
Appeal Decision

Site visit made on 9 February 2022

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 17 MARCH 2022

Appeal Ref: APP/C3620/W/21/3280780

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 against the decision of Mole Valley District Council.
 - The application Ref MO/2021/0564/PLA, dated 22 March 2021, was refused by notice dated 13 July 2021.
 - The development proposed is extension to provide 5 additional apartments following the grant of permission under MO/2018/1062.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of the appeal an incomplete S106 Planning Obligation was submitted. The aim of the S106 Planning Obligation was to secure a Landscape Management Plan which would be agreed with the Council prior to occupation of the development. The S106 would also provide a mechanism to establish and fund a Management Company to implement the planning obligations. However, the Planning Obligation submitted did not comply with Annex N of the Procedural Guide – Planning Appeals – England, specifically the S106 Planning Obligation was not properly executed by all parties. Therefore, I cannot take account of the S106 Planning obligation in reaching my decision.

Main Issues

3. The main issues are the effect of the proposal on;
 - The Surrey Hills Area of Outstanding Natural Beauty (the AONB); and
 - The Deepdene Grade II* Registered Park or Garden, the setting of the Grade II listed Deepdene icehouse and the setting of the locally listed castellated archway.

Reasons

Effect of the proposal on the AONB

4. The appeal site is wholly within the AONB, it lies within the North Downs in what is known as the Mole Gap part of the AONB. The landscape of the AONB 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. As the AONB is of national significance, the conservation of natural beauty of the landscape is a priority. The Surrey Hills Management Plan 2020-2025 (the AONB Management Plan) sets out a number of planning management policies. The AONB Management Plan is not part of the development plan, however it is a material consideration.

5. The proposal would incorporate an extension on the roof of Deepdene Lodge, using cladded panels and dark grey windows and doors to reflect the existing material palette. Floors are separated by concrete planes which emphasise the horizontal aspects of the design of the building and assist in reducing its overall scale. The proposal would integrate comfortably with the existing building, providing a complimentary addition which would respect the local distinctiveness of Deepdene Lodge.
6. Whilst the area around Kuoni House is more open and allows views through-out the site, Deepdene Lodge is nestled towards the edge of the site, and along the north and south of the site the building it is significantly screened by existing trees and mature shrubs. To the east of the building the garages are located and beyond that existing dwellings, all of which are within the AONB. I am satisfied that due to the character created by the existing trees and shrubs, which create a buffer of vegetation, the proposed development would have no effect on the scenic qualities of the AONB, therefore preserving its landscape and scenic beauty. However, without the vegetation the additional height of Deepdene Lodge would appear intrusive.
7. 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.
8. 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 56 of the National Planning Policy Framework (the Framework) and the national Planning Practice Guidance (the PPG).
9. Whilst the draft S106 Planning Obligation set out measures to address any harm, I am unable to take this into account as it was not properly completed. In the absence of a mechanism to secure the long-term retention and management of the vegetation I find 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 accordance with paragraph 174 of the Framework. Consequently, the proposal would conflict with Policy CS13 of the Mole Valley Local Development Framework Core Strategy, and policies P1 and P3 of the AONB Management Plan. Collectively these policies require all new development to respect and, where appropriate, enhance the character and

distinctiveness of the landscape character area and o 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.

The effect of the proposal on the Grade II Registered Park or Garden (the RPG)*

10. The appeal site lies in the northern part of the Grade II* RPG. A short distance to the south of the appeal building, set in a grass 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 is a non-designated heritage asset. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) requires special attention to be paid to the desirability of preserving the setting of a listed building.
11. The RPG was developed from the late seventeenth century into the early nineteenth century. It forms a large area of land which was previously part of the grounds of the former mansion and is some 40 ha in size. The significance of the RPG is found in its striking topography which rolls down from Chart Park through the appeal site. The RPG is densely wooded in places which, when seen alongside the sweeping lawns, creates a dramatic landscape.
12. The southern part of the RPG was developed into a golf course in 1897, and the appeal site in the north of the RPG forms only a small part of the RPG. Whilst there is a main entrance route to Kuoni House, Deepdene Lodge is accessed from a subsidiary route of the main entrance, which reflects the historic status as the site of the stables. Having regard to the layout of the landscaping around Deepdene Lodge which creates a significant level of enclosure, and the subsidiary nature of the site in respect of its relationship with the RPG, the effect of the proposal would be limited to the immediate setting of Deepdene Lodge within the RPG.
13. Increasing the height of Deepdene Lodge would increase its overall scale. I consider that an increase in its height and mass would draw the eye to the building and would be harmful to the significance of this part of the RPG, and it would conflict with Policy ENV47 of the Local Plan which seeks to ensure that any proposed development within an RPG a garden does not detract from its setting.
14. In terms of the Framework, I consider that this harm would be less than substantial as Deepdene Lodge is a small part of the RPG located some distance from the rolling topography and manicured lawns. Nevertheless, section 66(1) of the Act is clear that any harm caused to the significance of a designated heritage asset must attract great weight. Paragraph 200 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 202 requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
15. The proposal would provide five additional units, which is a public benefit in both social and economic terms. Given the extent of housing need in the area I give this public benefit significant weight and find that this would outweigh the less than substantial harm to the RPG identified above and the conflict with the Local Plan.

Effect of the proposal on the icehouse and castellated archway

16. The icehouse is a Grade II listed building, it is located on the opposite side of the access drive and due to the terrain, it appears nestled into the bank. The significance of it is derived from its position within the overall RPG, appearing as a subsidiary structure within the wider setting of the RPG. Whilst the proposal would increase the height of Deepdene Lodge, it would be set back from the southern elevation of the host building. Furthermore, there would be no physical change to the bank within which the icehouse is set. Accordingly, I find that the proposal would preserve the setting and significance of the icehouse.
17. The castellated archway is a locally listed building, and its significance is found in that it provides a theatrical backdrop in the form of a ruin. The proposal would be some distance from the castellated archway, the setting of which is due to be enhanced by the conversion of the garages which has previously been granted permission. The proposal would not affect the locally listed building, as such it would not be harmful to its significance or setting.
18. I find that the proposal would not harm the icehouse or the castellated archway. As such it would comply with Policy ENV43 of the Local Plan which advises that alterations to the setting of a listed building will normally be permitted if it does not detract from the setting of that building. I have not been directed to any development plan policies relating to the settings of non-designated heritage assets, however the proposal would comply with the Framework.

Planning Balance and Conclusion

19. I have found that the public benefits of the scheme would outweigh the harm to the significance of the RPG, and that the proposal would not be harmful to the setting of the icehouse or the castellated archway. However, the proposal would be harmful to the AONB, and this should be given great weight.
20. The Housing Delivery Test results (published January 2022) identify that the Council is unable to demonstrate a five year supply of housing land, however given my conclusion in respect of harm to the AONB the tilted balance set out in paragraph 11(d) of the Framework does not apply.
21. Whilst there are elements of the proposal that would comply with the policies set out in the development plan, I conclude that having regard to the conflict in respect of the AONB the proposal would conflict with the development plan when taken as a whole. There are no material considerations that lead me to conclude a decision should be taken other than in accordance with the development plan.
22. Accordingly, for the reasons above I conclude that the appeal should be dismissed.

J Ayres

INSPECTOR