



Appeal Decision

Site visit made on 4 March 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2024

Appeal Ref: APP/C3620/W/23/3328954

Dower House, 5 The Old Street, Fetcham, Surrey KT22 9QL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Jo Herbert against the decision of Mole Valley District Council (MVDC).
 - The application Ref is MO/2023/0607/CU.
 - The development proposed was described as 'change of use from an existing annex with home office to an independent dwelling to include half of the existing triple garage'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023 the Government published a revised National Planning Policy Framework (Framework) and the 2022 Housing Delivery Test (HDT). At my request, the Council provided what it considers to be its current housing land supply position and gave a meaning of previously developed land for the purpose of its development plan. It also commented on the HDT.

Background and Main Issues

3. The site is in the built-up area of Fetcham, in the Fetcham Conservation Area (the CA). It is part of the rear garden of Dower House, 5 The Old Street (No.5). MVDC granted planning permission for a detached ancillary annex on the site, with a restrictive condition to this effect¹. It also issued a lawful development certificate for a (then) proposed 3 bay garage². Both have been constructed. The vehicle access, drive, parking and turning area shown in the appeal plans already exist. The proposal is for a material change of use of the annex to an independent dwelling (requiring internal alteration for a bathroom, two bedrooms and kitchen/living/dining area) and of the site to a separate residential plot, assigned half of the garage which partly overlaps the site.
4. The main issues in this appeal are:
 - the effect of the proposal on the character or appearance of the area, including the CA and the setting of the CA; and
 - its consequence for the living conditions of the occupiers of No.3 The Old Street having regard to noise from traffic movement.

¹ MO/2022/1778

² MO/2021/1396

Reasons

Character and appearance

5. Residential development in the area around the site varies in type, size, age or design. Most dwellings front onto roads or have long or wide rear gardens. This low density layout of dwellings with adjoining or opposing mainly large, open landscaped plots behind is typical of this area. Some of these plots form part of the setting of the CA, including next to the west side of the site.
6. The distinctiveness of the CA includes a discrete part of it north of Lower Road³. Here, most dwellings lining each side of The Old Street are large, two-storey houses with red brick or white painted elevations and hipped or gabled main roofs, including originating from the early 17th century. Arranged mainly close to this straight, narrow road corridor they have significant presence in this streetscene. The typically large, open landscaped rear or side gardens provide a fitting planned, spacious setting for these houses which are generally not next to edges of this part of the CA behind them. The plot pattern and layout of this low density housing development is evident in the 1839 Tithe map and despite some subsequent limited infilling remains largely intact.
7. No.5 is a large, two-storey house with white painted brick elevations, gabled main roof and it fronts onto The Old Street. Despite internal low-level hedgerow and metal 'parkland' style railings, visually and functionally the rear garden, including the site, forms part of a large L-shaped plot. Albeit this garden shape is not common in the wider area or in this part of the CA, it is next to other large gardens either side in this part of the CA and others next to it in the setting. The vehicle access, drive and turning area is shared between No.5 and the annex together in use as a single household. The integrity of the house with its plot at No.5 therefore makes a significant positive contribution to the character and appearance of the area and in these respects to this part of the CA, including in relation to its setting.
8. Rear garden domestic outbuildings, such as the annex, are not uncommon or unacceptable per se in this area or this part of the CA. In this case, not only as built form, but because it maintains the historic plot size and rear garden layout of No.5 and is intrinsically ancillary in use and purposefully different in appearance to this house. As such, it does not undermine these important aspects of No.5 and has no effect on density of dwellings per hectare.
9. However, the proposed dwelling would be located behind other dwellings in this part of the CA, in a backland, tandem position and next to an edge of the CA. It would not be in any row of dwellings fronting The Old Street or any other road and not part of any streetscene. Though reduced in size, the long rectangular shape of the residual plot for No.5 would be in-keeping with other plots in this area and in this part of the CA. But the new plot (excluding the shared drive and turning area) would be significantly smaller, especially in length and area of rear garden. This would be at odds with most other dwelling plots in this part of the CA and those next to it in the setting. A large part of this plot is already taken up by the footprint of the annex so the dwelling would be close to boundaries on three sides, providing a limited setting to the dwelling compared to most of the properties around it, including No.5. Albeit

³ MVDC 'Conservation Area Descriptions'

small, there would be an increase in the density of dwellings in the area and especially in this part of the CA which has relatively few dwellings.

10. In scale and massing the dwelling would be reminiscent of a small, detached bungalow. While there are some others of this size or type in the area, in this part of the CA they are the limited exception. It would anyway retain the impression of a large summer house or small converted barn, including mainly timber clad elevations and half-hipped roof. In use as a dwelling this would be out of kilter with the form and external appearance of No.5 and most other dwellings in this part of the CA. There would be no meaningful visual or spatial cohesion with any bungalow or with any dwelling with some timber materials or half hipped roofs in this part of the CA.
11. Some dwellings in the area occupy a similar backland or tandem position as would the proposed dwelling, including off private drives or cul-de-sacs. This includes No.46A Lower Road, which is next to but not in this part, or any part, of the CA and I have been referred to one example in this part of the CA⁴. This particular layout of residential development is not widespread in the area or in this part of the CA. Even as they are, or if the hedgerow or railings were taller, visual segregation of a rear garden by such means is not unusual or uncommon. It does not alter the ancillary functional use and association between the site and the rest of the rear garden as part of a single plot at No.5. The old flat roof garage on one side of No.5 has already been removed (so the resulting views I have been referred to can already be appreciated) and new gates, brick piers, brick wall and hedgerow already exist. These are not, therefore, benefits of the proposal as the appellant otherwise contends.
12. The proposal therefore fails to respect important features of the most relevant established dwellings and plots around it in the area and, in particular, within this part of the CA and in its setting. This contrast would be out of keeping and incompatible with the prevailing pattern, layout, sequence, design and form of that development. Subdivision of the plot of No.5 in this way would erode appreciation of the historic origins of this house and garden as one of the larger properties within this part of the CA. Moreover, incremental change such as this would add to the cumulative impact of loss in these regards to the pattern of dwellings and plots along The Old Street, diminishing understanding and appreciation of the historic origins of this development along this road.
13. The proposal would not be prominent or conspicuous in any significant public views. Nonetheless, the presence and use of the annex as a dwelling in a separate plot would be apparent to occupiers of adjoining properties as something inherently different to an ancillary outbuilding in the garden, as it would be to the existing or future occupiers of No.5 or visitors to this property. The absence of greater public visibility does not mitigate or overcome the innate adverse impacts in this case.
14. I find that the proposal would not respect the character or appearance of the area. Additionally, the negative effect of the proposal on this part of the CA, and to part of its setting, would adversely affect and undermine the significance of the CA overall, so fail to preserve or enhance the character and appearance of the CA⁵. Consequently, it is contrary to saved Policies ENV22, ENV23, ENV24 and ENV39 of the Mole Valley Local Plan 2000 (the LP) and to

⁴ This property appears to have been described as No.10a or No.12 The Old Street

⁵ Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Policy CS14 of the Mole Valley Core Strategy 2009 (the CS). These policies include that development should respect the character and appearance of the locality, have regard to features that contribute in this way, be appropriate to the site in form, appearance and external materials, not over-develop it in relation to site boundaries or surrounding development and respect townscape such as street patterns and space about buildings in the locality. Additionally, protect sites of historic importance and in a conservation area reflect local historic character, settlement form and materials and retain features that contribute to local character.

Living conditions

15. The annex was for use with the house at No.5 'for immediate family members'. I have not been informed that cars independently owned and used by such persons could not be parked on the site or in any part of the garage and use the drive. While I am not clear about the number of such cars, there is a single space in the front garden for No.5 (using the access but not the drive) and one of the garage bays would still be used by No.5 to park another car. The proposal includes space for parking two cars for the dwelling. In the absence of any objective evidence to the contrary, up to three cars could therefore routinely use the drive, plus occasional visitor or service vehicles for each property.
16. The drive runs alongside the entire length of the common boundary with No.3 The Old Street, which has a first floor side facing bedroom window. However, this boundary is a substantial brick wall between about 2.5m to 3m high. Vehicles would pass along the drive at low speed in close proximity next to it. These factors would have an attenuating influence on sideways or upward vehicle noise transmission towards this window. Even if traffic movements increased there is no objective evidence it would be a substantial intensification. Furthermore, most vehicle movements would be more likely during the day so at times less likely to cause undue noise intrusion to use of this bedroom, including early morning or late evening.
17. I find that the proposal would not have an unacceptable adverse effect on the living conditions of the occupiers of No.3 The Old Street having regard to noise from traffic movement. Consequently, it complies with LP saved Policy ENV22 and with CS Policy CS14. These policies seek to avoid significant harm to the amenities of the occupiers of neighbouring properties by reason of noise and traffic so in this way respect the character of the area.

Other Matters

18. The Salt Box is a grade II listed building facing Lower Road. Its significance includes the historic 17th century origins of this house set in a large corner plot terminating one end and side of The Old Street. Ballards Hall and Little Ballards are grade II listed buildings. Their significance includes, respectively, historic late 17th century and early/mid-19th century origins as a large house in a large plot and a smaller house in a long plot fronting The Old Street. All these listed buildings reinforce the historic residential plot pattern and layout in The Old Street and also contribute to the significance of the CA. The surroundings of these houses are largely defined by an established pattern and juxtaposition of dwellings, gardens and boundary treatments. The site is set well back from The Old Street and Lower Road, behind such development and the dwelling would have no significant visual or spatial relationship with any of these listed

buildings. As a result, the proposal would have a neutral effect on the setting of these listed buildings. This would preserve the setting of these listed buildings and cause no harm to these designated heritage assets⁶.

Heritage Balance

19. The site is in an area where new housing development is acceptable in principle and the dwelling would help achieve MVDC housing requirements. The proposal would also meet a development plan policy objective for smaller two-bedroom dwellings (which might be more affordable as such) and, albeit not guaranteed, could be suitable for occupation by older persons. This would support the Government's objective of significantly boosting the supply of new homes to meet peoples living needs, as set out in the Framework, and make efficient and effective use of a small windfall site in an urban area. Though important considerations, a single dwelling would make a small contribution in these regards so these public benefits have limited weight in favour of the appeal.
20. On the other hand, the Framework aims to conserve the historic environment. It sets out that designated heritage assets, such as the CA, are an irreplaceable resource. These should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
21. The CA in this case is quite tightly defined, including a narrow linear nucleus either side of The Old Street with relatively few dwellings. As a result, even small changes in this part of the CA can have a significant impact, in this case by material change of use. The proposal would have an unacceptable impact on features in this part of the CA that contribute to its significance, including in relation to its setting so detract from the way in which this designated heritage asset was established, has evolved and is now experienced or understood. This effect would be limited in relation to the entire CA so the overall harm to the CA would be less than substantial. Nevertheless, the Framework requires that great weight should be given to the conservation of the CA irrespective of the level of harm. Any harm to, or loss of, its significance should require clear and convincing justification.
22. The proposal would undermine the Council's relevant development plan objectives in these regards, which are broadly consistent with these aspects of the Framework. In my view, the support in the Framework to delivering housing is not at the expense of ensuring that residential development is justified and suitable in a conservation area. Accordingly, the public benefits of granting planning permission do not outweigh the heritage harm.

Planning Balance

23. The emerging MVDC local plan meets the relevant criteria set out in Framework paragraph 226. On this basis MVDC can demonstrate the requisite four year supply (4.4 years) of housing sites against its housing requirement including appropriate buffer⁷. However, delivery of housing was below 75% of the housing requirement over the previous three years (58%) so failed the HDT. In these circumstances by virtue of footnote 8, Framework paragraph 11 d) is engaged and the starting point is that planning permission should be granted.

⁶ Section 66(1) - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

⁷ MVDC Housing Land Supply Annual Review 2003, February 2024

24. The dwelling would provide satisfactory internal and external living conditions for future occupiers and not cause unacceptable harm to the living conditions of any occupiers of existing dwellings. There would be sufficient off-street car parking and there is no objective evidence of highway safety concerns due to traffic generation. Suitable lighting along the drive could be secured by a condition. MVDC did not object to the proposal for any of these reasons, which are neutral factors in my decision.
25. However, in this appeal, policies in the Framework that protect an area or asset of particular importance (the CA) provide a clear reason for refusing the proposal. Consequently, the presumption in favour of sustainable development (the 'tilted balance') does not apply in this case.
26. The Framework also generally aims to achieve well-designed places with development that is sympathetic to local character and maintains a strong sense of distinctive places to live and visit. The siting of the dwelling and layout of its plot, and its appearance, would not be compatible with residential development in the area. This small adverse effect in this wider context nevertheless adds further weight against the proposal. Accordingly, the benefits of granting planning permission do not outweigh the totality of the harm in this case.

Conclusion

27. The proposal does not accord with the development plan overall and conflicts with provisions of the Framework. There are no other material considerations to indicate that the decision should not be made otherwise than in accordance with the development plan⁸. Consequently, for the reasons given above the proposal is unacceptable so the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR

⁸ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12