



Appeal Decisions

Site visit made on 7 January 2020

by Andrew Walker MSc BSc(Hons) BA(Hons) BA PgDip MCIEH CEnvH

an Inspector appointed by the Secretary of State

Decision date: 25th February 2020

Appeal A Ref: APP/C3620/C/19/3233446

Appeal B Ref: APP/C3620/C/19/3233447

14 St Pauls Road West, Dorking RH4 2HU

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Richard Jepson and Appeal B is made by Mrs Lorraine Jepson against an enforcement notice issued by Mole Valley District Council.
 - The enforcement notice was issued on 25 June 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission the material change of use of a C3 dwelling incorporating an integral domestic garage to a mixed use of C3 dwelling house and hair salon (Use Class A1) marked with x on the plan attached to the notice.
 - The requirements of the notice are:
 - (1) To cease the use of the garage as a hair salon and
 - (2) Permanently remove all fixtures and fittings that facilitate the unauthorised use as a hair salon including hairdressing stations, wash basin, reception desk, seating area, chairs, mirrors along with all toiletries, electrical and hairdressing equipment from the Land.
 - The period for compliance with the requirements is four (4) months.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since the development is exempt from the payment of fees, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.
 - Appeal B is proceeding on the ground set out in section 174(2)(f) of the 1990 Act.
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Appeal C Ref: APP/C3620/W/19/3233448

14 St Pauls Road West, Dorking RH4 2HU

- 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 Richard Jepson against the decision of Mole Valley District Council.
 - The application Ref MO/2019/0206/PLA, dated 1 February 2019, was refused by notice dated 7 March 2019.
 - The development proposed is change of use of an attached garage to become an extra everyday room for the kids and to be shared as a part time work room for occasional hairdressing to enable to do some clients from home by appointment only.
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Decisions

1. It is directed that the enforcement notice be varied by substituting "garage" for "Land" in paragraph 5(2) due to Appeals A and B succeeding under ground (f). Subject to this variation Appeals A and B are dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.
2. Appeal C is dismissed.

Application for costs

3. An application for costs was made by Mole Valley District Council against Mr Richard Jepson and Mrs Lorraine Jepson. This application is the subject of a separate Decision.

Preliminary Matters

4. The planning application associated with Appeal C is part-retrospective. At the time of my site visit, the right-hand garage (when seen from the street) had been converted into a hair salon accessible only from the driveway of the property. The pre-existing middle garage had not been developed into the residential area indicated in the application plans, nor had the internal door between the middle garage and the salon been constructed. A WC room, not indicated on the plans, was present to the rear of the hair salon.

Appeal A ground (a) and the deemed planning application; Appeal C

Main issues

5. The main issues are the effect of the development on:
 - the character and appearance of the area (Appeals A and C);
 - the living conditions of neighbouring occupiers as regards noise, general activity and other adverse environmental impacts from traffic and movements (Appeals A and C); and
 - the living conditions of future occupiers of the development (Appeal C).

Reasons

Character and appearance

6. The appeal property is a reasonably large detached house with a front entrance set above street level and reached by a flight of steps which ascend to one side of 3 garage spaces situated below the house. Prior to the development of the hair salon, which now fills the pre-existing garage space next to the steps and directly below the house's front entrance, each garage space was served by a conventional garage door opening onto the property's driveway. The relatively wide open driveway, with no boundary treatment or other significant features to obstruct views from the street, results in the garage doors and new door and window panel arrangement of the hair salon being visually prominent within the streetscene.
7. The character of St Pauls Road West in the vicinity of the appeal property is predominantly residential, with a variety of dwelling forms visible within the streetscene and very limited visual indication of any commercial businesses. The utilitarian design of the salon's UPVC door and window with large panel beneath, facing the highway across the open drive, is readily appreciated as a shop front. This perception is reinforced due to the frontage's contrast with the differing and more refined design of the porched wooden entrance door to the house directly above, which sets it strikingly apart from the dwelling. Further, activities surrounding the business including movements of customers to and from the salon will in my view materially impact on the residential character of the area.

8. I acknowledge that UPVc is widely found as a building material within properties locally, including on the host property. However, it is not the use of this material in itself or in principle that causes the harm I have identified. Notwithstanding the presence of a window blind, it is the prominence of a readily apparent commercial frontage in the context of the host dwelling and predominantly residential area which is harmful.
9. The appeal scheme in respect of Appeal C would involve residential use of the middle garage space, together with use of the salon as a lounge for the occupier. The entrance to the residential areas would be through the front door of the salon. No elevational details have been provided of the new window proposed to replace the middle garage door, which limits an assessment of its effect on character and appearance. However, in my judgement, a window in that location of any design would not diminish the prominence and commercial appearance of the salon frontage.
10. For the above reasons, the development in respect of Appeal A and as proposed and partly implemented in respect of Appeal C causes significant harm to the character and appearance of the area. As such it is in conflict with Policy CS14 of the Mole Valley Core Strategy (2009) (CS) and Policies ENV22 and ENV32 of the Mole Valley Local Plan (2000) (LP) which together, and amongst other aims, seek to protect the character and appearance of places. The development is also in conflict with the design principles in Chapter 12 of the National Planning Policy Framework.

Living conditions of neighbours

11. The appellant has said that salon bookings would be by appointment only, that there would be a maximum of around 10 per week, and that only one customer at a time would be seen. I give moderate weight to these submissions while noting that the salon is equipped with 2 hairdressing stations and a seating area. Even as stated by the appellant this would create increased traffic movements and customer comings and goings in a built-up and predominantly residential area.
12. Notwithstanding existing traffic associated with St Pauls Road West and the various local activities described by the appellant, and even were salon hours restricted to the proposed times of 10am to 5pm, the development in my judgement causes a material increase in movements and an unacceptable disturbance to nearby residents, including from vehicles being manoeuvred and parked on the front drive. While I acknowledge there is a school further up the same road which will result in increased traffic and possibly disturbance centred mainly around school starting and finishing times, visits by customers to the salon would largely occur outside of these times within the hours proposed and so would have a separate impact.
13. For the above reasons, the development in respect of Appeal A and as proposed and partly implemented in respect of Appeal C causes significant harm to the living conditions of neighbouring occupiers as regards noise, general activity and other adverse environmental impacts from traffic and movements. As such it is in conflict with Policy ENV22 of the LP which seeks, amongst other aims, to protect the amenities of occupiers of neighbouring properties.

Living conditions of future occupiers of the development

14. The new residential part of the development associated with the scheme proposed under Appeal C would have a bathroom and kitchen as well as a bedroom area, and a lounge area when the salon is not in use. I have seen no substantive evidence from the Council as to why it decided that it would not provide a suitable standard of accommodation for future occupiers. Therefore, I find that the proposed development would not harm the living conditions of its future occupiers, and it is not in this respect in conflict with Policy ENV22 of the LP which seeks to provide a satisfactory environment for occupiers of new developments.
15. The avoidance of harm in this respect does not lead me to consider that the appeal scheme would be acceptable given my findings on the other main issues.

Other Matter

16. I have considered the health information put forward in respect of Mrs Jepson, but it does not outweigh the harm identified above or the conflict with the development plan as a whole. Accordingly, it does not alter my decision.

Appeals A and B: Ground (f)

17. It is clear from the way that the notice requirements have been drafted that the Council is pursuing the purpose of remedying the breach of planning control resulting from the unauthorised mixed use of the dwelling house and hair salon, rather than remedying injury to amenity. Therefore, for the appeal to be successful under this ground I must be satisfied that the steps required exceed what is necessary to achieve that purpose.
18. The steps in paragraph 5 seek to remedy the breach of planning control in requiring the cessation of the garage as a hair salon (step 1) and the permanent removal of all fixtures and fittings that facilitate that unauthorised use (step 2). The appellants argue that step 2 is excessive and have described items within the salon which could be retained elsewhere on the property for personal and family use or for use by Mrs Jepson should she become a mobile hairdresser. I agree. As the purpose of step 2, in association with step 1, is to remedy the breach of planning control caused by the use of the garage as a hair salon all that is necessary is to require that fixtures and fittings that facilitate that use are removed from the garage and not "the Land". I am varying the notice accordingly and ground (f) succeeds in respect of Appeals A and B.

Conclusions

19. For the reasons given above I conclude that the Appeals A and B should succeed on ground (f). Ground (a) in respect of Appeal A does not succeed. I shall uphold the enforcement notice with a variation and refuse to grant planning permission on the deemed application.
20. For the reasons given above I conclude that Appeal C should be dismissed.

Andrew Walker

INSPECTOR