
Appeal Decision

Site visit made on 11 October 2016

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: **3RD November 2016**

Appeal Ref: APP/C3620/W/16/3153612

18 The Cedars, Leatherhead, Surrey KT22 8TH

- 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 Mr R Perry against the decision of Mole Valley District Council.
 - The application Ref MO/2015/2089/PLA, dated 22 December 2015, was refused by notice dated 28 April 2016.
 - The development proposed is erection of new dwelling, associated garden and parking area.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwelling, associated garden and parking area at 18 The Cedars, Leatherhead, Surrey KT22 8TH, in accordance with the application Ref: MO/2015/2089/PLA, dated 22 December 2015, subject to the conditions set out in the attached Schedule of Conditions.

Preliminary Matter

2. The Council's second reason for refusing the application related to the lack of a planning obligation to secure a contribution towards affordable housing. This was required for the development to comply with Policy CS4 of the Mole Valley Core Strategy (Core Strategy) and the Council's associated Supplementary Planning Document: *Affordable Housing*.
3. However, since this application was determined the Court of Appeal gave legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014 which states that contributions should not be sought towards affordable housing from developments of 10 units or less. While acknowledging the weight of Policy CS4 and supplementary guidance, I also attach considerable weight to the WMS and the significant need to encourage more house building. Therefore, I do not consider that the lack of a planning obligation contributing towards affordable housing is a sufficient reason to reject the appeal proposal. The Council has also subsequently confirmed that it is no longer seeking an affordable housing contribution and that the second reason for refusal is therefore effectively withdrawn.

Main Issue

4. The main issue is the effect of the proposed dwelling on the character and appearance of the area.
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Reasons

5. The appeal site is part of the side garden of No 18 The Cedars, a detached two-storey dwelling located at the end of a cul-de-sac and accessed via a driveway shared with No 20. The existing plot occupied by No 18 is significantly larger than many of the others in The Cedars. Its southern boundary abuts Ermyn Way, this section of which is a private road and a Public Byway. However, it provides access to the Milner House Care Home, a large and imposing building set in formally landscaped grounds, and the headquarters of Exxon. To the south of Ermyn Way is an area of undeveloped woodland which lies within the Metropolitan Green Belt.
6. The proposed dwelling would be accessed from an amended entrance on Ermyn Way. The parking and turning area would be to the side of the house and the main entrance would be on the west facing elevation. The house would therefore not have the more traditional arrangement of a front garden facing the street. The southern elevation, which would be the side of the house, would only be set back by some 2.6m from the street. However, Ermyn Way is not a main through route and no other houses have direct access onto it. Although No 10 The Cedars is reached from the cul-de-sac, its orientation is similar to that of the proposed dwelling, with its flank wall set back approximately 4m from the fence along Ermyn Way. In this context I do not consider that the proposed dwelling would appear incongruous.
7. The overall scale and proportions of the proposed dwelling would be similar to those of other dwellings in The Cedars, notwithstanding its somewhat different footprint. There would be a gap of 1.7m between the dwelling and the northern boundary of the site and it would be separated by approximately 4m from No 18. Whilst this gap is not overly generous, it is comparable with the gaps between other properties in The Cedars, including that between Nos 20 and 22. The proposed dwelling would have a good-sized rear garden to the east of the site. I am therefore satisfied that it would not appear to be cramped in relation to the overall size of its plot, which would be larger than many of the plots associated with the immediately surrounding dwellings.
8. The garden of No 18 is currently bounded on its eastern and southern sides by a group of substantial evergreen cypress-type trees. The height and width of these trees make the garden feel enclosed and smaller than it would do otherwise. They are not native species and detract from the backdrop of mature native broadleaf trees that are present elsewhere in the vicinity. The native trees are the subject of a tree preservation order (TPO/103/2/O), dating from 1982 which protects mature lime, beech, pine, sycamore, ash, oak, horse chestnut, poplar and cedar of 34 years or older. The existing cypress-type trees are incongruous and serve no valuable purpose in screening the site from neighbours. As they are not protected, their removal as part of the proposed development would not be harmful to the area's appearance. On the contrary, the opening up of the appeal site as a consequence of removing these trees would create a greater sense of spaciousness and draw attention to the larger native trees in the vicinity.
9. Taking all these factors into consideration and having regard to the key characteristics of the area set out in the Built-up Area Character Appraisal for Ashted, I conclude that the proposal would not be harmful to the character and appearance of the area. It would therefore comply with Policy CS14 of the

Core Strategy and saved Policies ENV22, ENV23 and ENV24 of the Mole Valley Local Plan. All these policies require new development to respect its setting, having regard to the spaces around buildings and taking account of the scale, character bulk and proportions of the surrounding built environment.

Conditions

10. In addition to the standard time limit the Council has suggested a number of conditions in the event that the appeal was allowed. I have considered these in the light of the tests set out in Paragraph 206 of the National Planning Policy Framework and imposed them where I have found them to be necessary and reasonable, whilst amending them for the sake of clarity and precision.
11. I have imposed a condition specifying the plans in the interests of certainty. However, I have not included reference to Drawing No TCP-CC/1464 AR2711 as it is not a tree protection plan and the development is not affecting any protected trees.
12. A condition securing approval to the materials to be used in the construction of the external surfaces of the building is justified in the interests of the appearance of the development. However, I consider that the requirement to provide samples is not necessary as these could be agreed by reference to appropriate written details. In addition, in the light of advice set out in the Planning Practice Guidance (PPG)¹, I have amended the condition to require these details to be approved before works above ground level begin, rather than prior to the commencement of any development on the site.
13. The provision of obscure glazing in first floor windows of the northern elevation of the proposed dwelling is needed to protect the privacy of the occupants of No 18. A scheme to secure sustainable surface water drainage for the site is required to ensure that the development does not give rise to increased risk of flooding and complies with Policy CS20 of the Core Strategy.
14. The proximity of the site to the M25 means that the proposed dwelling will experience significant background noise from traffic. A condition requiring a scheme to mitigate the effects of noise is therefore justified to protect the living conditions of future occupants. However, I have amended the timing of approval of the details to accord with the aforementioned advice of the PPG.
15. The Council's request for a condition to secure reduced carbon emissions is reasonable in order to support the move to a low carbon future as advocated by paragraph 94 of the Framework and to ensure compliance with Policy CS 19 of the Core Strategy.
16. A condition ensuring permanent retention of the driveway and parking spaces is needed in the interests of highway safety. However, as the development also includes a revised location for the access I have amended the condition to reflect this and ensure its timely implementation.
17. The PPG advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. However, I note that the proposed dwelling would project beyond the rear elevation of No 18 and has been designed with the possibility of providing additional accommodation in the roofspace. I

¹ Planning Practice Guidance Ref: 21a-007-20140306

therefore consider that future extensions and additions or alterations to the roof of the proposed dwelling could be harmful to the character and appearance of the area and could adversely affect the living conditions of No 18. Consequently, I concur with the Council that permitted development rights to erect extensions within Schedule 2, Part 1, Classes A, B and C should be removed.

18. I note that the appellant has indicated a willingness to accept a condition in relation to landscaping. In my view the only aspect of landscaping that could affect the appearance of the site from the public realm is the boundary treatment along Ermyn Way following the removal of the existing cypress-type trees. I have therefore imposed a condition to secure implementation of an appropriate boundary treatment prior to occupation of the dwelling in order to protect the character and appearance of the area.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 447/P05 Rev A, 447/P04 Rev A, 447/P03 Rev A, 447/P02 Rev A and 447/E01.
3. No development above foundation level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. Prior to the first occupation of the dwelling hereby permitted the first floor windows in the northern elevation shall be fitted with obscure glazing, and no part of those windows that is less than 1.7m above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscure glazing shall be retained thereafter.
5. Prior to the commencement of the development hereby permitted a surface water drainage scheme for the site shall be submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of the potential for the disposal of the surface water drainage by means of a

sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework. The scheme shall be implemented as approved prior to the first occupation of the dwelling.

6. No development above foundation level shall take place until a scheme to demonstrate that the internal noise level within the dwelling and the external noise levels in the garden will conform to the standard identified by BS 8233:2014 – Sound Insulation and Noise Reduction for Buildings – Code of Practice, has been submitted to and approved in writing by the local planning authority. The work specified in the approved scheme shall be carried out in accordance with the approved details prior to first occupation of the dwelling hereby permitted and retained thereafter as approved.
7. Prior to the commencement of development hereby permitted details of a scheme to reduce the carbon emissions of the predicted energy use of the dwelling by at least 10% through the on-site installation and implementation of decentralised and renewable or low-carbon energy sources shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of the dwelling.
8. Prior to first occupation of the dwelling hereby permitted the existing access shall be closed and the new access shall be implemented in accordance with the details shown on drawing No 447/P02 Rev A, so that the access, parking and turning area remains available at all times for the parking and manoeuvring of vehicles.
9. Notwithstanding the provisions of the Town and Country (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions within Schedule 2, Part 1, Classes A, B or C shall be undertaken at the dwelling hereby permitted.
10. Prior to the first occupation of the dwelling hereby permitted a boundary treatment along Ermyn Way shall be implemented in accordance with a detailed scheme that has previously been submitted to and agreed in writing by the local planning authority.

End of Schedule of Conditions