

Appeal Decision

Site visit made on 26 September 2016

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 04 November 2016

Appeal Ref: APP/R3650/W/16/3149490

Weyside Park, Catteshall Lane, Godalming, Surrey, GU7 1XR

- 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 Sam Gossain against the decision of Waverley Borough Council.
 - The application Ref WA/2015/1525, dated 21 July 2015, was refused by notice dated 5 November 2015.
 - The development proposed is the construction of a new 2nd floor comprising of 14 new flats to an existing two storey office building. Construction of a new lift and stairs.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a new 2nd floor comprising of 14 new flats to an existing two storey office building at Weyside Park, Catteshall Lane, Godalming, Surrey, GU7 1XR, in accordance with the terms of the application, Ref WA/2015/1525, dated 21 July 2015, subject to the conditions set out in the attached schedule.

Preliminary Matter

2. Several of the plans before me do not match the plan numbers listed as being considered by the Council under application WA/2015/1525, insofar as the prefix to the plan numbers differs. The appellant has stated that regardless of the prefix the plans are, in fact, the same. I have compared the plans before me with those the Council made its decision on, and for the most part this is true. However, there are a couple of minor discrepancies. Plans 1503-200 and 1503-201 lack details of the floor layout of the existing building which was on the plans considered by the Council (1402-200 and 1402-201). Also, plan 1503-209 shows a different red line around the site to that shown on the Council's plan (1402-209). Nevertheless, the development for which planning permission is sought is not materially different between the two sets of plans. I must, however, consider this appeal on the basis of the plans which were before the Council when it made its decision and I have therefore referenced these plans in my conditions below.

Main Issue

3. The main issue is whether the proposal should make a contribution towards affordable housing.
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4. A second reason for refusal relating to flood risk is no longer being pursued by the Council following the submission of further information. There is no need, therefore, for me to take this matter further.

Reasons

5. The appeal site comprises a detached building which was previously Class B1 office use. It has, however, been recently granted prior approval for a change of use to 36 independent flats, and this has been implemented on site (ref CR/2013/0019). The proposal before me is seeking planning permission to construct an additional floor to the building to provide a further 14 flats.
6. Policy H5 of the Waverley Borough Local Plan 2002 (LP) sets out that on sites within settlements of over 3,000 population, such as Godalming, developments involving 15 or more net new dwellings, or sites of 0.5ha or larger, should provide at least 30% of the number of net new dwellings in the form of subsidised affordable housing.
7. The Council calculate that the application site, including the access road, measures 0.62ha. This is not disputed by the appellant. The size of the site, and its long access drive, therefore triggers the threshold set out in Policy H5. The development should therefore provide a contribution towards affordable housing and its failure to do so conflicts with this policy.
8. However, appeal decisions must be determined in accordance with the development plan unless material considerations indicate otherwise. The appellant makes the case that the triggering of this threshold is not sufficient to warrant an affordable housing contribution. Viability should also be considered, and to this end a Financial Viability Assessment (FVA) has been submitted. This concludes that the proposed development, in providing the required affordable housing, would produce a return of 15.1%, which is less than the benchmark 20% profit adopted in the report.
9. The Council do not contest the approach taken in determining viability as set out in the submitted FVA and concede that this has been prepared by a competent person. Concern is raised that S106 contributions of £60,413, which are not being sought in respect of the development, are included in the calculations. The author of the FVA accepts this, but goes on to explain that removal of this figure from the expenditure section of the viability report represents a profit of 16.8% which, although improved, is still below the 20% adopted benchmark.
10. The National Planning Policy Framework (the Framework) at para 173 explains that pursuing sustainable development requires careful attention to viability and costs. The costs of any requirements likely to be applied to development, such as affordable housing, should still provide competitive returns for the land owner or developer. On the evidence before me, with the required provision of affordable housing, the development would not provide a competitive return and consequently would not be viable.
11. There is a dispute between the parties as to whether the Council is able to demonstrate a five year supply of housing. The Council have provided an updated five year housing supply position statement which demonstrates 5.3 years supply of housing. This evidence is, however, in draft form and has not been tested at examination, which limits the weight I can afford it.

Nevertheless, even assuming the Council did have a 5 year supply of housing the proposal would still make a valuable contribution towards local housing supply in a sustainable location close to shops and services. The Framework is clear that there is a need to significantly boost the supply of housing therefore this matter weighs in favour of the development.

12. The appellant disagrees with the Council's calculation of the site area. The appellant makes the case that this should be calculated either by omitting the access drive, which is shared with the adjacent Riverview House and is not in the ownership of the appellant, or by omitting areas not associated with the development such as the parking and amenity spaces for the existing flats on site. Both approaches would bring the site area below the threshold set out in Policy H5. In respect of the latter method of calculating area I question the exclusion of all of the external amenity space as future occupiers of the development may well use this despite having their own terraces. It therefore comes down to whether the access road should be included in the calculation of the site area. However, in light of my findings above in respect of the viability of the development, it is not necessary for me to reach a definitive conclusion on this matter as it is not determinative.

Special Protection Area

13. The site falls within the Wealden Heaths Special Protection Area (SPA) 5km Buffer Zone. Regulation 61 (5) of the Conservation of Habitats and Species Regulations 2010 requires any development which could damage such areas to be subject to an appropriate assessment of its likely effects. The Council conclude in their officer's report that, due to the availability of alternative recreational opportunities in the area, the proposal is not likely to have a significant effect upon the integrity of the SPA. In addition to this, no objection has been received from Natural England in relation to the effect of the development on the SPA. I have no good reason to disagree with this approach.

Other Matters

14. I note the concerns of occupiers of residential properties in Grange Close regarding their living conditions. Matters raised include overlooking and loss of light. The appeal building is well contained within its site boundaries with some 24m between it and the rear boundary of properties in Grange Close. I acknowledge that the appeal site is on slightly higher ground, that the proposal is for a third storey which includes external terrace areas, and that the rears of the properties in Grange Close contain bedrooms and other habitable rooms. However, given the distances involved any increase in overlooking would not be harmful nor would it result in a significant loss of privacy. Similarly, this amount of separation would ensure there was no material loss of light to these properties or their rear gardens. The submitted Daylight Sunlight and Overshadowing Assessment supports my findings in this respect.
15. In terms of concerns over noise and light pollution, I consider that the domestic occupation of the building would be in-keeping with its mixed office and residential surroundings and as such would not result in undue disturbance to other residential properties. I also have no reason to conclude light pollution associated with the development would result in significant harm.

16. For the above reasons, in respect of Article 8 of the European Convention on Human Rights, any interference with occupiers peaceful enjoyment of their properties in Grange Close must be balanced against the rights and freedoms of others, and in light of my conclusions above I am satisfied that if this development goes ahead its effect on the occupiers of these properties would not be disproportionate.
17. In respect of neighbours' property values, my determination of this appeal is not based on whether owners and occupiers of neighbouring properties would experience financial or other loss from the development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest. For the reasons outlined above, I find this to not be the case in this appeal.
18. Third parties raise concerns over the design of the additional floor. This would be set back from the main elevations in a subservient manner and would follow a similar shallow pitched roof form to that of the existing. I note the Council raised no design concerns in respect of the additional floor and I find no reason to conclude otherwise.
19. The appeal site, as a whole, would provide parking in excess of Council requirements. On the evidence before me, which includes a Transport Statement, to which the Council's Highway Officer raises no objection, I find no reason to conclude that the development would adversely affect highway safety.
20. I have no substantive evidence before me to conclude that local infrastructure cannot support the development. There is also nothing before me to suggest the proposal would result in any loss of natural habitat. Comments over a strip of land between the appeal site and properties in Grange Close do not lead me to conclude differently in terms of my findings above. An occupier of the existing building raises concerns over management of the flats but this is a private matter between the parties involved.
21. Given that I have found that the proposal would be acceptable I can see no reason why it would lead to harmful development on other sites in the area. In any event, each application and appeal must be treated on its own planning merits.

Conditions

22. In addition to the standard time limit condition I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. I have also included a condition concerning the external materials to be used in the development to ensure a satisfactory appearance, and a condition requiring details of a bin store for the same reason.
23. Parking and turning for the proposed development is already in place from the building's previous use. It is not necessary, therefore, for me to include a condition requiring parking and turning to be laid out. However, I have included a condition to retain the parking and turning areas as approved.
24. I have included conditions relating to the drainage of the site so that the development does not increase flood risk. I have also included conditions to require the secure parking of bicycles and for the provision of Electric Vehicle

Charging Points to encourage sustainable transport modes and to protect air quality.

25. A condition requiring a Construction Environmental Management Plan is included in the interests of highway safety and the living conditions of neighbouring occupiers. However, I have removed the need to provide wheel washing facilities as this is not necessary given the development proposed.
26. Concern is raised that the site is not capable of allowing access for a waste collection vehicle but no detailed justification in respect of this is provided. There is nothing before me to suggest this is currently a problem with the existing flats on site. Consequently a condition requiring the submission of swept path diagrams for waste collection vehicles has not been shown to be necessary.
27. Given that the submitted Ecological Walk Over Survey Report found no evidence of protected species and found the site to be of low ecological value it is not necessary to include a condition in respect of nature conservation at the site. Control over the burning of materials on site is provided by other legislation.
28. Finally, I am not convinced, from the evidence before me, that a condition requiring agreement of modifications to an existing low voltage mains cable is necessary to enable the development.

Conclusion

29. The proposal would conflict with Policy H5 of the LP in that it would not make a contribution towards affordable housing. However, in making such a contribution the development would cease to be viable. The development would bring forward housing development in a sustainable location. Consequently the conflict with the development plan would be outweighed by the overall conformity of the development with the Framework. For these reasons, subject to conditions, a number of which need to be discharged before work commences on site as these are fundamental to a satisfactory scheme, the appeal is allowed.

Hayley Butcher

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not 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: 1503-000, 1402-200, 1402-201, 1402-202, 1402-203, 1402-204, 1402-205, 1402-206, 1402-207, 1402-209, 1503-210 A, 1402-211, 1503-222, 1503-234.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the extension 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) The parking and turning areas as approved shall be retained and maintained in perpetuity for their designated purposes.
- 5) The flats hereby permitted shall not be occupied until the secure parking of bicycles within the development has been provided in accordance with the approved plans and shall be retained and maintained thereafter.
- 6) No development shall take place until details of how the existing Sustainable Drainage System will be protected, site drainage maintained, and risk of pollution mitigated during the construction of the development have been submitted to and approved by the local planning authority. The development shall be carried in accordance with the approved details.
- 7) Prior to occupation of the flats hereby permitted a maintenance regime for the surface water drainage system (including SuDs elements) and who will be responsible for future maintenance will be in operation, having been previously submitted to and approved in writing by the local planning authority. The maintenance regime shall be carried out as approved.
- 8) Prior to the occupation of the flats hereby permitted bin storage shall be provided in line with details which shall have first been submitted to and approved in writing by the local planning authority. The bin storage shall be retained and maintained as approved.
- 9) Prior to the occupation of the flats hereby permitted Electric Vehicle Charging points (EVP's) will be provided within the development in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority. The EVP's shall be retained as approved.
- 10) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) An indicative programme for carrying out the works;
 - ii) The arrangements for public consultation and liaison during the construction works;

- iii) Measures to minimise the noise (including vibration) generated by the construction process to include hours of works, the careful selection of plant and machinery and the use of noise mitigation barrier(s);
- iv) Details of any floodlighting, including location, height, type, and direction of light sources and intensity of illumination;
- v) The parking of vehicles of site operatives and visitors;
- vi) Loading and unloading of plant and materials;
- vii) Storage of plant and materials used in the construction of the development;
- viii) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- ix) Measures to control the emission of dust and dirt and any other emission during any phase of construction, and;
- x) A scheme for recycling/disposing of waste resulting from construction works.