



Appeal Decision

Site visit made on 3 December 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Appeal Ref: APP/M3645/W/19/3236848

The Orangery, Castle Square, Bletchingley RH1 4LB

- 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 Jeffrey Foster against the decision of Tandridge District Council.
 - The application Ref TA/2018/2447, dated 12 December 2018, was refused by notice dated 25 July 2019.
 - The development proposed the Change of use of building from C3, B1, B8 to separate dwelling 3 bedroom.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of building from C3, B1, B8 to a separate dwelling 3 bedroom at The Orangery, Castle Square, Bletchingley RH1 4LB in accordance with the terms of the application, Ref TA/2018/2447, dated 12 December 2018, subject to the conditions in the attached Schedule.

Application for costs

2. An application for costs was made by Mr Jeffrey Foster against Tandridge District Council. This application is the subject of a separate Decision.

Main Issues

3. The Council's reason for refusal does not allege that the proposal would comprise inappropriate development in the Green Belt. Clarification was sought from the main parties on whether the scheme would entail the re-use of an existing building. Following this, I am satisfied that the building is capable of use, despite not yet being complete, and is a permanent, substantial and, when complete would be, a structurally sound building. The Council was also satisfied that there would be no harm to openness. Given that the scheme has been amended and elements removed since the proposal previously considered at appeal, I have no reason to find differently.
4. Accordingly, the main issues raised in this case are the effect of the proposal on the character and appearance of the area, as well as on the living conditions of neighbouring occupiers, with particular regard to parking demand.

Reasons

Character and appearance

5. The appeal before me follows a previous appeal¹ on the site, for a similar development. That appeal was dismissed as it comprised inappropriate development within the Green Belt, due to harm to the openness. This harm resulted principally from the loss of internal parking space, as well as the provision of external cycle parking, railings and a bin store. The Inspector also considered the matter of the effect of the proposal on the character and appearance of the area, finding that there would be no harm in this respect.
6. The Council's Statement of Case contends that changes made to the scheme since the previous appeal at the site, which was dismissed, are insufficient to ensure that there would be no harm the character of the area. The harm identified is in respect of the intensification of activity associated with the formation of an additional residential unit, including the subdivision and use of an additional garden.
7. In this respect, I note that the adjacent property of Castle Place has been redeveloped in order to provide six flats. There will inherently be a degree of activity associated with this property in terms of comings-and-goings and normal domestic activity, including the use of the garden area. There are also existing residential properties nearby which would also generate some associated activity. As such, I am not convinced that the addition of a further single unit of accommodation would generate sufficient activity in these terms so as to have any harmful effect on the character or appearance of the area.
8. Furthermore, in the previous appeal, the Inspector specifically considered an intensification of the site's domestic use. The Inspector considered that the *"use of the building as a self-contained dwelling and the associated use of the site for parking and amenity space would not appear incongruous given the neighbouring domestic uses to the north and west"*². I have not been provided with any evidence which would lead me to disagree with this finding.
9. Whilst the scheme would result in an additional unit at this location, I note that the area around the Orangery appears to be able to be used for purposes associated with the residential use of Castle Place. Such a use could involve minor domestic paraphernalia being present. The use of the building as a separate unit of accommodation would not, in my view, have a materially greater effect than that which could occur in any event. Thus, there would be no adverse effect from any residential paraphernalia that may be present or the use of land to the rear of the building as garden.
10. Consequently, I find that the proposal would not have an adverse effect on the character or appearance of the area. Accordingly, the scheme would comply with policy DP7 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (adopted July 2014) (the Local Plan) and policy CSP18 of the Tandridge District Core Strategy (adopted October 2008) (the Core Strategy). Together, and amongst other things, these policies seek to ensure development integrates effectively with its surroundings and reflects and respects the character, setting and local context.

Living conditions

11. The Council contend that the scheme would result in an increased demand for parking within the area, with the potential for conflict with nearby occupiers,

¹ APP/M3645/W/18/3216760

² Paragraph 20, APP/M3645/W/18/3216760

resulting from the increased demand. In this respect I note that since the previous appeal on the site, the scheme has been amended so that two garage spaces would be retained within the building for the parking of vehicles. Whilst this was to overcome concern in respect of vehicles being parked externally, which would impact on the openness of the Green Belt, it nonetheless provides two spaces for the parking of vehicles.

12. I noted that there is a parking area to the front of the adjacent building for use by the residents of that building. In my view, the additional unit, given the proposed internal parking spaces, would result in little, if any, increased demand for parking within the locality. Consequently, the scheme would have no adverse effect on the living conditions of neighbouring occupiers due to parking demand, or conflict that may arise from such.
13. Accordingly, the scheme would comply with policy DP7 of the Local Plan and policy CSP18 of the Core Strategy. Together, and amongst other things, these policies seek to ensure development does not significantly harm the amenity of neighbouring properties.

Other Matters

14. Comment is made that the building should not have been granted planning permission in the first instance. Nonetheless, the fact remains that planning permission was granted and subsequently, a Certificate of Lawfulness was also issued which confirmed that the planning permission was capable of implementation. As such, comments in respect of the acceptability of the initial scheme are immaterial to my consideration of this appeal, which I have considered on the basis of a permitted and lawful building.
15. Interested parties' comment that the building has not been built in compliance with the original plans as well as there being discrepancies in the submitted plans. As the scheme before me is prospective, rather than retrospective, I have assessed the proposal on the basis of the submitted details that I have before me. Should there be any unauthorised alterations, this would be a matter for the Council.
16. Matters relating to private rights of access have been raised, however I consider these to be private matters to be addressed between the parties, unrelated to the planning merits of the proposal.
17. Reference is made in respect of the potential for abuse of the planning system, specifically gaining planning permission for a development with the explicit intention of seeking a change of use in the future. I have not been provided with any substantive evidence to demonstrate that this is the case with the proposal that is before me. As such, this matter has no bearing on my decision.
18. I note that interested parties have raised the matter of the effect of the proposal on the living conditions of neighbouring occupiers, with particular reference to a potential loss of privacy. In this respect, the proposal utilises an existing building, that I observed was well-advanced in terms of its construction. Whilst there are rooflights to the first floor, these would limit the amount of overlooking that would occur. Furthermore, as they are permitted within the authorised building, I consider that it would not result in any greater opportunity for overlooking than would exist from the permitted use of the building. Moreover, no new windows are proposed as part of the scheme that is

before me. I am also conscious that the Council raise no objection to the scheme on the basis of loss of privacy.

Conditions

19. I have imposed a condition in relation to the commencement of development, as the scheme proposes a use other than that which is currently authorised, and in the interests of clarity a condition to ensure compliance with the submitted plans.
20. In the interests of sustainable construction, as supported by policy CSP14 of the Core Strategy, I have imposed a condition in respect of the inclusion of solar panels. I have amended the suggested condition to require these details prior to the first use of the dwelling. So that the scheme has an acceptable effect on the character and appearance of the area, I have also included a condition in respect of both hard and soft landscaping details. Again, I have amended this so that details are required prior to the first use of the building as a dwelling.
21. A condition has been suggested preventing the parking of vehicles in the forecourt area of the site. Whilst I am aware that, when determining the previous appeal on the site, the Inspector found that the loss of internal garage space would mean occupiers would only be able to park vehicles outside of the building, this does not imply that vehicles should be prohibited from parking externally. I consider that retaining the ability to park vehicles inside the building would be sufficient. As such, I find the condition in respect of not parking in the forecourt to not meet the test of necessity, subject to the inclusion of a condition which ensures that the internal parking spaces are kept available for the parking of motor vehicles only.
22. The Council has suggested conditions in respect of the removal of permitted development rights, for both enlargements to the dwelling and the erection of means of enclosure, as well as domestic outbuildings. I note the stated reasons for these conditions, and I am also conscious that there should be specific justification for the removal of permitted development rights. In this regard, I am conscious that, the proposals have been amended since the previous appeal on the site, to remove elements which would have resulted in harm to openness, this includes means of enclosure. In order to preserve openness, I therefore consider it reasonable and necessary to remove permitted development rights only in respect of outbuildings and means of enclosure in this instance.

Conclusion

23. I have found that the scheme would not result in harm to the character or appearance of the area, nor would it have an adverse effect on the living conditions of neighbouring occupiers. Therefore, for the reasons given and having regard to all matters raised, I conclude that the appeal should be allowed.

Martin Allen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 1706/P1
 - 1706/P2 Rev B
 - 1706/P4
- 3) Prior to the first use of the dwelling hereby permitted, full details, including elevations showing the proposed solar panels on the building and a timescale for implementation, demonstrating how the development would satisfy the 10% reduction of carbon emissions through renewable resources (solar panels) shall be submitted to and approved in writing by the Local Planning Authority. The renewable energy provision shall thereafter be implemented in accordance with approved timetable and retained in accordance with the approved details.
- 4) Prior to the first use of the dwelling hereby permitted, full details of both hard and soft landscape shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include details of:
 - means of enclosure,
 - hard surfacing materials,
 - all proposed and retained trees, hedges and shrubs; ground preparation, planting specifications and ongoing maintenance, together with details of areas to be grass seeded or turfed. Planting schedules shall include details of species, plant sizes and proposed numbers/densities, and
 - a timescale for the completion of all works.

Any trees or plants (including those retained as part of the development) which within a period of 5 years from the completion of the development die, are removed, or, in the opinion of the Local Planning Authority, become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

The development shall be carried out in accordance with the approved details.
- 5) The two garages hereby permitted shall be kept available for the parking of motor vehicles at all times. The garage spaces shall be used solely for the benefit of the occupants of the dwelling of which they form part and for no other purpose and shall be permanently retained as such thereafter.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no fences, walls or other means of enclosure or garages, sheds, greenhouses or other ancillary domestic outbuildings shall be erected within the curtilage of the new dwelling hereby approved.