
Appeal Decisions

Site visit made on 16 January 2017

by Lesley Coffey BA Hons BTP MRTPI

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

Decision date: 21 February 2017

Appeal Ref A: APP/R3650/W/16/3157329

Little Park Hatch, Bookhurst Road, Cranleigh, Surrey GU6 7DN

- 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 Brandy Investments against the decision of Waverley Borough Council.
 - The application Ref WA/2015/2229, dated 12 November 2015, was refused by notice dated 10 March 2016.
 - The development proposed is the erection of seven dwellings with access from Bookhurst Road including alteration to existing public house parking.
-

Appeal Ref B: APP/R3650/W/16/3160265

Little Park Hatch, Bookhurst Road, Cranleigh, Surrey GU6 7DN

- 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 B Belton, Brandy Investments against the decision of Waverley Borough Council.
 - The application Ref WA/2016/1039, dated 17 May 2016, was refused by notice dated 12 July 2016.
 - The development proposed is the erection of six dwellings with access from Bookhurst Road including alteration to existing public house parking.
-

Decisions

Appeal Ref A: APP/R3650/W/16/3157329

1. The appeal is dismissed.

Appeal Ref B: APP/R3650/W/16/3160265

2. The appeal is dismissed.

Procedural Matters

3. As set out above there are two appeals. These relate to the same site and propose a similar layout. They differ in terms of the number of dwellings proposed and some other detailed changes. The reasons for refusal are similar, although there is an additional reason for refusal in respect of Appeal B. I have therefore dealt with the appeals together other than where indicated.
4. The development plan for the area includes the Waverley Borough Plan 2002. The Council advise that it is in the process of adopting a replacement Local

Plan, which it is anticipated will be submitted for examination in the near future. I have not been referred to any policies within it.

Main Issues

5. I consider the main issues to be:

- The effect of the proposal on the setting of the listed building;
- The effect of the proposal on the character and appearance of the locality with particular reference to the trees;
- Whether the proposal would provide satisfactory living conditions for future residents with regard to noise and disturbance from the public house;
- The effect of the proposal on the long term viability of the public house; and.
- Whether the proposal would provide adequate parking for the patrons of the public house. (Appeal B only)

Reasons

6. The appeal site forms part of the former garden to Little Park Hatch Public House, a Grade II Listed Building. It lies to the rear of the public house and was previously used as part of the public house garden, but is now separated from it. The site is adjoined by Yew Tree Cottage to the east and Hailey Place, a block of 60 flats to the west. The grounds of Park Mead Primary School adjoin to the south.
7. The proposals would use an existing access towards the eastern boundary of the site, and the proposed dwellings would be arranged around a turning head. The proposed development would incorporate a mixture of two storey and two and a half storey residential dwellings with the latter having additional accommodation in the roof. The proposed access would use part of the existing car park and replacement parking spaces for use by the public house would be provided adjacent to the access road. These would be separated from the proposed dwellings by a rumble strip in the case of appeal A and by a gate in the case of appeal B.

Setting of the listed building

8. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering applications which affect Listed Buildings, special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
9. Little Park Hatch is a former farmhouse, dating from the late C16 or early C17. The building was listed in 2013. Prior to that date it had been subject to a number of alterations, including extensions to the rear. More recently planning permission and listed building consent was granted, in March 2016, for a single storey rear extension to form additional kitchen facilities for Little Park Hatch.
10. Both the building and its setting has been altered in the C20. Originally the appeal site and the surrounding land would have formed part of the farm land associated with the farmhouse. Yew Tree Cottage would appear to date from about 1920 and Hailey Place from about 1960/70.

11. The building was listed for its architectural and historic interest. It is historically significant as a farmhouse dating from about C16 and retains a significant proportion of its timber frame and its substantial chimney stack with ground and first-floor fireplace. Its later cladding in brick reflects the increasing availability of such materials in the C18 and C19, and the changing fashions in building which resulted. Architecturally the building is a good example of a timber-framed lobby entry plan house.
12. The appeal site contributes to the historic significance of the listed building in that it would have previously formed part of the original farm holding. This contribution is diluted to some extent due to the loss of other buildings associated with the previous farm use, and the encroachment of C20 development on the settling of the building and the extensions to the building itself. Most recently planning permission has been granted for the replacement of Yew Tree Cottage with two semi-detached dwellings.
13. Policy HE3 seeks a high standard of design in respect of development that may affect the setting of a listed building. Amongst other matters it requires development to be appropriate and compatible in terms of siting, style, scale, density, height, massing, colour, and materials.
14. The appellant states that the aim is to reflect an informal collection of buildings associated with the former use of the building as a farmhouse. For this reason plots 1 and 2 incorporate a significant element of dark stained timber cladding with a clay tile roof and brick construction and a central timber boarded gable feature reflective of a barn.
15. The proposed dwellings would be taller than the public house, but the closest dwellings would be separated from it by about 16 metres and positioned at right angles to it. Taking account of the extent of the separation between the buildings, I do not consider the height of the proposed dwellings would in itself harm the setting of the listed building.
16. The existing car park is divided into two areas separated by an area of lawn, this provides a semi-rural settling for the public house. The access to the proposed dwellings would utilise some of this area and continue into the site. As a consequence there would be a long straight access road with parking and/or car ports either side. These would also extend across the width of the turning head.
17. The appellant has sought to minimise the visual impact of the parking on the setting of the listed building through the use of car ports and the distribution of parking spaces throughout the site. Nevertheless, the length and alignment of the access road and the extent of the parking, taken together in conjunction with the parking adjacent to Hailey Place, would in my view introduce a distinctly urban element, and would thereby harm the setting of the listed building. I appreciate that part of the area to be used for the access is currently in use as a car park, but in its present form it has a more informal and less obtrusive impact on the setting of the building.
18. In terms of Appeal B the extent of the access and the parking is not significantly different, and therefore for the same reasons I conclude that it would also harm the setting of the listed building.

19. I therefore conclude that both proposals would harm the setting of the listed building, contrary to Local Plan policy HE3, the Cranleigh Design Statement and the policies in the NPPF.

Character and Appearance

20. The locality of the appeal site has a sylvan quality derived from the numerous trees and hedges, as well as the grass verges. There are a number of trees on the appeal site, for the most part these are situated close to the boundary. In addition, trees on the adjoining site overhang the appeal site. The Council advise that the trees on the adjoining land, identified as T2 and T5 within the Arboricultural Statement are both protected by a TPO. Three off-site mature Oak trees (T2, T1 and T5) situated within close proximity to the western site boundary are subject to TPOs. These trees make a significant and positive contribution to the character of the locality.
21. It is proposed to remove three trees on the appeal site, 2 Field Maples and an English Elm, owing to their poor quality and limited value within the wider landscape. The Council does not object to the loss of these trees, but is concerned about the direct and indirect effects of the proposal on T2 and T5.
22. Although the appellant submitted an Arboricultural Impact Assessment and an Arboricultural Statement, no tree survey has been submitted. The Council states that it has measured the trees on site and considers that the root protection area (RPA) shown on the Tree Protection Plan (TPP) to be smaller than required. Although the appellant's Arboricultural Statement details the size of the RPA and the degree to which the proposal would encroach upon it, insufficient evidence has been submitted to enable me to conclude whether the RPA, as calculated by the appellant is correct, and if not what size it should be. Consequently I am unable to rely on the information within the appellant's TPP or Arboricultural Statement.
23. T2 is a large oak tree and based on the submitted TPP would extend close to the proposed turning head, and in the case of Appeal A close to dwelling 5 and for appeal B close to dwelling 4. The appellant has adjusted the RPA for T2 in the vicinity of the turning head and the proposed dwellings. He states that this represents the constraint to root growth presented by the original hard surface/haul road for the woodyard that was present in that area previously. Other evidence submitted by the appellant suggests that the appeal site was previously used as part of the garden to the public house, but has been unused for over 10 years. No other evidence has been submitted to indicate that the area was previously used a woodyard, how long since the use ceased, or what the surface in this area comprised.
24. *BS5837:2012 Trees in relation to Design, Demolition and Construction- Recommendations* does allow for some modification of RPA provided the area lost to encroachment can be compensated for elsewhere, contiguous with its RPA. However, the default position should be that structures are located outside the RPAs of trees to be retained. In addition, evidence that the tree can remain viable is required, together with a series of mitigation measures to improve the soil environment that is used by the tree for growth.
25. Based on the RPA for T2 shown on the TPP I acknowledge that the works could be constructed using a no dig method. Subject to adequate protection during the construction period there should be no adverse effect on the health of the

tree. However this conclusion is reliant on the RPA shown on the plan, and for the reasons given above, I am unable to conclude that it is accurate or that a variation from the default position is justified. Should the RPA be found to be greater than shown on the TPP it is probable that house 4 would encroach upon it and could have an adverse impact in the health of the tree.

26. The appellant states that the RPA for T5 has not been adjusted and considers that the small encroachment into the RPA by the corner of the building is so minor that there would be unlikely to be any significant harm to the tree, but ground protection around the building could be used to allow working room and access for the erection of scaffolding. For the reasons given above the RPA shown on the TPP cannot be relied upon, and I therefore attach limited weight to the appellant's view.
27. The Council is also concerned that the appeal schemes could give rise to indirect harm to the trees through pressure from future occupants to either remove them or significantly reduce them. The appellant suggests that T2 would allow direct light to reach the gardens of Houses 4 and 5 in either the morning or afternoon and would comply with the BRE guidance¹ which requires that at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March. It is further stated that the trees will not be in leaf at this time and will therefore allow direct light to pass through their crown.
28. However, this guidance relates to the spacing of buildings and is not intended to apply to trees. The density of a tree canopy often increases during summer months and therefore the extent of overshadowing/loss of sunlight would also increase. Therefore whilst sufficient light may pass through the canopy when the tree is not in leaf, this does not indicate that the proposal would not give rise to an unreasonable level of overshadowing during summer months. The tree concerned is an oak tree and would therefore have a dense canopy during the summer months which would limit the extent of light into the garden. In terms of Appeal A, T2 is situated to the south of House 5 and would therefore, in combination with the other retained trees, limit the extent of light reaching the garden particularly during summer months. The rear garden to house 6 is relatively small and would be dominated by T5 at the rear which extends very close to the proposed dwelling, as well as T2 at the front of the property. Therefore even if the tree canopies are as shown on the TPP are correct, I consider that House 5 would be overshadowed for much of the day. I reach a similar conclusion in relation to Appeal B, but the dwellings concerned are House 4 and House 5
29. I accept that some people may well view these trees as an asset, however, in my experience many would consider the falling debris, including acorns and leaf litter to be a nuisance. Some would also come to regard the trees as a potential threat to the safety of their property because of their height and physical proximity to the proposed dwellings. Since the trees are protected by a TPO this would be a matter over which the Council would have control. Nevertheless, this uncomfortably close relationship would be likely to lead to requests for removal of the trees or a reduction in their canopy which could be difficult to resist.

¹ LITTLEFAIR, P. Site layout planning for daylight and sunlight: a guide to good practice. BR 209. Watford: Building Research Establishment, 2011.

30. On the basis of the submitted information, I conclude that the proposal would be likely to harm the health and vitality of the trees on the site. The loss of these trees would harm the sylvan character of the locality.
31. I therefore conclude that the proposals would harm the character and appearance of the surrounding area and would fail to comply with Local Plan policies D6 and D7 which seek to safeguard protected trees and other important groups of trees and policy D4 which seeks to ensure that development integrates well with the site and complements its surroundings.

Living Conditions

32. The Council is concerned that noise from the public house could have a detrimental effect on the living conditions of future occupants contrary to Local Plan policy D1. This states that development will not be permitted where it would give rise to a loss of amenity due to noise, whilst policy D2 seeks to ensure that existing and proposed land uses are compatible. These policies are broadly consistent with paragraph 123 of the NPPF which also seeks to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
33. The Acoustic Report submitted by the appellant assessed the existing and predicted noise levels within the proposed dwellings and amenity areas and concluded that noise arising from the existing public house could be adequately mitigated. The Council do not dispute either the existing or predicted noise levels, but is not satisfied that the proposed mitigation measures would be adequate. The survey on which the assessment relies took place over a weekend period during which the garden was in use during the Friday evening and Sunday afternoon. I consider that these times would provide a reasonable representation of predicted noise.
34. The assessment found that internal daytime noise levels with the windows open and night-time noise levels would exceed BS 8233:2014 design guideline values and therefore additional mitigation would be required.
35. It concluded that if the properties were provided with double glazed windows which remained closed, both schemes would comfortably comply with the guideline values given in BS 8233: 2014. However, in order that windows can remain closed, an alternative means of ventilation would be required to comply with the Building Regulations 2010. This could take the form of mechanical ventilation, such as a whole house heat recovery system, or the use of acoustically rated trickle ventilators. The Council is concerned that the necessary mitigation measures such as requiring the windows to be fixed shut could be harmful to the amenities of occupants. However, the windows could remain openable and future occupants would have the option to use one of these measures or open the window.
36. Within the garden areas, the assessment found that, subject to the provision of a suitable boundary fence, noise levels would be 8 dB(A) below the BS8233:14 guidelines. In addition, the licence for the public house prohibits the use of the garden after 11.00pm and therefore noise would not continue into the night-time period. The Council is concerned that in order to achieve an adequate reduction in sound the appearance of the fence may impact on the setting of

the listed building. However, it would be separated from the listed building by the more recent additions, and an appropriately worded condition would provide the Council with control over the appearance of any proposed fence and ensure that it would not harm the appearance or setting of the listed building.

37. In the case of Appeal A the Council is also concerned that future residents could be disturbed by cars using the pub car park and turning in the access road. Appeal B proposes a gate to separate these two areas and the Council is satisfied that this would overcome its concerns in this regard. A suitable condition could require the provision of a similar gate in respect of Appeal A.
38. Overall, I am satisfied that any noise and disturbance emanating from the existing public house could be suitably mitigated in order to provide satisfactory living conditions for future residents. I therefore conclude that both proposals would provide satisfactory living conditions for future occupants and comply with Local Plan policies D1 and D2 which aim to ensure that development is acceptable in terms of its environmental impacts and that neighbouring land uses are compatible.

Viability of the Public House

39. The Council is concerned that the loss of part of the garden could affect the viability of the public house contrary to policy LT2 of the Local Plan which seeks to retain visitor related facilities including public houses and food establishments. The appellant states that the appeal site had not been used as part of the public house garden for about 10 years and was separated from it in January 2014. Discussions with the licensing authorities concluded that the long garden meant that surveillance and control was difficult and the reduced size would reduce the risk of antisocial behaviour.
40. The public house would retain a rear amenity area, with tables and landscaping. Following the implementation of the most recent planning permission it would have sufficient capacity for 150 people within the garden, and 110 internally, as such the remaining garden would not be disproportionately small relative to the size of the public house. Moreover, I have no reason to doubt the appellant's evidence that year on year the public house profits have increased as has patronage. Indeed, the recent planning application to extend the premises would support this view.
41. I consider that there is no compelling evidence to suggest would impact on the viability of the business. I therefore conclude that the permanent loss of this part of the former public house garden would not harm the viability of the public house and would not conflict with Local Plan policy LT2.

Parking (Appeal B)

42. The reconfigured car park would provide nine parking spaces for use by the public house adjacent to the proposed access road. The Council state that parking spaces 23-26, which would be located parallel to the access road, would be a maximum of 4.8 metres long. This is not disputed by the appellant. As a consequence the Council is concerned that vehicles would have difficulty manoeuvring in and out of the parking spaces, particularly if the gates to the residential development are shut.

43. The Surrey County Highway Standing Advice requires parallel parking bays to be at least 6 metres in length to enable vehicles to manoeuvre in and out of the spaces. This guidance is consistent with Manual for Streets. I am aware that the Highway Authority did not object to the proposal, notwithstanding this many larger cars are about 4.8 metres, or more in length, I consider that 4.8 metres would be insufficient for most cars to enter and leave parallel parking bays. I am therefore unable to conclude that the proposal would make adequate provision for parking and it would therefore fail to comply with Local Plan policy M14.

Other Matters

44. Amongst other matters the NPPF seeks to significantly boost the supply of housing. Paragraph 49 states that the relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of available housing sites. At the time the appeal was lodged the Council had a 4.66 year supply of housing land. The most recent update (published July 2016) found a 5.3 year housing land supply. In the absence of any alternative evidence I conclude that the Council does have a five year supply of housing land.
45. I have found above that the proposals would harm the setting of the listed building. Paragraph 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
46. The proposal would give rise to less than substantial harm, therefore in accordance with NPPF paragraph 134 it should be weighed against the public benefits of the proposal, including securing its optimum viable use.
47. The proposal would deliver benefits in terms of the provision of 6 or 7 new dwellings, which would assist in meeting the housing needs of present and future generations. The appellant states that some of the proceeds of the schemes would be re-invested in the public house. Whilst this would be a benefit of the proposal, evidence submitted by the appellant indicates that in its present form the business is both viable and profitable. Therefore the weight to be afforded to this consideration is limited.
48. I have found that the proposal would not affect the viability of the existing public house and would provide satisfactory living conditions for future occupants. Balanced against these considerations, the proposal would harm the character and appearance of the surrounding area, would fail to make satisfactory parking provision for the public house (Appeal B) and would harm the setting of the listed building. I therefore conclude that the benefits of the proposals do not outweigh the harm and that the proposal would fail to comply with the development plan as a whole.
49. I am aware that there is support for the proposal in the local area and the efforts that have been made to produce an acceptable scheme. However, local support or opposition for a proposal is not in itself a ground for refusing or granting planning permission and such support does not justify the harm that I have identified above.

Conclusion

Appeal Ref A: APP/R3650/W/16/3157329

50. For the reasons given above I conclude that the appeal should be dismissed.

Appeal Ref B: APP/R3650/W/16/3160265

51. For the reasons given above I conclude that the appeal should be dismissed.

Lesley Coffey

INSPECTOR