



Appeal Decision

Site visit made on 16 May 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Appeal Ref: APP/C3620/W/21/3275891

The Surrey Yeoman PH, 220-222 High Street, Dorking RH4 1QR

- 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 J Fasal of Warrant Investments Plc against the decision of Mole Valley District Council.
 - The application Ref MO/2020/1955/PLA, dated 30 October 2020, was refused by notice dated 23 December 2020.
 - The development proposed is erection of a new single detached dwelling on the land to the rear of the Grade II Listed Surrey Yeoman public house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on heritage assets;
 - whether the proposed development would provide satisfactory living conditions for future occupants, with particular regard to noise and general disturbance; and
 - the effect of the proposed development on the economic viability of the public house.

Reasons

Heritage assets

3. The appeal site forms part of the rear garden to the Surrey Yeoman Public House (PH), a Grade II listed building. It therefore lies within its setting. It is also located within the Dorking Conservation Area (DCA) which extends across a large area, including much of the town centre.
4. The National Planning Policy Framework (the Framework) defines the setting of a heritage asset as the surroundings in which it is experienced, recognising that this is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
5. The Surrey Yeoman PH is a timber framed structure, dating back to the late 16th / early 17th century. It is an important building within the DCA. It occupies

- a long and relatively narrow plot which extends rearwards from the high street. This rear area would have historically been used in connection with the operations of the PH. Historic maps, dating back to 1838, indicate 2 ancillary buildings, which both parties agree are likely to have been brewhouses.
6. The appeal site, which occupies the rear part of the plot, is an area of overgrown garden enclosed by a low picket fence. It contributes to the sense of the plot extending to the rear boundary on the lane. This forms part of the listed building's setting, providing an area for activities that would have had a functional link with the PH. The site therefore makes a positive contribution to the setting of the listed building.
 7. Whilst historic mapping indicated a row of cottages at the rear of the adjacent properties, Numbers 196 to 218 High Street, there is no evidence that the appeal site would have been used as ancillary residential accommodation. The adjacent cottages no longer exist having been replaced by single-storey garages. There is nothing to suggest that the rear of the plot has been used for anything other than in relation to the functioning of the PH, either through outbuildings, such as the brewhouses, or in all likelihood in providing access.
 8. Whilst it has been suggested that the sloping topography of the site divorces the appeal site from the service area to the PH, there is no evidence to support this. The site must have always been sloping and functioned as a service area for the PH. It still does, in providing both storage and access for refuse and recycling.
 9. The introduction of a residential use to the appeal site and within the setting of the listed building would appear out of context. The proposed house would look like a domestic building, unrelated to the listed building or the functional purpose of the site. It would have rear facing windows at first floor and domestic boundary hedge surrounding a small garden. This would not give any impression of it being anything but a house. This would significantly harm the setting of the listed building and its historic function as a service area to the PH.
 10. The appellant has identified that the proposal would also cause a small amount of harm to the setting of Almshouses, which are also a Grade II listed building. These have their principal elevation to Cotmandene and their rear to the unmade lane. These are in relatively close proximity to the appeal site and sit within a large garden. The Council has not identified any specific harm to the setting of these listed buildings arising from the proposal. I observed that there is limited intervisibility between the appeal site and these buildings. I therefore find no specific harms in this regard.
 11. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on the listed building in accordance with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special regard must be given to the desirability of preserving a listed building or its setting.
 12. The DCA is characterised by the number of historic buildings including many listed buildings which form the historic core to the town and define its origins as a medieval market town. The DCA is defined by the fine grain of development including 'planned plots' to both sides of the High Street. These historic buildings including the Surrey Yeoman PH and the pattern of

development contribute to the significance of the DCA. The appeal site, as an example of such a plot, makes a positive contribution to the DCA.

13. The proposed dwelling would have a traditional design. It would extend much of the width of the plot, leaving the side exit serving the PH. In the context of the adjacent low profile garages which occupy the rear of adjacent plots, despite its single-storey appearance on this elevation, it would appear anomalous. With limited space around it, the house would appear cramped within the plot. Furthermore, due to the insufficient depth of the integrated car port, a parked car would protrude from the site. This would reinforce the cramped nature of the development. This would be harmful to the character and appearance of the area.
14. As I discuss later in my decision, I find the proposal would be harmful to the operation of the PH and could affect its long-term viability. Given that the site has been used as a PH since at least 1838, any such loss would diminish the contribution of the appeal site to the historic role and function of the settlement. This would not preserve the character of the conservation area and would be harmful.
15. I appreciate that the introduction of a part single / part 2-storey building on the appeal site would not lead to a loss of any significant views and would only be visible from the rear of properties on High Street and on the unmade road.
16. Nevertheless, for the reasons I have set out, the proposal would fail to preserve or enhance the character or appearance of the DCA and would harm its significance. I attach considerable importance and weight to the desirability of avoiding any such harmful effect in accordance with section 72(1) of the Act.
17. The harm the proposal would cause to the significance of the heritage assets would be significant though less than substantial. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal. I return to this in my planning balance later.
18. I conclude that the proposed development would be harmful to heritage assets. It would therefore conflict with Policy CS14 of the Mole Valley Local Development Framework Core Strategy 2009 (the Core Strategy) and Policies ENV22, ENV23, ENV24, ENV39 and ENV43 of the Mole Valley Local Plan 2000 (the Local Plan). These policies together protect areas of historic importance, requiring development to preserve or enhance the character and appearance of conservation areas, not detract from the setting of listed buildings, to be appropriate to the site and not result in a cramped appearance. It would also not accord with the Framework's objectives in conserving and enhancing the historic environment.

Living conditions

19. The rear elevation of the proposed house would face towards the PH. A rear garden, approximately 8.5m in depth, would separate the house from the beer garden. Both ground floor bedroom windows and the basement level bi-fold doors to the main living space, which provide the only windows and opening to this main living area, would face towards the beer garden.

20. With people sitting in the beer garden in the evenings, particularly during summer months when the weather is warmer and at a time when future occupants may also wish to have their windows open, the use of the beer garden is likely to cause noise and disturbance. Whilst the beer garden is relatively small in size, it can nevertheless accommodate several people in a relatively confined space which would cumulatively contribute to general noise and disturbance. This is likely to lead to conflict between future occupants and the existing business.
21. An existing path running from the PH to rear would be located along the boundary of the new dwelling. I observed that the bins for the PH are located here. With comings and goings along this side path, including filling of bins, there would be additional disturbance to future occupants whose garden and rear facing windows would overlook this path. This would add to the conflict between the different occupiers.
22. Policy encourages residential development in sustainable town centres. I appreciate that future occupants of the proposed dwelling would be aware of the town centre location and the proximity to the PH and its beer garden. They would therefore expect a degree of noise when deciding to live here. However, this would not mean that should noise and disturbance arise that they would not raise a complaint about this.
23. The appellant has proposed mitigation measures including mechanical ventilation for habitable rooms to limit the need to open windows and doors. However, this would result in an unsatisfactory form of accommodation with occupants having to choose between opening their windows and experiencing noise or keeping them permanently closed, with no fresh air. No such mitigation could be provided to the rear garden, which due to its proximity to the beer garden, would not provide a satisfactory space for occupants of the proposed house.
24. I recognise that there is existing residential development in close proximity to the beer garden both above properties fronting High Street as well as off the unmade road to the rear. However, none of these properties have such a direct and close relation with the beer garden as the appeal proposal would. They do not therefore justify the proposal.
25. I conclude that the proposed development would not provide satisfactory living conditions for future occupants, with particular regard to noise and disturbance. It would therefore conflict with Policy CS14 of the Core Strategy and Policy ENV22 of the Local Plan which together require development that provides a satisfactory environment for future occupiers and resist development of a poor quality of design. It would also conflict with the Framework which seeks to ensure that development promotes health and well-being with a high standard of amenity for future users.

Economic viability

26. The appeal site is adjacent to a raised patio area which is currently in use as an outdoor seating area for the PH. I observed that the site itself is not formally used as a beer garden. The appellant has confirmed that this area is not included in the lease to the pub tenants.

27. On this basis, there would be no net loss of outdoor seating and the development of this part of the plot would not reduce the outdoor capacity of the PH. However, the introduction of a dwelling, with bedroom windows facing towards the beer garden would result in an unsatisfactory relationship. This in turn could lead to complaints about noise and disturbance. This would increase the risk of the business not being able to continue to operate out of this area in the long-term.
28. Whilst the proposal may not give rise to any net loss of outdoor seating based on the current arrangements, the loss of this garden area would permanently reduce the space available for outdoor seating in the future. Furthermore, it would add to the sense of enclosure of this space, making it less attractive to patrons.
29. I appreciate that the experience of sitting within a beer garden may not be the pub's main selling point due to its location at the rear of a building within a town centre location where the environment is relatively built up and enclosed. Nevertheless, the provision of a beer garden is an asset to the operations as stated by the publican and remains an important part of the pub operations. This is both during periods of clement weather and, recently, during the global pandemic where such facilities have often been critical to the survival of such businesses. I appreciate that the pandemic may not have created a long-term requirement, this does not however diminish the value of the provision of outdoor space.
30. No evidence has been submitted to demonstrate the impact of the proposal on the economic viability of the PH and whether the reduction in available outdoor space would impact the long-term viability of the business. In the absence of this and given my findings above, I conclude that the proposed development would harm the economic viability of the PH.
31. It would therefore conflict with CS17 of the Core Strategy which resists the loss of key services and facilities including community facilities. It would also conflict with the Framework which guards against the unnecessary loss of valued facilities and services and requires new development to integrate effectively with existing businesses and community facilities such as pubs and to not result in unreasonable restrictions being placed on those existing businesses and facilities as a consequence of development.

Planning Balance

32. The proposed development would provide a new dwelling in a sustainable town centre location. This would deliver social and economic benefits both during construction and from future occupancy of the dwelling in using facilities and services. However, in achieving these benefits, there would be harm to the economic and social benefits associated with the long-term operations of the PH as I have set out above.
33. The proposal, in tidying up the area, would improve the appearance of the unmade road. This would be an environmental benefit. These are public benefits of the scheme but limited due to the small scale of the proposal and the economic and social harms that would arise. The public benefits of the scheme do not outweigh the less than substantial harm I have identified in my reasoning in relation to the effect of the proposal on the heritage assets.

34. The Council cannot demonstrate a 5 year supply of deliverable housing sites and some of its policies are therefore out of date. However, given my conclusions on the harm to the setting of a designated heritage asset, in accordance with footnote 7 to paragraph 11 of the Framework, the tilted balance does not apply.

Conclusion

35. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR