
Appeal Decision

Site visit made on 24 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: 22nd November 2016

Appeal Ref: APP/C3620/W/16/3153207

Land at The Thistles, Highlands Road, Leatherhead KT22 8NT

- 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 P Owen against the decision of Mole Valley District Council.
 - The application Ref MO/2015/1835/PLA, dated 6 November 2015, was refused by notice dated 9 March 2016.
 - The development proposed is erection of a detached garage.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached garage on Land at The Thistles, Highlands Road, Leatherhead KT22 8NT, in accordance with the application ref: Ref MO/2015/1835/PLA, dated 6 November 2015, subject to the conditions set out in the Schedule of Conditions attached to this permission.

Preliminary Matter

2. The Council's decision notice included the post code in the site address. Although not used on the application or appeal forms, this does appear on other documentation submitted with the appeal. I have therefore included it in this decision.

Main Issue

3. The main issue is the effect of the proposed garage on the character and appearance of the area, having particular regard to its effect on the protected trees.

Reasons

4. The Thistles is a short cul-de-sac that provides access to two detached dwellings that were constructed following the permission for a development of four dwellings that was allowed on appeal,¹ only three of which were built. Subsequently, a revised scheme granting permission for a fourth dwelling was also approved, Ref: MO/2007/0037, but this was never implemented and an application to renew this permission in 2010 was withdrawn. The current application seeks permission to construct a garage and cycle store on a reduced area of land in front of the area in which the fourth house would have been built.

¹ APP/C3620/A/02/1082010 – Council Ref: MO/2001/1509/PLA

5. The detached garage would be tucked into the side of the cul-de-sac and accessed from the existing turning head. It would not relate to any of the existing houses in the immediate locality but would face the flank wall of No 1, The Thistles. However, it would not be visible from Highlands Road and would be some 8m from the front corner of No 2, and at an oblique angle to that house. The Council's Supplementary Planning Guidance: *Design Guidance for House Extensions* does not specifically deal with proposals for garages that are not associated with a residential dwelling. However, nothing in that guidance has been brought to my attention that seeks to prevent such a development.
6. The proposed garage would have a pitched roof and would be an 'L-shaped' building which would be 6.3m in height. However, the cul-de-sac is surrounded by mature trees and other vegetation and the building would be seen in this context. In these circumstances I am not persuaded that the proposal would be prominent or unacceptably intrusive within the surrounding street scene.
7. Of greater concern is the potential effect that the construction of the garage could have on trees that are the subject of a Tree Preservation Order, TPO/117/3/Z. The original application was accompanied by an arboricultural report that related to the proposal for the fourth dwelling and was dated 2010. It was therefore not considered to address the specific location of the garage, which differed from that of the dwelling. However, the appellant produced an updated report as part of the evidence submitted with the appeal and the Council has subsequently raised no objection to the contents, subject to the works recommended within the report to protect the trees being secured by appropriate conditions. I am therefore satisfied that the scheme would not result in unacceptable harm to the protected trees.
8. I conclude that the proposal would not be harmful to the character and appearance of the area or protected trees and would therefore comply with Policy CS14 of the Mole Valley Core Strategy and saved Policies ENV22, ENV25 and ENV53 of the Mole Valley Local Plan. These policies, amongst other things require development to be effectively integrated into the existing street scene and seek to ensure the retention of existing trees of significant public amenity value.

Other matters

9. Neighbours have expressed concerns about several issues including possible commercial use of the building, additional traffic and the effect of the scheme on drainage. The use of the proposed garage would be restricted to that of storing a private motor vehicle by means of a condition. Any unlawful use of the building would be a matter for the Council to address through its enforcement powers. The number of additional traffic movements associated with the proposed use would be likely to be small and would not be a reason to reject the scheme, particularly as the highway authority has not raised an objection.
10. Concerns about drainage, insofar as they relate to the scheme before me, would be addressed through the imposition of a condition. The Council is satisfied that the relationship between the garage and No 2 would not affect the light reaching this property and I see no reason to disagree with this assessment. The garage would be seen in oblique angles from the front elevation of No 2, but this would not lead to an unacceptable loss of outlook for

the occupants. I am therefore satisfied that the scheme would not result in material harm to the living conditions of the occupants of No 2.

Conditions

11. 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 having regard to the tests set out in paragraph 206 of the Framework and imposed them where I consider them to be necessary and reasonable, making minor amendments for the sake of clarity.
12. I have imposed a condition specifying the plans in the interests of certainty. A materials condition is necessary to protect the character and appearance of the area. However, in the light of advice set out in the Planning Practice Guidance (PPG)², I have amended the condition to require these details to be agreed before works above ground level begin, rather than prior to the commencement of any development on the site.
13. I have imposed a condition to ensure that works are undertaken to protect the trees, in accordance with the updated arboricultural report. I have amended the suggested wording to ensure that a suitably qualified person is appointed before the commencement of the development and secure their supervision of the works throughout the construction period. This should enable the Council to retain the ability to discharge the condition when it is satisfied that the work has been completed in accordance with the agreed details. I have not included reference to the time limit for preventing the retained trees to be cut or damaged in any way. Since the trees are the subject of a Tree Protection Order which affords them permanent protection, I do not consider this to be necessary. Other vegetation on the site is not essential to the acceptability of the scheme so a condition to retain it is not necessary.
14. A condition to secure the use of porous materials or drainage into a permeable area from additional hard-surfacing is required to prevent the increased risk of flooding.
15. A condition restricting the use of the garage to the storage of private motor vehicles is necessary in order to clarify its lawful use in the absence of it being specifically associated with a residential dwelling in the vicinity of the site.
16. A condition preventing the insertion of openings in the roof is justified to protect the living conditions of the neighbours.

Conclusion

17. For the reasons set out above, and having regard to all other relevant matters raised including the representations made by third parties, I conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

² Planning Practice Guidance Ref: 21a-007-20140306

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 not be carried out other than in complete accordance with the following approved plans: Drawing Nos 373.01 and 373.02.
3. No development above foundation level shall take place until full 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. The development shall be carried out in full accordance with the tree protection method statement set out in the report prepared by Abor Cultural Ltd, ref AC.2016.045 and dated 17 April 2016 and the associated tree protection plans, Drawing Nos TPP-01 Rev A and TPP-02 Rev A subject to the following restrictions:
 - a) prior to the commencement of the development a suitably qualified tree specialist shall be appointed to supervise works within the root protection areas of protected and retained trees; and
 - b) the appointed, suitably qualified tree specialist shall undertake supervision and monitoring of the tree protection works throughout the construction period.
5. Any new or altered hard surfacing to be provided in front of the garage hereby permitted shall either be constructed of porous materials or shall make adequate provision for the direction run-off from the hard surface to a permeable or porous area.
6. The garage hereby permitted shall only be used for the storage of private motor vehicles and incidental domestic storage.
7. No windows, dormer windows or roof lights shall be inserted within the roof or gables of the garage hereby permitted.