



Appeal Decision

Site Visit made on 23 August 2021

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal Ref: APP/L3625/W/21/3268632

The Yew Tree, Reigate Hill, Reigate, Surrey RH2 9PJ

- 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 R Patel of RAA4 Developments Ltd against the decision of Reigate and Banstead Borough Council.
 - The application Ref 20/02602/F, dated 22 November 2020, was refused by notice dated 5 February 2021.
 - The development proposed is the extension, re-modelling and conversion of the former Yew Tree Public House to form 9 self-contained dwellings with associated bins, cycle store, parking and re-siting of access drop kerb.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At appeal stage an interested party expressed concerns that the application had not been properly made. This was because ownership certificate A was completed which states that the applicant was the sole owner of the whole of the site, when the registered title plan shows that a small rectangular area of land within the site at the Beech Road entrance is not owned by the applicant.
3. The purpose of the notification of a planning application to all owners of the land involved is so that no prejudice is caused and to allow them, if they so wish, to comment upon the proposal. It is stated that the land in question has been used by the Yew Tree public house for parking for a significant number of years and that parking was controlled by enforcement without any objection. This has not been challenged by the Council. On the basis of this use, the apparent absence of details of ownership in land registry search records, and confirmation that it is not Highway Authority land, it appears that the land is unregistered.
4. Given that the proposed development would have been publicised by the Council in the normal way, and that the nature of concerns are clear from the large number of representations that have been received, the failure to issue the correct certificate and advertise the proposal in a local newspaper does not warrant in this instance finding that the application and appeal are invalid.
5. At appeal stage amended plans were submitted which move the proposed site access slightly to the south. This does not amount to a material change in the nature of the proposed development and the nature of concerns of those who would normally have been consulted are clear from consultation on the original set of plans. As a result, I do not consider that their interests would be

prejudiced if I take these revised plans into account. I shall therefore determine the appeal on the basis of the amended plans.

Main Issues

6. The main issues in this appeal are:

- the effect of the proposed development on the character and appearance of Reigate Hill Conservation Area and the setting of 101 and 103 Reigate Hill, a Grade II listed building;
- whether adequate outdoor amenity space would be provided for future occupiers of the proposed development;
- the effect of the proposal on highway safety; and,
- the effect of the proposed level of on-site parking on the amenities of the area.

Reasons

7. The National Planning Policy Framework ('the Framework') is an important material consideration. It identifies that heritage assets are an irreplaceable resource. Paragraph 199 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a Conservation Area and listed buildings, great weight should be given to the asset's conservation.

Conservation Area

8. The appeal site is located within the recently designated Reigate Hill Conservation Area. In the exercising of planning functions the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Policy NHE9 of the Reigate and Banstead Local Plan Development Management Plan ('Development Management Plan') requires the protection of heritage assets and their setting, through high quality design that respects local design features.
9. In terms of assessing the significance of the recently designated Conservation Area and the contribution that the appeal site makes to it, I have taken into account the assessments of the parties and my observations during the site visit.
10. The Conservation Area is centred on the Yew Tree public house and extends along Reigate Hill and nearby adjacent roads to contain well designed, older and historic buildings which vary in scale from two storey cottages to large, detached houses. Use of brick, render, clay tiles and slate is widespread. The mature trees and landscaping along Reigate Hill form an intrinsic part of the Conservation Area's verdant character. The significance of the Conservation Area and its listed buildings, which predominantly date from the early 19th century through to pre-World War Two, is therefore architectural and historical.
11. The Yew Tree public house is an arts and crafts revival style, two storey building dating from 1937 designed by Paxton Watson. With its low eaves height, first floor contained within its roof space, clay tiles and vernacular style it complements the cottages on the opposite side of Reigate Hill and on the

same side of this road to its rear. Positioned directly facing traffic approaching up Reigate Hill from the south, and framed in these views by the canopy of trees that encloses the road, it is the most prominent building in the Conservation Area and makes a noteworthy contribution to its significance.

12. The proposed development would re-model and enlarge the building to such an extent that it would appear to be a new building. The addition of a third storey and the three storey extension to its side would result in a development of far greater scale and mass than the existing building and the smaller scale of older buildings along Reigate Hill opposite and to its rear. Moreover, its tall parapet wall and cornice would give the building a formal Georgian appearance that would be at odds with the vernacular surroundings within which, as I have noted, it is primarily viewed along this busy road. The architectural style of the large and much extended Reigate Manor Hotel on the same side of the road to the south lends little material support to the proposal. This is because it is separated from the appeal site by Beech Road and is screened by a petrol station and mature landscaping.
13. Taking all these matters into account, I therefore find that the proposal would result in a building that would dominate its surroundings and harm the character and appearance of the Conservation Area as a whole. As a result, it would constitute poor design and so would be contrary to policy DES1 of the Development Management Plan which requires high quality design.
14. Reference has been made to the large apartment building, 43 Beech Road, and the designated Residential Area of Special Character (RASC) nearby. However, as this building and a significant part of the RASC do not form part of the Conservation Area, and both it and the RASC are set well back from Reigate Hill and heavily screened by mature landscaping from it, reference to these features has not altered my findings on this issue.

Listed buildings

15. In the exercise of planning functions, the statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
16. 101 and 103 Reigate Hill form a Grade II listed building consisting of a semi-detached pair of houses that date from the early nineteenth century. With stucco external walls, a low pitch, overhanging, hipped, slate roof and sash windows their special interest and significance is historical and architectural. Their setting within mature gardens relatively close to the road is characteristic of when the houses were built and contributes to their significance. The neighbouring Yew Tree public house forms part of their setting. Its sympathetic design in terms of its setback within the site which provides views of the side of the listed building on the approach from the south, and its vernacular appearance, makes a positive contribution to the setting of these listed buildings.
17. The proposed development would increase the height of the building and extend it towards the road, dominating the site and closing off the views of the side of No 103 from the approach up Reigate Hill from the south. As a result, the proposal would harmfully encroach upon the setting of the listed building.

Heritage planning balance

18. The harm caused by the proposed development to the significance of the Conservation Area as a whole and the setting of 101 and 103 Reigate Hill, a Grade II listed building, would be less than substantial. In such circumstances, paragraph 202 of the Framework advises that the harm that would be caused should be weighed against the public benefits of the proposal.
19. In accordance with the statutory duties described, I attach considerable importance and weight to the harm that would be caused to the Conservation Area and the setting of Nos 101 and 103. On the other side of the balance, the proposal would result in some construction employment and its maximal approach to development of the vacant public house and site would provide nine dwellings of a size sought by the development plan within a settlement that has a wide range of services and facilities. In so doing it would also increase by a modest amount the housing stock in the Borough. I attach noteworthy weight to these social and economic public benefits of the scheme.
20. Taking all these matters into account, my overall conclusion is that the public benefits of the proposal fall short of outweighing the harm that would be caused to the Reigate Hill Conservation Area and the setting of the Grade II listed building at 101 and 103 Reigate Hill. The proposal would therefore be contrary to the Framework, as well as failing the related statutory tests and being contrary to policy NHE9 of the Development Management Plan.

Outdoor amenity space

21. Future occupiers of the proposed development would have access to a private communal amenity area at the rear of the building measuring 111 square metres. Other than for flat 3 on the ground floor having access to a private area of outdoor space to the side of the building via its French windows, there would be no other on-site amenity space with a reasonable degree of privacy available to occupiers.
22. When assessed against national standards the one and two bedroom flats would be large enough, respectively, to accommodate two people and four people. As the Design and Access Statement notes, this means that the size of the flats would be suitable for families. The private communal area would therefore serve up to 28 residents from 8 different households. Given that the size of amenity area proposed would commonly serve a family sized house this would be inadequate provision.
23. A subsequent application for seven, two bedroom flats (ref 21/01350) on the site was refused permission but was not objected to by the Council on the basis of amenity space provision. This though was not as a result of a positive finding in relation to the size of amenity space proposed: the delegated report assessed the scheme against the amenity space provided for the extant permission for two houses on the site (ref 21/00310/F) in terms of noise and sunlight and simply failed to consider whether the size of area would be acceptable for such a large number of residents and households. As a result, reference to the Council's assessment of the seven flat application does not alter my findings on this issue.
24. Reference has been made to significant areas of open space such as Gatton Park and Reigate Hill compensating for the lack of on-site amenity space. However, Reigate Hill is steep and wooded. As a result, I am not persuaded that walks up it would compensate for the lack of on-site provision which in

contrast could be used for playing, sitting out and relaxing. In relation to Gatton Park, as the appeal site is located towards the bottom of the busy Reigate Hill road it is not close enough or easy enough for families and children to readily access other than by car. As a result, neither would compensate for the inadequate on site provision.

25. Reports have been submitted in relation to the private communal area. The Council accepts that these reports demonstrate that this area would have acceptable levels of natural light and that, as with the flats, this area could be protected from traffic noise. Subject to the use of a condition, if the appeal was allowed, requiring a mitigation scheme to secure the noise related recommendations, I agree with that position. The units would also be dual aspect and exceed the nationally described internal space standards. However, these positive aspects of the scheme's design do not obviate the cogent planning objection in relation to inadequate amenity space provision.
26. For the reasons given above, I therefore conclude that the proposed development would provide inadequate amenity space for future occupants of the scheme and so would result in unacceptable living conditions. This would be contrary to policy DES5 of the Development Management Plan which, amongst other matters, seeks to prevent such harm.

Highway safety

27. At appeal stage a Transport Appeal Statement containing a speed survey and traffic generation modelling was submitted, along with revised plans showing the site access located slightly further to the south. The modelling of vehicle movements indicates that, when compared to its use as a public house, the proposal would result in a significant overall decrease in vehicle movements with only a slight increase in movements during the am peak. In accordance with national guidance, based upon the 85th percentile speed survey results, and extrapolating against the plan included within the statement, the required sight lines at the revised site access of 52 metres to the south and 46 metres to the north can be achieved in both directions.
28. Accordingly, I concur with the Highway Authority that the proposed development would not harm highway safety. As a result, it would comply with policy TAP1 of the Development Management Plan which seeks to prevent such harm.

Parking pressures and residential amenity

29. Of the development plan policies cited in the reason for refusal in relation to this issue, I consider policies DES1, TAP1 and Annexe 4 of the Development Management Plan which require the provision of on-site parking in accordance with adopted standards to, amongst other matters, protect residential amenity, to be the most relevant.
30. The proposed development would provide 13 car parking spaces. The Development Management Plan has adopted minimum parking standards that reflect the accessibility of a development in terms of walking distances to local centres, town centres and railway stations. On this basis the appeal site is located in a low accessibility area where a higher level of parking is required and the proposal would have a shortfall in provision of 4 parking spaces.

31. The approach of the Development Management Plan to parking standards is consistent with the version of the Framework that applied in 2019 when it was adopted and the current Framework which was published this year.
32. The town centre and railway station are within comfortable cycling distance of the appeal site. However, given the busy traffic on Reigate Hill, its sustained gradient and absence of a cycle lane this would not be a realistic transport solution for the vast majority of residents. Moreover, although the site is close to bus stops on both sides of Reigate Hill the timetables attached to the stops show services are typically only once an hour. As a result, I find that it is unlikely that future residents could undertake their day to day tasks without access to a car.
33. Parking restrictions on Reigate Hill and adjacent private roads would result in the displacement of vehicles that could not park at the proposed development onto residential roads within walking distance further away. Given the highly developed nature of the wider area this would increase the pressure and competition for on-road parking space to the detriment of residential amenity. The proposed development would therefore be contrary to policies DES1, TAP1 and Annexe 4 of the Development Management Plan.
34. Reference has been made to the '2019 Parking Standards Plan' by the appellant. On the basis of the responses received from the Council and appellant, I understand that this document is not a plan but instead is a background paper that provided the evidence base which informed the parking standards adopted as part of the Development Management Plan. Using forecast figures for car ownership as a starting point, the paper explains how these figures were adjusted according to accessibility in order to derive the parking standards that have since been adopted as part of the development plan.
35. It is the role of the development plan process, rather than individual appeals, to test the evidence base used to justify the derivation of policies. Given that the Development Management Plan was publicly examined and found to be sound, reference to this paper, and the previous local parking policy and future car ownership projections it contains, have not altered my findings in relation to this issue.

Other Matters

36. Policy INF2 of the Development Management Plan protects community facilities such as public houses. It is accepted by the Council that the loss of the Yew Tree public house would not have an adverse impact on the vitality, viability and balance of services in the area or on the evening economy. This is because with the petrol station and hotel it forms a discrete cluster of businesses that are not dependent on each other and there are two other public houses within 15 minutes walking distance of the site. Whilst the Council had concerns regarding the quality and duration of marketing of the public house at the time that it determined the application, at appeal stage it has accepted that as the loss of the public house would not result in a shortfall of local provision overall it would comply with policy INF2. I agree with that assessment.
37. The appellant complains about the behaviour of the Council in relation to the absence of an appraisal of the Conservation Area in the consultation that

followed its designation. As a result, he has invited the appointed Inspector to consider this matter. If no application for costs has been made, as is the case here, and the Inspector considers that a party has behaved unreasonably which has resulted in unnecessary expense, the Inspector may initiate an award of costs. In relation to the matter raised, Planning Practice Guidance only guides that an appraisal may help a local planning authority decide whether to designate an area as a conservation area¹. There is no requirement to carry one out. In my judgement, for the purposes of designating the Conservation Area and consultation, the character assessment that was used was adequate. As a result, I will not consider this matter further.

Conclusion

38. The absence of harm in relation to highway safety does not obviate the cogent planning objections in relation to the harm that would be caused contrary to the development plan to heritage assets, the living conditions of future occupiers and the amenity of residents in the wider area due to the lack of parking. As a result, I find that the proposed development would be contrary to the development plan considered as a whole.
39. The other considerations put forward in favour of the proposal, namely making efficient use of a small site, the social benefits of providing open market, smaller family housing and the economic benefit of construction employment, are insufficient to outweigh the harm that would be caused and non-compliance with the development plan. Material considerations therefore do not indicate that the proposal should be determined other than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

¹ Para 024 Reference ID: 18a-024-20190723 *What do local planning authorities need to consider before designating new conservation areas?*