
Appeal Decision

Site visit made on 2 October 2020

by Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI

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

Decision date: 20 October 2020.

Appeal Ref: APP/C3620/W/20/3249231

8-10 The Street, Charlwood, Horley RH6 0BY

- 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 Cobham Property Group Ltd against the decision of Mole Valley District Council.
 - The application Ref MO/2019/1808/PLA, dated 4 October 2019, was refused by notice dated 12 December 2019.
 - The development proposed is for the demolition of existing buildings and erection of no.8 residential units with associated landscaping and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effects of the appeal proposal upon the character and appearance of the area
 - The effects on the living conditions of existing occupiers in terms of outlook and of future occupiers in terms of outdoor space and noise/general disturbance
 - Whether the proposal makes adequate provision for affordable housing, and
 - Whether adequate provision is made for refuse collection.

Reasons

Character and appearance

3. The appeal property is a two-storey property comprising the Limes Bistro restaurant and offices at ground floor with offices over. To the rear lies car parking associated with the premises along with a container shed structure and other paraphernalia typical of an under-utilised courtyard. To the west lies the Charlwood Public House and to the east, residential properties.
4. Although not designated as a conservation area, this part of Charlwood has an attractive and somewhat characterful village character of mainly traditional two storey dwellings positioned behind roadside hedges that display an entirely domestic scale and which are set in a fairly verdant mature tree lined street.

Along with the neighbouring public house, the appeal property comprising a series of buildings has a distinctive road frontage quality and street presence. The materials comprising clay tiles over painted brickwork, render and shiplap boarding along with the building's low form and stagger in the building line and roofscape contributes significantly to the village character.

5. The appeal proposal would see the demolition of these structures and their replacement by a three-storey building that would overlap and extend the footprint of the present buildings to provide 8no apartments consisting of 6no. two-bed 4-person dwelling units, 1no. two-bed 3-person unit and 1no. two-bed 3 person unit. The appeal building would comprise two interconnecting blocks of accommodation in tandem form with a linking central core. Although containing three floors, the third floor would be within the roofspace.
6. The rear courtyard area would be accessed from The Street by utilising the existing access and would provide parking for 10 vehicles together with small communal amenity spaces, a bin storage area and a cycle storage facility.
7. From the 'The Street', I am satisfied that the height, scale and bulk of the proposed building would not appear unduly dominant. Furthermore, its position relatively tight to the road, its gable features and materials would respond positively to the existing street character and would co-exist at a scale that would be commensurate with the adjoining public house and existing dwellings. In relation to the rear block, given its set back providing just glimpsed views from the public domain, I also find that this part of the building would be in scale with surrounding buildings and would strongly link with neighbouring buildings by an overall consistency of style and materials.
8. Whilst I acknowledge the Council's concerns regarding the lack of soft landscaping and the extent of hard surfacing, I am mindful of the present somewhat neglected condition of this backland site. Furthermore, in noting the Council's concerns about the loss of lime trees along the street frontage, the helpful 'streetview' photographs included in the officer's report also suggests to me that they were heavily pollarded and made a limited contribution to the character and appearance of this part of Charlwood. I am satisfied that appropriate conditions could be attached to any grant of permission that would achieve reasonable landscaping and control the materials used in creating the parking court and other outdoor space.
9. Consequently, the proposed development would not be in conflict with Mole Valley Core Strategy (MVCS) Policy CS14 or with Policies ENV22, ENV23 and ENV25 of the Mole Valley Local Plan (MVLP). In combination, these policies amongst other things seek to ensure that new development is of high quality design that respects existing townscape character and the character and appearance of a site's setting and which provides for sufficient landscaping.

Living conditions – existing and future occupiers

10. Ensuring the creation of places that are safe, inclusive...and which promote health and well-being with a high standard of amenity for both existing and future occupants are key aspirations of the National Planning Policy Framework (the Framework)¹. This is reflected in Policy CS14 of the MVCS and policy ENV22 of the MVLP.

¹ NPPF paragraph 127

11. Overlooking, particularly of No1 Perrylands, would in my view be negligible. Although there would be one lounge window facing east from the first-floor apartment, the intervening aspect would be over the proposed outdoor amenity space whilst the distance between this window and the angled gable end of No.1 would be considerable. There would be no direct overlooking of habitable windows as a consequence.
12. The appeal proposal would be in close proximity to the outdoor space (an enclosed and covered "beer garden" type facility) associated with the adjoining public house. However, the appellant believes that the modern method of construction would minimise noise penetration inside the building. The Council has not suggested that this a problem site in the terms of policy ENV22 of the MVLP or that there have been complaints from local residents about activities at these premises. The Environmental Health Officer raised no objection to the application. Licencing controls can be used to control the use outdoor areas at public houses; however, potential future residents would be aware of the relationship between the apartments and the beer garden. The appellant would accept a condition repositioning habitable room windows away from this elevation, which in my view would be necessary if I was to allow the appeal. In the absence of evidence to the contrary, I am satisfied that with the proviso of window repositioning, it would be an acceptable relationship and not uncommon in built-up areas.
13. In terms of outdoor amenity space for future occupiers, I note that the Council do not have local standards. However, two communal courtyard areas are proposed together with a small area of landscaping to the front of the building. According to the Council, this would equate to 1.6 sqm per person. This is a derisory level of provision in my view and its quality as a private amenity space highly debatable; it would also fall considerably short of any reasonable expectation to promote the future well-being of occupiers of these apartments. In this regard alone, I share the criticisms levied by the Council that the scheme represents over-development. I am also conscious that one of the communal areas comprising a patio area on the western side of some 14.3 sqm lies directly adjoining the public house and within very close proximity to the beer garden to the public house. Its use would be unduly affected to the point of redundancy as a result.
14. For the reasons set out above, I conclude that the proposal would result in a good overall standard of amenity for existing occupiers, as advised by national policy and would comply in these respects with the relevant sections of policy ENV22 of the MVLP. However, in terms of future occupiers, whilst acknowledging the willingness of the appellant to amend the window positions as described, the proposed outdoor amenity space would be inadequate, contrived and cramped and would not provide a satisfactory environment for occupiers of the new development contrary to policy ENV22 of the MVLP. In this regard also, the cramped nature of the outdoor amenity space would conflict with policy ENV24.

Affordable housing

15. Policy CS4 of the MVCS establishes a requirement that on all housing developments of 6 to 9 dwellings, a financial contribution equivalent to providing 20% of the total number of dwellings as affordable should be made. The appellant acknowledges the requirement for such a contribution and

according to its statement of case "is open to discussion with respect to policy CS4. It does not form part of the appellant's case that, in the light of the Framework and the National Planning Practice Guidance (NPPG), an affordable housing contribution should not be sought because the number of dwellings proposed is below the 10 dwelling threshold referred to in such documents. However, there has been no progress towards completion of a signed section 106 obligation that would provide the necessary financial contribution towards off-site affordable housing and neither has any evidence been produced to demonstrate that a contribution would render the appeal scheme unviable.

16. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. I can only reasonably conclude that in the absence of properly secured legal obligation, the proposal would not make adequate provision for affordable housing, which would be contrary to Policy CS4.

Refuse collection

17. By the same token, the appellant indicates that refuse bin storage would be relocated "as close to the access road as possible" in order to overcome the Council's concerns that a refuse service vehicle would be unable to negotiate the narrow width of the proposed access. However, the appeal process should not be used to develop submitted schemes. Clearly this matter has not been thought through as part of the design process and there would be limited space to the front of the building to accommodate up to 8 bins in a manner that would be remotely acceptable in visual terms. Consequently, this aspect of the scheme would fail to respond positively to the character and appearance of the area contrary to policy ENV22 of the MVLP, which sets out to require that the design and layout of new developments respect the character and appearance of the locality.

Planning Balance and Conclusion

18. Where, as here, a local planning authority is unable to demonstrate a five-year supply of deliverable housing sites, the Framework, which is a significant material consideration, indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. The appeal scheme would bring about social benefits through the delivery of housing (including the provision of much needed housing unit types - according to the Council) in a district with an acknowledged shortfall. It is common ground between the main parties that this benefit should be afforded considerable weight. I see no reason to depart from this consensus.
20. Turning to the economic dimension of sustainability, the appeal scheme would provide construction jobs and some local investment during its build out, as well as longer term expenditure in the local economy. Moderate weight should be afforded to this benefit.
21. The appeal scheme would be of an acceptable design in terms of scale, height, bulk and appearance. However, it would not provide acceptable living conditions for future occupants of the scheme. The lack of a suitable legal

mechanism to provide affordable housing in compliance with the Council's policy also weighs heavily against the proposed development. In terms of layout it would also lead to problems associated with poorly sited bin stores which would fail to respect the visual qualities inherent in this characterful village. Despite the acceptability of the scheme's design, these other failings combine to attract significant weight.

22. Thus, to my mind, the appeal scheme would fail to accord with the development plan as a whole and would not represent sustainable development in line with the requirements of the Framework.
23. Overall, I consider that the adverse impacts arising from the proposal's conflict with the adopted development plan would significantly and demonstrably outweigh the benefits that the proposed scheme would deliver. As such, I conclude that the appeal should be dismissed.

Gareth W Thomas

INSPECTOR