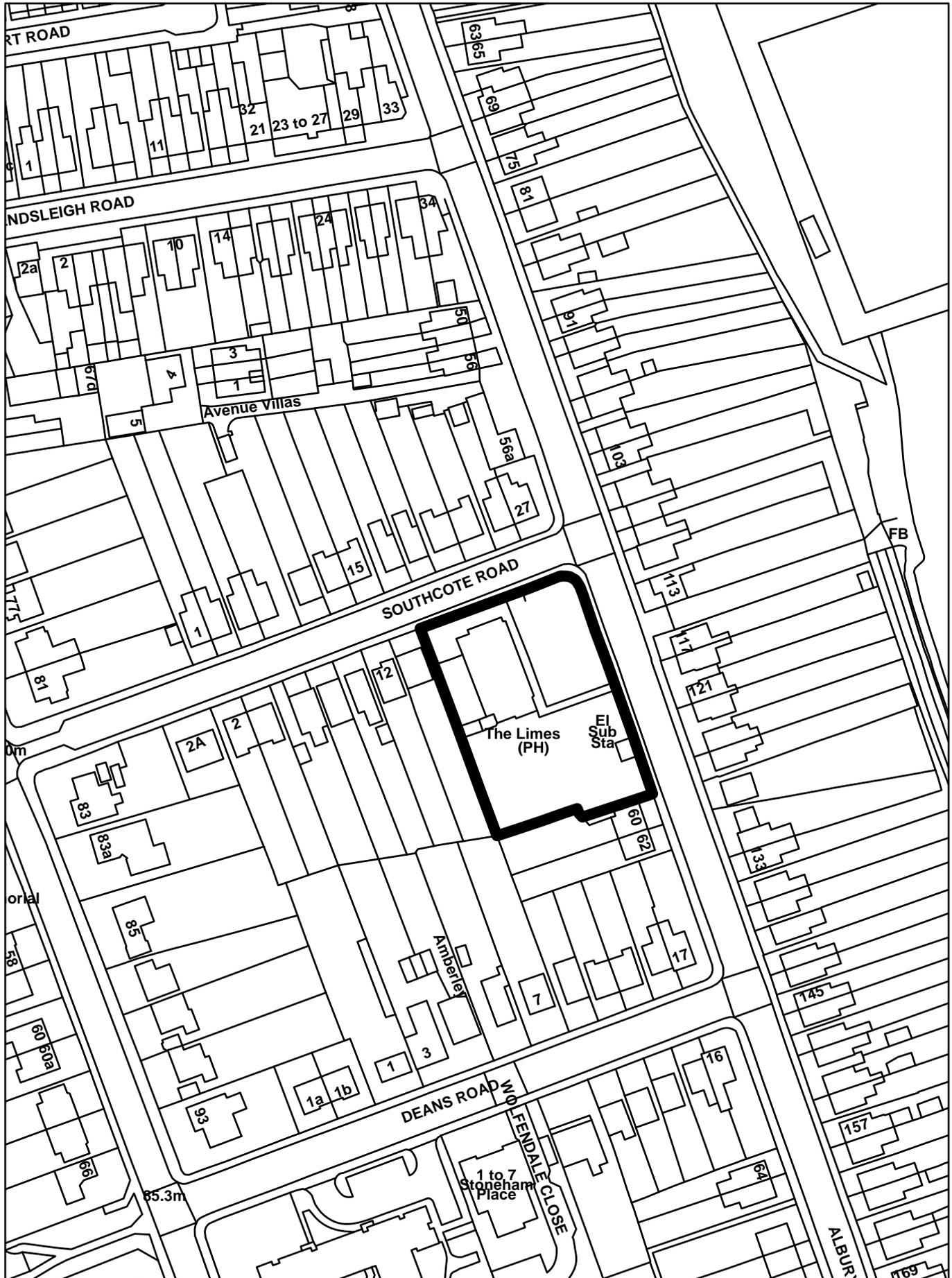
7. The use of landscape/arboricultural consultant is considered essential to provide acceptable submissions in respect of the above relevant conditions. Replacement planting of trees and shrubs shall be in keeping with the character and appearance of the locality. There is an opportunity to incorporate structural landscape trees into the scheme to provide for future amenity and long term continued structural tree cover in this area, including along the Albury Road frontage and any landscaping submission will be expected to reflect this. It is expected that the replacement structural landscape trees will be of Advanced Nursery Stock sizes with initial planting heights of not less than 4.5m with girth measurements at 1m above ground level in excess of 16/18cm as a minimum.
8. The application site is situated on or in close proximity to land that could be potentially contaminated by virtue of previous historical uses of the land. As a result, there is potential for a degree of ground contamination to be present beneath part(s) of the site. Groundworkers should be made aware of this so suitable mitigation measures and personal protective equipment measures (if required) are put in place and used. Should significant ground contamination be identified, the Local Planning Authority should be contacted promptly for further guidance.
9. The permission hereby granted shall not be construed as authority to carry out any works on the highway. The applicant is advised that prior approval must be obtained from the highway authority before any works are carried out on any footway, footpath, carriageway, or verge to form or modify a vehicle crossover to install dropped kerbs. Please see www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/vehicle-crossovers-or-dropped-kerbs
10. The developer is advised that as part of the detailed design of the highway works required by the above conditions, the County Highway Authority may require necessary accommodation works to street lights, road signs, road marking, highway drainage, surface covers, street trees, highway verges, highway surfaces, surface edge restraints and any other street furniture/equipment.
11. When access is to be closed as a condition of planning permission and agreement with, or licence issued by, the Highway Authority Local Highways Service will require that the redundant dropped kerb be raised and any verge or footway crossing be reinstated to conform with the adjoining existing surfaces at the developers expense.
12. The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders. (Highways Act 1980 Sections 131, 148, 149).

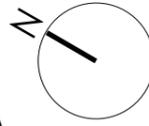
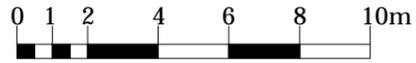
REASON FOR PERMISSION

The development hereby permitted has been assessed against development plan policies Ho9, Ho13, Ho16, Pc4, Cf1, Mo4, Mo5, Mo7 and Ut4 of the 2005 Borough Local Plan and policies CS1, CS4, CS5, CS10, CS11, CS12, CS13, CS14, CS15 and CS17 of the Reigate and Banstead Core Strategy and material considerations, including third party representations. It has been concluded that the development is in accordance with the development plan and there are no material considerations that justify refusal in the public interest.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development where possible, as set out within the National Planning Policy Framework.

18/00375/F - The Limes Public House, 58 Albury Road, Merstham





ALBURY ROAD

Approx. 5 on-street parking spaces un-demarcated

Proposed Access

Existing dropped kerb amended

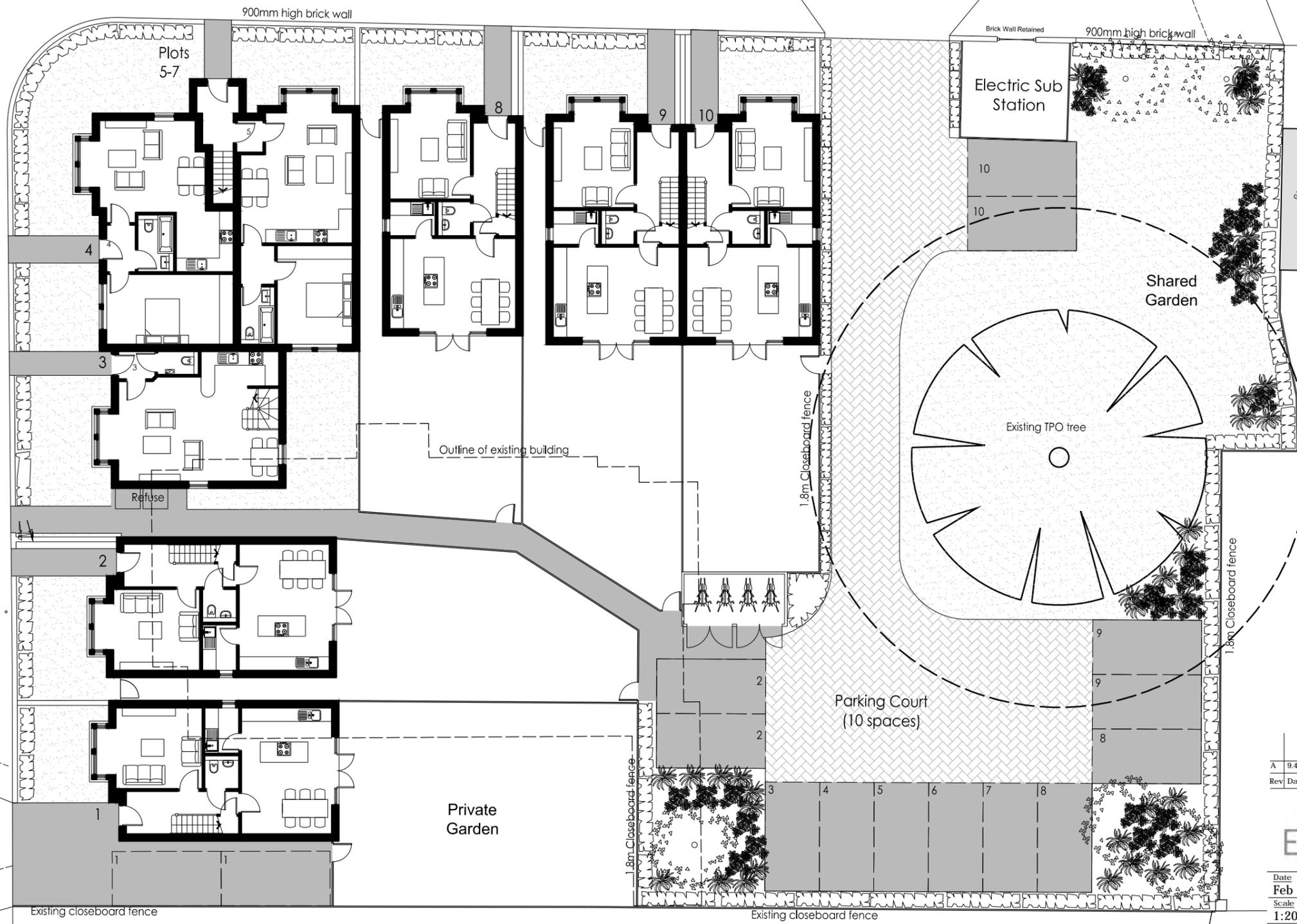
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SOUTHCOTE ROAD

Crossover amended

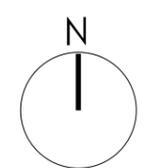
Bus Stop

Bus Stop



Garage No. 60

09



Rev	Date	Description
A	9.4.18	Amended after Planning comments



Date	Feb 2018	Drawn	KA
Scale	1:200 @ A3	Checked	*

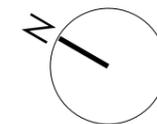
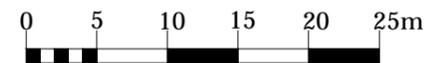
Client
Earlswood Homes

Project
The Limes
Merstham
RH1 3LL

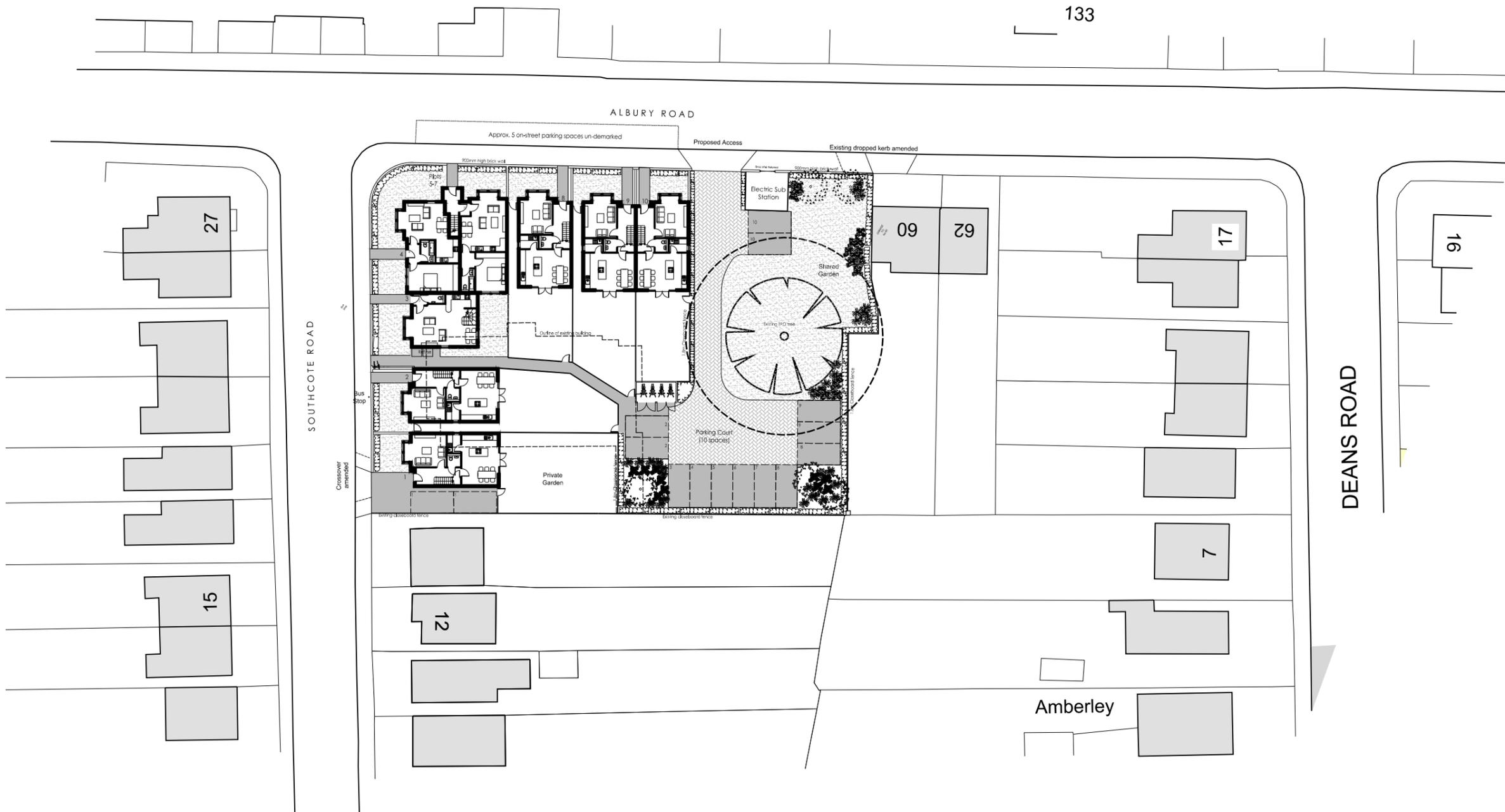
Title
Proposed Layout

Drawing No
LD11 / PL 03 A

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133



Rev	Date	Description
A	9.4.18	Amended after Planning comments

Date	Feb 2018	Drawn	KA
Scale	1:500 @ A3	Checked	*

Client
Earlswood Homes

Project
**The Limes
 Merstham
 RH1 3LL**

Title
Block Plan

Drawing No
LD11 / PL 02 A



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Elevation to Albury Road



Elevation to Southcote Road

Rev	Date	Description
A	9.4.18	Wall added adj. substation

Date	Feb 2018	Drawn	KA
Scale	1:200 @ A3	Checked	*

Client
 Earlswood Homes

Project
 The Limes
 Merstham
 RH1 3LL

Title
 Street Elevations

Drawing No
 LD11 / PL 09 A

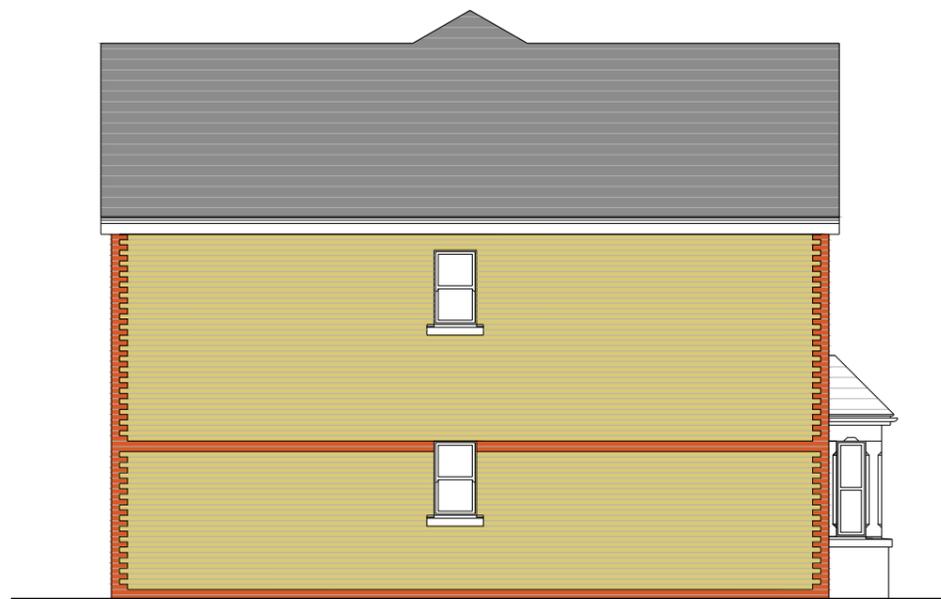
FRONT



SIDE



SIDE



REAR



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Rev	Date	Description
Date	Feb 2018	Drawn KA
Scale	1:100 @ A3	Checked *
Client	Earlswood Homes	
Project	The Limes Merstham RH1 3LL	
Title	Plots 9 & 10 Elevations	
Drawing No	LD11 / PL 08	

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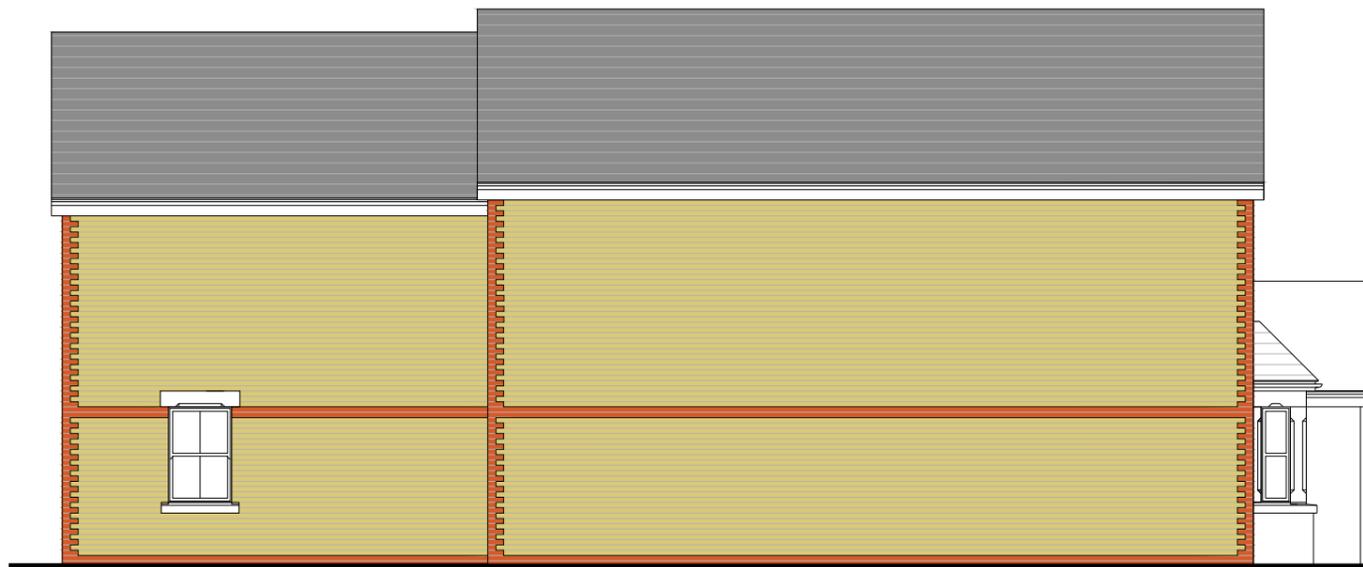
EAST



NORTH



SOUTH



WEST



Rev	Date	Description



Date	Feb 2018	Drawn	KA
Scale	1:100 @ A3	Checked	*

Client
 Earlswood Homes

Project
 The Limes
 Merstham
 RH1 3LL

Title
 Plots 3 -7
 Elevations

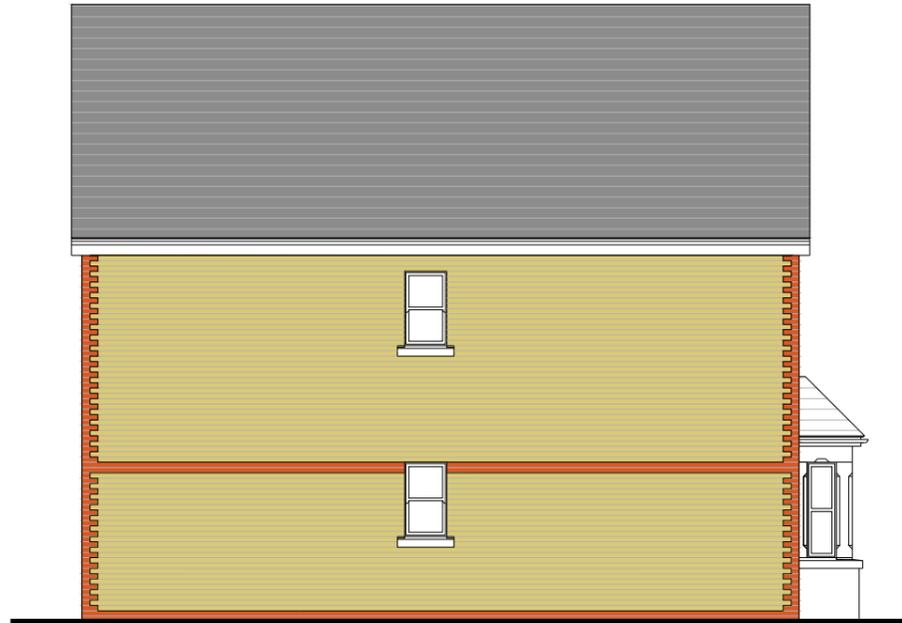
Drawing No
 LD11 / PL 06

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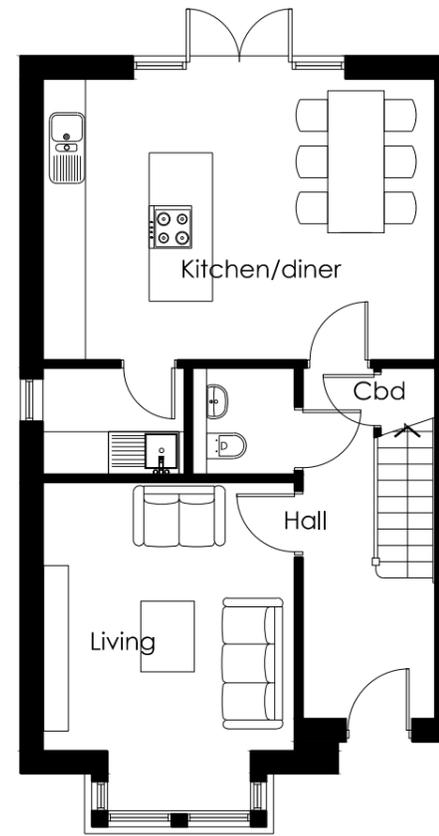
FRONT



SIDE

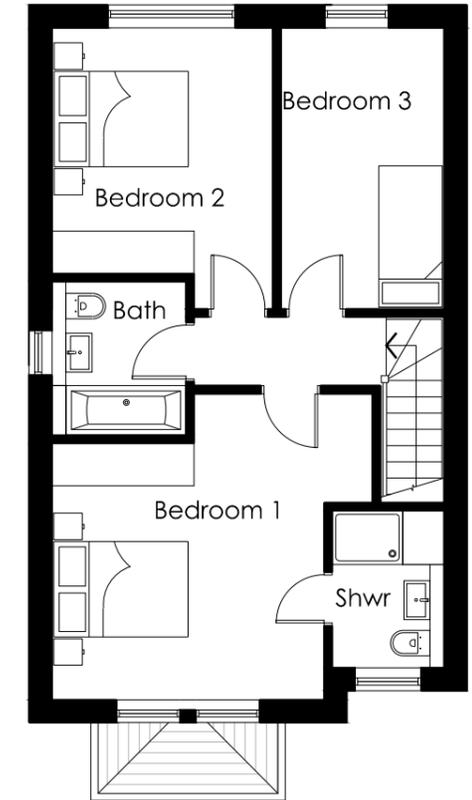


GROUND FLOOR

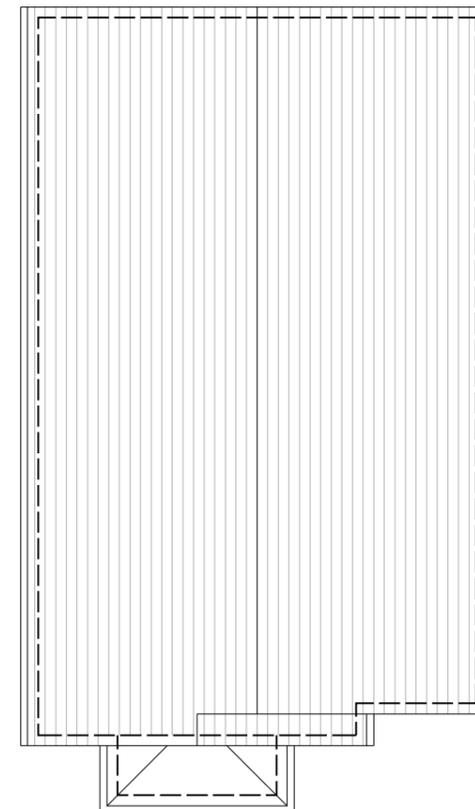


Gross internal 106 sq m 1140 sq ft

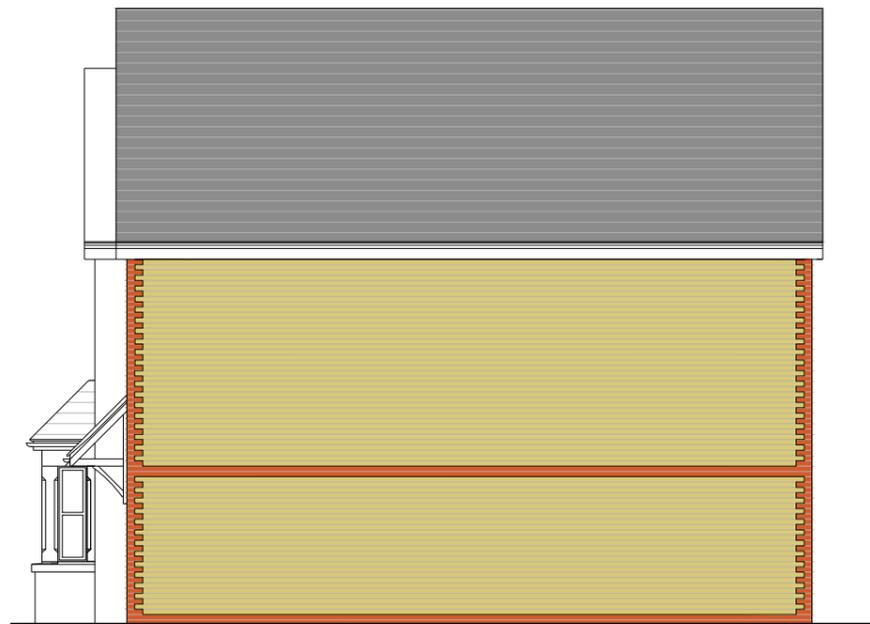
FIRST FLOOR



ROOF



SIDE



REAR



Plot 1 as shown:
 Plot 2 & 8 handed

Rev	Date	Description
Date	Feb 2018	Drawn KA
Scale	1:100 @ A3	Checked *
Client	Earlswood Homes	
Project	The Limes Merstham RH1 3LL	
Title	Plots 1, 2 & 8 Plans & Elevations	
Drawing No	LD11 / PL 04	



Appeal Decision

Hearing Held on 31 October 2017

Site visit made on 31 October 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 28th November 2017

Appeal Ref: APP/L3625/W/17/3175047

The Limes Public House, 58 Albury Road, Merstham RH1 3LL

- 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 Earlswood Homes against the decision of Reigate and Banstead Borough Council.
 - The application Ref 16/02909/F, dated 9 December 2016, was refused by notice dated 13 April 2017.
 - The development proposed is described as 'redevelopment of public house for residential use comprising block of 7 apartments (6 x 2 bed & 1 x 1 bed) and 4 x 3 bed detached/semi-detached dwellings'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. A Unilateral Undertaking (UU), made pursuant to Section 106 of the Act was fully executed on 6 November 2017¹ and supersedes the version that was submitted prior to the hearing. The UU would obligate the appellant to make an affordable housing contribution of £125,163.00. I shall refer further to the UU under the third main issue below.
3. As suggested by the appellant at the hearing the Council has submitted a copy of its affordable housing contributions position statement of November 2016 (the PS [document 4]), together with an associated committee report and minute. In considering the third main issue I have had regard to the PS.

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on the provision of community facilities in Merstham; and
 - whether the development should make provision for affordable housing.

¹ Document 3

Reasons

Character and Appearance

5. The development would involve the demolition of the public house and its replacement with four houses and a block of seven flats. The flat block would provide accommodation on three floors, with the upper level being within the **block's roof**.
6. The flat block would be sited at the junction of Albury Road and Southcote Road and it would therefore occupy a prominent position within the streetscene, which is primarily characterised by two storey houses dating from the Victorian and Edwardian periods. The flat block by comparison with the nearby houses would have a mass and bulk that I consider would be harmful to the character and appearance of the area. The flat block would be sited in quite close proximity to the back edge of the footways in Albury Road and Southcote Road and I consider that the **block's** siting would accentuate the its prominence in the streetscene.
7. While there are some flat blocks towards the northern end of Albury Road and in Deans Road, those blocks have a mid-street siting. The proposed flat **block's siting would therefore not be directly comparable with the existing** blocks in the area and I therefore consider that they do not provide a justification for the appeal development.
8. I therefore conclude that the development would be harmful to the character and appearance of the area. There would therefore be conflict with saved Policies Ho9, Ho13 and Ho16 of the Reigate and Banstead Borough Local Plan of 2005 (the Local Plan), Policy CS4 of the Reigate and Banstead Core Strategy of 2014 (the Core Strategy) and paragraph 60 of the National Planning Policy Framework (the Framework). That is because the development would not promote or reinforce local distinctiveness and thus maintain the character of the area.

Community facilities provision

9. In the context of the loss of the public house the first reason for refusal cites conflict with saved Policy Cf1 of the Local Plan and Policy CS12 of the Core Strategy. While Policy Cf1 addresses the retention of community facilities, its wording does not state precisely what facilities come within its ambit. That said **Policy Cf1's supporting text, ie paragraph 9.1, variously refers to 'general purpose meeting halls'** and to a diverse stock of community premises that are owned by public authorities, community groups, churches and clubs that are available for hire for social, leisure and recreational purposes.
10. Taking account of the actual wording of Policy Cf1, the text contained in paragraph 9.1 and the Cherkley Campaign judgement², I am not persuaded that public houses should be treated as coming within Policy Cf1's ambit. I find support for that interpretation of Policy Cf1 from the comments made by the **Council's officers** in their report to the planning committee for the appealed application (paragraph 6.4), with it being stated that **'... public houses are not specified as an example of a community facility within Policy Cf1 or the wider Community Facilities chapter ... nor have they historically**

² Cherkley Campaign Ltd v Mole Valley District Council & Anor [2014] EWCA Civ 567

been treated as such ... on balance, it is considered that Policy Cf1 was drafted without public houses in mind ...'.

11. **Policy CS12 of the Core addresses 'Infrastructure delivery' and its fifth criterion refers to the loss of existing '... leisure and community facilities (including sport, recreation and cultural) and open spaces ...' being resisted.** The wording of the fifth criterion suggests that it is intended to address uses falling within use classes D1 (non-residential institutions) and D2 (assembly and leisure) rather than public houses, which come within use class A4. I am therefore inclined to treat Policy CS12 as not being relevant to the consideration of the loss of public houses.
12. As no other development plan policies relating to the loss of public houses have been drawn to my attention I consider that the development plan is silent on this issue. That said paragraph 70 of the Framework does make an express reference to public houses, as community facilities, and advises that planning decisions should guard against the unnecessary loss of valued facilities, **particularly where that would reduce a community's ability to meet its day-to-day needs.** I therefore consider that paragraph 70 of the Framework is relevant to this main issue.
13. The evidence submitted in writing and given at the hearing demonstrates that there is strong community attachment to The Limes, with it, amongst other things, hosting the local golfing society and various charity events. That support having resulted in The Limes being listed as an Asset of Community Value (ACV) on 7 December 2016³. The purpose of the ACV listing being to enable a community group or groups to bid to acquire the site from the owner during a sale moratorium period. **The Limes'** moratorium period expired in June 2017. There is, however, some disagreement as to whether the ACV listing should have been made given that at the time of that listing The Limes was already subject to a conditional contract for its sale. Notwithstanding that disagreement it was confirmed at the hearing that no community bid to acquire The Limes was made during the moratorium period.
14. It is evident that The Limes for a number of years has been experiencing difficult trading conditions. To improve **this public house's trading position** the parties accept that it would need to be refurbished, while the introduction of a restaurant would be advantageous. At the hearing there was some discussion about the cost of a refurbishment scheme, with those costs, at a minimum, being of the order of £250,000. Mr Blacker, **while being one of the Council's** Councillors, attended the hearing in a personal capacity, and he advised that the community did not have the funds to acquire The Limes or undertake a refurbishment scheme of the scale likely to be necessary. It was nevertheless put to me that if another party was to take on the management of The Limes then there would be a possibility of significantly improving its trading position. In this regard it was contended that the **appellant's** viability assessment was unduly pessimistic, not least because since the commencement of the tenancy at will (TAW) on 1 July 2016 turnover has been improving.
15. However, the appellant submitted that throughout the period of the TAW the tenant has been in receipt of a £130.00 discount on the purchase price for each barrel of beer ordered. Throughout the life of the TAW it therefore

³ Pursuant to Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012

appears that The Limes has been trading with the benefit of a subsidy provided by the brewery. I therefore consider that comparisons made between any current trading figures and those relied on by the appellant⁴ should be treated with caution. That is because any discounts that are currently being provided could not be relied on in the future. On the evidence available to me I have reservations as to whether the scale of investment thought to be necessary to refurbish The Limes could be justified by the income generated. I consider the fact that only two of sixty six enquiries yielded during the marketing period for these premises were from parties connected with the public house trade⁵ is indicative of the trade being concerned about the future viability of The Limes.

16. **The Council is critical of the marketing undertaken on the freeholder's behalf**, contending that the content of the marketing particulars would have deterred interest from the license trade. While the marketing particulars refer to there being **'potential for residential development'**, I found nothing in their wording that would have positively discouraged enquires from the license trade. I therefore consider that the marketing campaign was not biased towards the site being redeveloped.
17. The redevelopment of The Limes would result in the loss of a primarily wet sales public house and that would result in some loss of choice for residents of this sizeable village, with its population being of the order of 8,100 people⁶. However, there are other public houses in Merstham, albeit less accessible for residents of this part of the village and which have less of an emphasis on wet sales and less extensive on-site parking and gardens areas. I therefore consider that the loss of The Limes would be of much greater significance for Merstham's residents were it the only public house in this village.
18. On this issue I therefore conclude that the effect of the development on the provision of community facilities Merstham would be acceptable. I therefore find that this development would not be contrary to paragraph 70 of the Framework.

Affordable Housing

19. The third reason for refusal concerns the absence of a planning obligation to secure the provision of an affordable housing contribution, in line with the requirements of Policy CS15 of the Core Strategy and the accompanying Affordable Housing Supplementary Planning Document of 2014 (the SPD), when the application was refused by the Council. The appellant and the Council agree that a contribution of £125,163.00 (index linked) would meet the 20% affordable housing requirement for developments of between ten and fourteen dwellings stated in Policy CS15. The executed UU would secure the payment of the previously mentioned contribution.
20. I consider Policy CS15 is consistent with the Framework, most particularly paragraphs 7, 17 (the third core planning principle), 47, 50 (the third bullet point) and 173. That is because paragraphs 7, 17, 47 and 50 of the Framework, amongst other things, address the provision of affordable housing, as part of boosting the supply of housing, while paragraph 173

⁴ ie the trading appraisal set out in Mr Culverhouse's statement and supplemented by hearing Document 1

⁵ Letter from the marketing agent of 29 September 2016 included in section 6 of the statement prepared by Mr Culverhouse

⁶ Hearing Document 2 – population summary provided by the Council

requires policies with cost implications, such as Policy CS15, to be formulated to take account of viability. Importantly Policy CS15 **indicates that a scheme's** affordable housing level can be negotiated if viability is an issue.

21. However, the appellant contends that it should not be required to make an affordable housing contribution. That is because the development would be for ten additional homes and the Government has introduced thresholds, relevant to a location such as this, whereby for schemes of ten dwellings or less or which have a floorspace of less than 1,000 square metres, affordable housing contributions should not be sought. This national policy having been introduced by a Written Ministerial Statement (WMS) on 28 November 2014 and the Planning Practice Guidance (the PPG) was revised to take account of the WMS. The WMS explains, amongst other things, that the purpose of exempting smaller scale developments from the need to contribute towards **the provision of affordable housing is to '... tackle the disproportionate burden of developer contributions on small-scale developers ...'**. The WMS was subsequently subject to a legal challenge, however, the Court of Appeal found **in the Government's favour on 11 May 2016**⁷ and the provisions of the WMS and the PPG⁸ have been reinstated.
22. Planning law requires that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise⁹ and Policy CS15 of the Core Strategy is therefore the starting point for the consideration as to whether an affordable housing contribution would be necessary. **However, I consider that the Government's policy relating to the circumstances when affordable contributions should or should not be sought, as stated in the WMS and the PPG, is a material planning consideration that I must also have regard to.**
23. **The Council's PS of November 2016 explains that in the light of a continuing** need to provide affordable homes it intends to continue to seek financial contributions from smaller sites. That is because there are issues with the affordability of homes for purchase and rent in the **Council's** area. The PS further advises that larger scale developments are not sufficiently numerous to secure the 1,500 affordable homes targeted for delivery by Policy CS15 between 2012 and 2027. The Council therefore contends that there is a continuing need for small scale developments to contribute towards the delivery of affordable homes.
24. I consider that the PS provides clear evidence of there being an on-going need for affordable housing to be provided in **the Council's area**. Accordingly for a non-Policy CS15 compliant scheme to be viewed as being acceptable there would need to be a material consideration of great weight to justify a departure from Policy CS15 being made. The WMS is a material consideration that might warrant a departure being made from Policy CS15. However, the **Court of Appeal's judgement relating to the WMS has clearly established that** it should not automatically be applied without regard being paid to the full circumstances of any given case, including the provisions of development plan policies.

⁷ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

⁸ Paragraph: 031 Reference ID: 23b-031-20161116

⁹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

25. The appellant contends this development should be exempted from any requirement to make an affordable housing contribution on, in effect, an as of right basis because of the WMS's existence. As part of the appellant's written case no evidence was submitted raising any issue with this development's viability and thus there being a need to tackle a 'disproportionate burden' associated with the making of an affordable housing contribution. However, at the hearing the appellant referred to the potential for there being a potential viability issue, because in negotiating a purchase price for the site it had been anticipated that the development would be for thirteen dwellings. As the wording of Policy CS15 allows for scheme viability to be considered, a viability case could have been made when the appealed application was submitted to the Council.
26. On the evidence available to me I consider it has not been demonstrated that any issue with viability arising from the payment of an affordable housing contribution would be incapable of being addressed through a negotiation. Accordingly with there being a need for affordable housing in the Council's area I am not persuaded that this development should automatically be exempted from making an affordable housing contribution by applying the WMS's provisions. As I have found that the provisions of the WMS should not be applied simply on an as of right basis, I consider that nothing turns on whether the flat above the public house should or should not be taken account of having regard to the ten unit threshold stated in the WMS.
27. The appellant and the Council are agreed that the affordable housing contribution of £125,163.00 that the UU would obligate the appellant to pay would meet the requirements of Policy CS15 and the guidance contained in the SPD. I therefore conclude that the development would make adequate provision for affordable housing with the payment of the contribution secured by the UU. The development would therefore accord with Policy CS15 of the Core Strategy.

Conclusions

28. While I have found that there would be no unacceptable effect on the provision of community facilities in Merstham and adequate provision for affordable housing would be made, I have concluded that the flat block would cause unacceptable harm to the character and appearance of the area.
29. As I have concluded that the development plan is silent with respect to the loss of public houses as community facilities, I consider the fourth bullet point listed in paragraph 14 of the Framework is engaged. Having regard to paragraph 14's fourth bullet point I consider that the harm that I have identified would significantly and demonstrably outweigh the benefits of the development and that it would therefore be an unsustainable form of development when the development plan and the Framework are taken as a whole.
30. I therefore conclude that the appeal should be dismissed.

INSPECTOR

Grahame Gould

