



Appeal Decision

Site visit made on 5 January 2021

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 01/02/2021

Appeal Ref: APP/C3620/W/20/3248337

Deepdene Lodge, Deepdene Avenue, Dorking RH5 4AZ

- 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 Chris Green, c/o Stonegate Homes against the decision of Mole Valley District Council.
 - The application Ref MO/2019/0406/PLA, dated 12 December 2018, was refused by notice dated 18 February 2020.
 - The development proposed is:
 - extension to provide 5 additional apartments following the grant of permission MO/2018/1062;
 - demolition of garages (with extant permission for conversion into 2 units) and re-building to form 2 new units of the exact same size;
 - transfer of land to the Council and the Deepdene Trail.
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Decision

1. The appeal is dismissed.

Procedural matters

2. During the consideration of the application the extent of the application was amended so that the demolition of the garages and their replacement and the transfer of the land to the Council were removed. The application was therefore amended to "extension to provide 5 additional apartments". The reference to the previous permission is superfluous to the proposal. The Council considered the proposal on this basis and I have done also.

Background and Main Issues

3. The Council gave prior approval for the conversion of the appeal building, Deepdene Lodge, to 15 flats in August 2018 pursuant to the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and, the following month, for the conversion of the garage building to the east to two residential units. Since the Council made its decision on the appeal application it granted planning permission in respect of the garage building for 'external alterations to facilitate the conversion of the garages into 2 No. residential units'. For identification purposes I will describe this building as "the garage building" although acknowledging the permission for conversion.

4. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework);
- the effect on the Surrey Hills Area of Outstanding Natural Beauty (the AONB); and
- the effect on The Deepdene (including Chart Park) Grade II* Registered Park or Garden (the RPG), the setting of the Grade II listed Deepdene icehouse and the setting of the locally listed castellated archway.

Reasons

5. Deepdene Lodge is one of two former office buildings in the north part of the RPG. It was originally built in the 1960s on the site of the stables to the former Deepdene House which was itself demolished and replaced by an office building, later known as Kuoni House, at around the same time. That building, too, is in the process of conversion to flats, and has been granted permission for an extension.
6. The appeal proposal is to add five flats to Deepdene Lodge, one on top of a single storey element on the side of the building, and four on the main two storey element.

Whether inappropriate development

7. The appeal site lies in the Green Belt. I have not been directed to any policies in the development plan relating to the Green Belt so it is reasonable to utilise the relevant policies set out in the Framework.
8. Paragraph 145 of the Framework sets out that the construction of buildings should be considered to be inappropriate in the Green Belt subject to a number of exceptions. Included within this, in paragraph 145 c), is "the extension or alteration of a building provided that it does not result in disproportionate extensions over and above the size of the original building". The Council in the officer report considers that the 42% increase in volume, the measure identified, would not result in a disproportionate extension, but then goes on to consider the visual effect of the proposal in terms of its impact on the openness of the Green Belt and concludes that it would be harmful so as to represent inappropriate development.
9. However, this is not the correct test as set out in the Framework as to whether the proposal would represent inappropriate development. There is no test regarding openness in paragraph 145 c) in a similar way, for example, to those categories of development set out in paragraph 145 b) where analysis includes whether the proposal preserves openness and does not conflict with the purposes of including land within the Green Belt. Thus, the consideration is a simple analysis as to whether the proposal represent a disproportionate extension. By the Council's own analysis this would not be the case; I agree, and consequently the proposal would represent not inappropriate development.
10. The Courts have made clear that if a proposal represents not inappropriate development then the impact on Green Belt purposes, including openness, will already have been taken into account in their classification as not inappropriate

development. This is not the same as consideration of the effect on the AONB which I will consider next.

Effect on AONB

11. The appeal site lies close to the edge of this part of the AONB, but wholly within it. Policy CS13 of the Mole Valley Local Development Framework Core Strategy (the CS) indicates that all new development must respect and, where appropriate, enhance the character and distinctiveness of the landscape character area and that, as the AONB is of national significance, the conservation of natural beauty of the landscape will be a priority.
12. The Council has adopted the Surrey Hills Management Plan 2020-2025 (the AONB Management Plan). This does not form part of the development plan but is a material consideration. This sets out a number of planning management policies. These include Policy P1 that in balancing different considerations associated with determining planning applications, great weight will be attached to any adverse impact that a development proposal would have on the amenity, landscape and scenic beauty of the AONB and the need for its enhancement, and Policy P3 that development proposals will be required to be of high quality design, respecting local distinctiveness and complementary in form, setting, and scale with their surroundings, and should take any opportunities to enhance their setting.
13. The AONB Management Plan notes that the landscape is characterised by hills and valleys, traditional mixed farming, a patchwork of chalk grassland and heathland, sunken lanes, picturesque villages and market towns and is a landscape mosaic of farmland, woodland, heaths, downs and commons. The appeal site lies in the North Downs: The Mole Gap part of the AONB.
14. The proposed building design would be in keeping with the existing building. It would thus respect local distinctiveness and would be complementary in form, setting, and scale with its surroundings. While the materials would be different to that of the main building, by the utilisation of appropriate colouration and specification, which could be secured by planning conditions, it would integrate well and not disrupt the predominant horizontal nature of the design of the existing building.
15. The AONB Management Plan notes that effective landscaping and tree screening of native species along with the retention of existing landscaping can render a proposal acceptable so that effects on the wider landscape are kept to acceptable levels. It states that where appropriate a condition should be applied to the permission to provide for the long term retention of the tree screening.
16. The appeal building is in a discrete area enclosed to north and south by vegetation, which I saw in winter. To the east there is the garage building and dwellings beyond, all within the AONB. The area to the southeast is more open towards Kuoni House. Due to the enclosure created by the existing vegetation the proposed development would have no effect on the scenic qualities of the AONB, the landscape and scenic beauty of which would therefore be preserved. However, without this vegetation the additional elements of the proposal would appear intrusive.

17. The Council suggested various conditions in the event that I was minded to allow the appeal. One related to boundary treatments to be erected/retained. Given the AONB Management Plan it is reasonable to conclude that these would be the retention and enhancement of vegetation, both trees and shrubs. The provision of high walls and/or fences to provide appropriate screening would be incongruous in the landscape and harmful to the scenic beauty of this part of the AONB.
18. While trees, where appropriate, can be protected through Tree Preservation Orders, such mechanisms cannot be utilised for shrubs, and it is the shrubs here that provide the necessary screening. Since this relates to the long-term management of land, this is not something that should be to a positive requirement in a planning condition. This is because it would be considered to place an unjustified and disproportionate burden on the landowner and would thus be unreasonable, failing the tests for conditions set out in paragraph 55 of the Framework and the national Planning Practice Guidance (the PPG).
19. I have considered whether it might be appropriate to impose a condition preventing the development taking place until a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) has been completed to ensure the long-term retention and maintenance of the vegetation. However, the PPG notes¹ that such a condition should only be used exceptionally, and given the nature of the proposal here I do not consider that to be the situation.
20. I therefore conclude that the proposal would appear intrusive in the AONB and would fail to conserve and enhance natural beauty. This should be given great weight in line with paragraph 172 of the Framework. Consequently, the proposal would be contrary to Policy CS13 of the CS and to Policies P1 and P3 of the AONB Management Plan as set out above.

Heritage matters

21. As set out above, the appeal site lies in the Grade II* RPG. A short distance to the south of the appeal building set in a bank is an icehouse which is a Grade II listed building. Both of these are designated heritage assets. To the east and behind the garage building is a castellated archway which is locally listed and thus represents a non-designated heritage asset.
22. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires special attention to be paid to the desirability of preserving the setting of a listed building.
23. The Framework defines the significance of a heritage asset as the value of a heritage asset to this and future generations because of its heritage interest. The PPG also notes² that 'significance' derives not only from a heritage asset's physical presence, but also from its setting.
24. Paragraph 193 of the Framework indicates that great weight should be given to the conservation of a heritage asset and this is irrespective of the level of harm that may occur. It is also emphasised that the more important the asset, the greater the weight should be. Paragraph 194 of the Framework indicates that

¹ Reference ID: 21a-010-20190723

² Reference ID: 18a-006-20190723

- any harm to the significance of a heritage asset, or from development within its setting, should require clear and convincing justification.
25. The RPG dates originally from the late seventeenth century but was developed further in the early nineteenth century. It forms a large area of land, approximately 40 ha in size, and was part of the grounds of the former mansion. The southern part of what now forms the RPG was developed into a golf course in 1897. The grounds of the mansion, historically, were larger than the extent of the RPG, but it is the RPG that is relevant for the purposes of this decision. The appeal site lies in the northern part of the RPG and consists of only a small part of the RPG.
 26. The significance of the RPG, for the purposes of this appeal, relates to its design interest from its dense planting and dramatic topography. Due to the enclosed nature of the landscaping around the appeal site, and the relationship with Kuoni House and the woodland beyond, the effect of any change would be limited to the immediate vicinity of the appeal site.
 27. The main entrance to this part of the RPG is currently from the A24, Deepdene Avenue, to the west of the appeal site. This is not the original entrance to the mansion and was created at the time of the creation of that road. As noted in the designation the lawns sweep down to the entrance in front of the main building. Conversely, the entrance route rises substantially to the main house, and there is a small subsidiary route to the appeal building area as is appropriate to its historic status as the site of the stables. Due to this subsidiary nature and enclosed nature of the landscape the appeal building has little presence on the overall RPG.
 28. Increasing of the height of the building could enlarge the size of the building leading to harm to the significance of the RPG. In terms of the Framework this would represent less than substantial harm. However, provided the existing vegetation is retained this would prevent harm to the RPG as a whole since the subsidiary nature of the building and its presence in the landscape would not change and its significance would be preserved. For the reasons explored above this could not be secured in a planning condition, and this would therefore lead, within the terms of the Framework, to less than substantial harm to the significance of the RPG.
 29. The icehouse is located immediately to the south of the appeal building on the opposite site of the access drive. From the access drive it is not apparent, appearing to be within a vegetated bank. Pedestrian access is obtained by climbing a short set of earthen steps, and turning slightly and downwards to the entrance which is currently blocked.
 30. The significance of the designated heritage asset for the purposes of this case derives from its position within the overall RPG, which I have already considered, and the low-key relationship between the appeal building and the listed building.
 31. While the appeal building would be taller, as the extension element would be set back from the southern elevation and there would be no physical change to the bank within which the icehouse exists, the proposal would preserve the setting and thus the significance of the icehouse.

32. Turning to the castellated archway this is located behind the garage building and, for the purposes of this appeal, can be only glimpsed over that building from ground level and when viewed some distance away from the garage building. It can be seen to a slightly greater extent from the appeal building, as it is possible to see above the garage building, but only somewhat, due to the limited difference in height between the top of the garage building and the top of the castellated archway.
33. The significance of the archway, as identified in the report that accompanied the application, is that it provides a theatrical backdrop in the form of a sham ruin; I agree. Due to the presence of the garage building (or as converted in accordance with the prior approval and planning permission) the setting would not change. If anything, as the archway would be able to be seen from the increased height proposal this would better reveal its presence.
34. The Council has referred to Policy ENV44 of the Mole Valley Local Plan (the Local Plan). However, the version with which I have been provided indicates that this policy has not been saved and is thus not material. In any event, this policy, which dealt with development affecting the setting of listed buildings, appears to mostly duplicate part of Policy ENV43 of the same plan. This policy, which has been saved, indicates that alterations to the setting of a listed building will normally be permitted if it does not detract from the setting of that building. As I have found no harm to the settings and thus the significances of the Deepdene icehouse there would be compliance with this policy. I have not been directed to any development plan policies relating to the settings of non-designated heritage assets.
35. However, the proposal would result in harm to the significance of the RPG, and this would represent less than substantial harm. Therefore, the proposal would be contrary to Policy CS14 of the CS and Policy HC2 of the AONB Management Plan which seek the protection of areas of historic importance. I give this harm great weight. That being the case, paragraph 196 of the Framework states that where a proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal. I will undertake this in the planning balance section below.

Planning Balance

36. The proposal would represent not inappropriate development in the Green Belt and would result in five additional dwellings. This is a public benefit in both economic and social terms. Given the extent of housing need in the area I give this public benefit significant weight and this would balance the less than substantial harm to the RPG identified above. Notwithstanding this, the proposal would result in harm to the AONB and this should be given great weight.
37. Although in the officer report the Council indicates that it cannot demonstrate a five year supply of housing land, given my conclusions on the harm to the AONB the tilted balance set out in paragraph 11 d) of the Framework does not apply.
38. While there are elements where the proposal complies with parts of the development plan, I conclude that the proposal is contrary to the development plan taken as a whole and there are insufficient material considerations that

indicate a different decision to determining the appeal otherwise than in accordance with those provisions.

Conclusion

39. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR