
Appeal Decision

Site visit made on 9 November 2020

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2020

Appeal Ref: APP/A3655/W/20/3253401

9 Old Woking Road, West Byfleet KT14 6LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Graham Dye against Woking Borough Council.
 - The application Ref PLAN/2019/1013, is dated 10 October 2019.
 - The development proposed is demolition of existing premises and replacement with new building comprising 2 shop units, 5 dwelling units and ancillary works.
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Decision

1. The appeal is dismissed and planning permission for demolition of existing premises and replacement with new building comprising 2 shop units, 5 dwelling units and ancillary works is refused.

Procedural Matter

2. The Council did not formally determine the application. However, it advises that had it been in a position to do so it would have refused planning permission for reasons relating to the effects of the proposal on heritage assets and ecology.

Main Issues

3. The main issues are:
 - a) the effect of the proposal on the integrity of the Thames Basin Heaths Special Protection Area (SPA); and
 - b) whether the proposal would preserve or enhance the character or appearance of the Byfleet Corner/Rosemount Parade Conservation Area.

Reasons

Thames Basin Heaths SPA

4. The site lies within the outer exclusion zone of the Thames Basin Heaths SPA. This European designated site provides habitat for important ground-nesting bird species including nightjars, woodlarks and Dartford warblers. It has been established that residential development within the exclusion zone would likely result in harm to the protected area through additional recreational disturbance. The proposal would create a net gain of dwellings and in combination with other developments permitted in the area there would be a likely significant adverse effect on the integrity of the SPA.

5. Policy CS8 of the Woking Core Strategy (2012) (WCS) requires new residential development beyond a 400 m threshold, but within 5 km of the SPA boundary to make an appropriate contribution towards the provision of Suitable Alternative Natural Greenspace (SANG) and Strategic Access Management and Monitoring (SAMM), to mitigate the impacts of such development on the SPA. The SANG contribution is encompassed within the Community Infrastructure Levy but the SAMM element is normally secured via a S106¹ legal agreement.
6. The Thames Basin Heaths Special Protection Area Avoidance Strategy 2010-2015 sets out the principles for mitigation. It explains how the SAMM project will involve a wardening scheme which monitors and manages access to the SPAs and encourages people to use the SANG rather than the SPA. Bird and visitor surveys will be undertaken to monitor the effectiveness of the measures.
7. There is no signed legal agreement before me and the appellant's evidence is silent on the matter of a SAMM contribution. However, the evidence strongly points to a contribution being necessary. The absence of adequate mitigation brings the scheme into conflict with Policy CS8 of the WCS and Policy NRM6 of the South East Plan (2009) insofar as these seek to safeguard European protected sites. The failure to address the requirements of the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') must be fatal to the appeal, regardless of my findings of the second main issue.

Conservation Area

8. The Byfleet Corner/ Rosemount Parade Conservation Area is located along the main A245 road through West Byfleet. The designation contains a mixture of uses with mainly retail premises on the ground floor and office or residential use above. The special interest of the conservation area derives from the late Victorian/ Edwardian architecture which dates from the arrival of the railway. The properties along the south side of Old Woking Road display a consistency of scale in terms of plot width and height, which tends to be either 2½ or 3 storeys. The buildings sit at the back edge of the pavement and present a continuous frontage along Old Woking Road.
9. No 9 Old Woking Road is located immediately to the south of Byfleet Corner at the junction with Parvis Road. This 2-storey building is an anomaly in that it presents gable-on to the road, with the upper storey set back from the pavement. The building is diminutive in comparison to the 3-storey structures flanking it, particularly the Byfleet Corner Parade which is a dominant feature in this part of the conservation area. No 9 has a modest charm stemming from the decorative timber framing in its gables and the deeply projecting eaves. Although unrepresentative of the conservation area as a whole, the building contributes positively to the character and appearance of the area. I concur with the view of the appellant's heritage consultant that it should be treated as a non-designated heritage asset.
10. The appeal site falls within the setting of St John the Baptist Church and is contemporaneous with that listed building, having been built at around the turn of the last century. However, although sited relatively close to the boundary of the churchyard and clearly visible from within it, No 9 is not a prominent feature in the setting of the listed building.

¹ Section 106 of the Town and Country Planning Act 1990, as amended.

11. The Council does not contend that the current building should be retained but rather that the proposed building would not be of an appropriate design quality as a replacement. This is a proportionate approach, and one which is consistent with paragraph 197 of the National Planning Policy Framework. This states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
12. The proposals are for the demolition of the existing building and construction of a mixed use building with a pair of retail units at ground floor and residential above. The replacement building would take the form of a 3½ storey block with the top storey of accommodation set within the roof. The eaves would align with adjoining buildings and the ridge height would match that of Byfleet Corner Parade. The building's scale would be an appropriate response to the site context and by sitting flush with the adjoining terrace it would remove an ugly flank wall from view. This would be a significant townscape benefit.
13. The design for the principal façade picks up on the language of projecting bays which is characteristic of Byfleet Corner Parade. The upper walls would be tile hung and the gable to the left of the elevation would be richly detailed with bands of beavertail tiles, exposed purlins and decorative bargeboards. The roof would have cocks comb ridge tiles and at street level the shop fronts would feature traditional stall risers, pilasters and fascias. The proposal does not mimic the Victorian architecture of the adjoining parade, but it takes the appropriate cues to ensure that the development would fit in with the street scene of Old Woking Road. A high standard of implementation is essential but this could be secured by imposing conditions requiring samples of materials and large scale working drawings of important architectural features.
14. The rear of the new building would feature a 'podium' at first floor level from which the flats would be accessed. This area would incorporate amenity space for the residential occupiers and a staircase to the second floor. I share the Council's concerns regarding the appearance of a glazed canopy being proposed for this staircase, but the appellant has offered to omit this element of the scheme and this could be secured via condition. The staircase itself would be visible due to its high level, but it would not be discordant or out of character. Other properties in the vicinity are accessed by staircase, including 17B Old Woking Road which has its main entrance at a similar storey height.
15. The Council has expressed concerns regarding the height of screen walls to the sides of the podium. There is some scope to reduce the visual impact of these features and I note that the appellant has agreed to amend the design. A planning condition could be used to require details of boundary treatments and through this method the necessary adjustments (which are relatively minor in the context of the scheme as a whole) could be secured.
16. One of the primary objections is the bulk of the buildings at the rear of the site. This part of the development would have greater mass, but in my view this would not be fundamentally harmful. By the Council's own admission, the modern single-storey additions at the rear of No 9 do not contribute positively to the character of the area. Their replacement with the appeal scheme, which in many respects is quite innovative, would not detract from the conservation area. The podium would be largely contained by the replacement building at the southern end of the site, to which the Council does not object.

17. The Council has identified the potential for splitting a large rectangular window at second storey level on the rear elevation of the main block into two smaller windows of traditional proportions. Whilst these may be preferable, in the context of a rear elevation which is not widely visible I do not consider that the design deficiency would render the scheme as a whole unacceptable.
18. I conclude that the proposal would be of a suitable design quality to replace the existing building on the site. The development would preserve the character and appearance of the Byfleet Corner/Rosemount Parade Conservation Area. There is no allegation of harm to the setting of the listed church, but for the avoidance of doubt I consider that such adverse impacts would not occur. There would be no conflict with Policies CS20, CS21 and CS24 of the WCS, Policy DM20 of the Woking Development Management Policies Development Plan Document DPD (2016) or Policies BE1, BE2 and BE3 of the West Byfleet Neighbourhood Development Plan insofar as these jointly seek good design which protects heritage assets and respects and makes a positive contribution to the street scene, local distinctiveness and the character of the area.
19. Paragraph 196 of the Framework requires that in circumstances where there is less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal. As I have set out above, I do not consider that there would be harm to the conservation area. Even in the eventuality that some harm did arise through the loss of a familiar building within the street scene, that harm would be outweighed by the public benefits of delivering 5 new homes.

Other Matters

20. I have taken account of the concerns raised by third parties, including those in relation to highway matters, disruption during construction and the loss of the existing commercial tenant. However, based on the information before me these matters would not be grounds to dismiss the appeal.

Conclusion

21. The proposal would not cause harm to the conservation area. However, it would conflict with the development plan and the Habitats Regulations in relation to its impact on European protected sites.
22. For the reasons given above I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR