



Appeal Decision

Site visit made on 29 November 2022

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2023

Appeal Ref: APP/C3620/W/22/3294300

Land adjacent to Glendower, Vicarage Lane, Capel RH5 5LL

- 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 Shakil Ahmad against the decision of Mole Valley District Council.
 - The application Ref. MO/2021/1435/PLA, dated 30 July 2021, was refused by notice dated 28 October 2021.
 - The development proposed is for the erection of a two storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The address on the application form and drawings refers to the location of the appeal site as The Old Sheds, Vicarage Lane. However, the Council and interested parties refer to it as Land adjacent to Glendower, Vicarage Lane. For the banner heading above, I have used the address given by the Council as it better describes the location of the site.
3. The description of development on the application form is very detailed, so I have used the Council's description for the banner heading above, which is simpler and satisfactorily describes the development. The appellant has used the same description on the appeal form.
4. The appellant raises concerns regarding the time taken for the Council to determine the planning application. This is not a matter for me to resolve and I have determined the appeal on the basis of the evidence before me, including what I saw on my site visit.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, and whether it would preserve or enhance the character and appearance of the Capel Conservation Area,
 - the living conditions of the occupiers of nearby properties, with particular regard to outlook, and;
 - the living conditions of future occupiers of the proposed dwelling, with particular regard to the amount of outdoor amenity space being available.

Reasons

Character and appearance of the area, including the Capel Conservation Area

6. The appeal site is within the Capel Conservation Area (CA). I find that the significance of the CA is derived from the relationship between the pattern of buildings fronting the road as it winds through the village, and the spaces between them. The historic buildings are generally set close to the road, often in small groups, and interspersed by larger modern buildings. Despite the varied styles and sizes of buildings fronting the road, I saw that the spaces between them allow views through to generally open land beyond, giving a spacious setting and rural feel to the CA.
7. The appeal site is situated in the historic core of the village and is set back behind a group of historic buildings that stand close to The Street. Although in an overgrown state and enclosed by boundary gates and fences, the relative openness of the appeal site contributes positively to the spacious setting of the CA, and the character and appearance of the area. It provides clear separation between the group of historic properties fronting The Street and the modern house of Glendower, which is set much further back from them.
8. In views from The Street and through the narrow gap between Nos 75 and 77, only the low height roof of the single storey wing of Glendower is visible and at a considerable distance, giving the impression of the village having a spacious setting and rural feel beyond the frontage buildings. Furthermore, views of the attractive arrangement of the varied roof forms of the historic properties fronting The Street, reflecting traditional building materials and styles, are available across the appeal site.
9. I note that the appeal land was previously occupied by buildings and planning permission¹ was granted to replace them with a commercial building. However, the permitted building was smaller than the proposed dwelling and therefore I find that the relative visual effects of the buildings would not be comparable. As such, I have considered the proposal before me on its own planning merits.
10. Whilst the proposed dwelling would be lower in height than the historic buildings fronting The Street, it would nonetheless appear as a substantial two storey building, set in an unduly cramped plot. Sited close to the rear boundaries of the buildings fronting The Street, its two storey height and bulk would be noticeable in glimpse views from The Street, where it would intrude into the space between the historic frontage development and the modern presence of Glendower. In this position, the proposed dwelling would blur the distinction between the two distinct zones of development and would partially obscure views of the attractive arrangement of roof forms of the properties fronting The Street.
11. The effect of this would be to undermine the integrity of the frontage pattern of development and erode the spacious rural setting of the village, and its contribution to the character and appearance of the area and CA. That it would be built from facing materials found in the area would not provide adequate mitigation.
12. For these reasons, the combination of the siting, scale and bulk of the appeal dwelling would cause significant harm to the character and appearance of the

¹ Granted in 2000 ref. MO/2000/0237 and renewed in 2005 ref. MO/2005/0265

area, and it would fail to preserve the character or appearance of the CA. As such, the proposal would result in 'less than substantial harm' to the CA as a designated heritage asset. It is important to note that the 'less than substantial harm' does not equate to a less than substantial planning objection. Paragraph 202 of the National Planning Policy Framework (the Framework) requires that 'less than substantial harm' should be weighed against public benefits of the proposal.

13. The construction of one new dwelling would provide some limited public benefits arising from its construction and occupation. However, these would not outweigh the 'less than substantial' harm to the CA that I have identified above.
14. For the reasons given above, I conclude that the proposal would fail to preserve or enhance the character or appearance of the CA, and would cause 'less than substantial' harm to its significance as a designated heritage asset. The public benefits of the proposal are insufficient to outweigh this harm. As such it would conflict with Policy CS14 of the Mole Valley Local Development Framework Core Strategy (Adopted 2009), Policies ENV22, ENV23, ENV24 and ENV39 of the Mole Valley Local Plan (Adopted October 2000) (LP), and policies CA-ESDQ3 and CA-ESDQ4 of the Neighbourhood Development Plan – Parish of Capel 2016-2026 (NDP), which require development to respect the scale, height and bulk of the surrounding built environment, and to preserve or enhance the character or appearance of a Conservation Area, amongst other requirements.

Living conditions of the occupiers of nearby properties

15. It is not disputed that the proposed dwelling would maintain satisfactory access to light to nearby properties. Nonetheless, despite the low angle of pitch of the proposed dwelling's hipped roof, the height and width of the rear and side facing elevations would be clearly visible from nearby properties and at relatively close distances. In views from the gardens and windows of Nos. 71-77 The Street and Glendower, I find that the proposed dwelling would have a visually dominant and overbearing presence, that would unacceptably harm the occupiers' living conditions.
16. For these reasons, I conclude that the proposal would cause significant harm to the living conditions of the occupiers of nearby properties, contrary to Policy ENV22 of the LP, which requires development to avoid having an overpowering effect, amongst other requirements.

Living conditions of future occupiers of the proposed dwelling

17. The submitted floor plans indicate a single bedroomed apartment on the first floor and therefore a low level of resident occupancy. However, the floor space within the building could accommodate a higher level of occupancy, potentially as a good sized family home. In this context, the rear garden of the proposed dwelling would be small and of an awkward shape, limiting its usefulness for future occupiers. It would be a poor quality space, hemmed-in between the building and boundary fence, and it would not be suitable to accommodate a reasonably sized patio, outdoor seating area or play equipment for children.
18. The relatively long and narrow driveway to the front of the proposed dwelling could be utilised as a garden area, however given the distance of the site from

the public highway, I find that it would most likely function as a parking facility for vehicles.

19. There is a public recreation ground a short distance away from the appeal site that could supplement the proposed garden and provide opportunities for recreation and play. However, this would not be a satisfactory substitute for providing a suitable private garden area for this reasonably sized proposed dwelling.
20. I note that with the exception of Glendower, nearby properties tend to have relatively small gardens. However, those properties are historic with the Council suggesting that they date back to around the 19th Century, if not earlier. I have no details relating to any planning permissions for them and the policy context prevailing at the time. I have determined this appeal based on current planning policy and guidance, and the existence of other small gardens does not justify departing from those policies.
21. For these reasons, I find that the proposed outdoor amenity space would be of a poor quality and would not meet the needs of future occupiers of the property. I therefore conclude that the proposal would not provide acceptable living conditions for future occupiers, contrary to Policy ENV22 of the LP, which requires development to provide a satisfactory environment for occupiers of new development, amongst other requirements.

Other Matters

22. The Council cannot currently demonstrate a five-year supply of deliverable housing sites. I have found above that the proposal would cause harm to the CA, with no public benefits outweighing this harm. This is contrary to the policies in Chapter 16 of the Framework that protect such designated heritage assets. Given footnote 7 to Paragraph 11.d)i. of the Framework, and the harm that I have identified to the asset of particular importance, there is no need for me to carry out the assessment in Paragraph 11.d)ii. of the Framework in relation to assessing whether any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. The appellant has brought to my attention that the proposal would provide an opportunity for a self-build or custom build property along with the provision of energy efficiency measures, solar panels, EV charging points, sustainable drainage and a net gain in biodiversity. However, even in combination with the opportunity for a self-build or custom build property, these benefits do not outweigh the harm that I have found.

Conclusion

24. For the reasons given above, I conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR