



Appeal Decision

Site visit made on 20 May 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 July 2024

Appeal Ref: APP/C3620/W/23/3323730

57 South Street, Dorking, Surrey RH4 2JX

- 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 Mr Graham Powell against the decision of Mole Valley District Council.
 - The application Ref is MO/2022/2136/PLA.
 - The development proposed is demolition of existing offices and erection of 3 family dwellings and associated works.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposal on the living conditions of (i) existing occupants of Nos.45-55 South Street, including Lyndon Court, with regard to outlook and natural light; and (ii) future occupants of units 1 and 2, with regard to outlook, noise and light pollution; and
 - its effect on the character or appearance of the immediate area.

Reasons

Living conditions

Existing occupants

3. There is no evidence about main front (South Street) facing windows at residential accommodation in Nos.45-55 South Street, including Lyndon Court. In this appeal the most important living spaces are therefore the rooms with rear windows and the rooftop terraces. These face directly towards the office block on the site. Though narrow with a flat roof, this building is two-storey's high and long, with a rectangular box-like form.
4. Precise separation distances vary for different ground and first floor windows but the existing building is already an abrupt presence on the site in already foreshortened perpendicular views from these windows. Sideways views are restricted by the rear wings of the buildings facing South Street. The intervening narrow courtyard space is not very wide so there is already a clear sense of enclosure, especially at ground level where there are no longer distance horizontal views.

5. The proposed building would be similar in form but a storey taller and about 1m closer to the rear windows along most of its facing elevation. Despite a flat roof there would be significant increased scale and massing of built form above existing second storey level where none currently exists.
6. This would reduce spatial separation and increase visual intrusion in relation to ground and first floor window views; particularly acute in relation to what would be a less than 5m gap from a lounge/sitting room window of No.45a. Combined with the significant increase in height to eaves level and substantial overall sheer expanse of facing elevation, this part of the proposed building would be overwhelming in these views. Even upward views from ground floor windows towards the sky, currently over the existing building, would be appreciably more restricted. In the absence of more detailed or numerous cross sections, there would also be similar separation distances to some first floor windows as at ground level and similar restrictions on views, which currently include over the top of the existing building.
7. Second floor windows, including some rooflights, are set back further from the site. The increased height, scale and massing of the proposed building would be noticed as a change but not therefore unduly undermine use of these rooms. The most significant influence on enjoyment of the existing rooftop terraces would still be exposure to the sky, not enclosure by built form. Nonetheless, the proposed building would be overbearing in outlook and impinge on domestic use or activity in the ground and first floor rooms so diminish overall enjoyment of these properties as places to live.
8. The Council did not pursue a reason for refusal about natural light. However, the appellant's Daylight and Sunlight Assessment report failed to consider the lounge/sitting room at No.45a as a habitable room window. Nor has a rear facing dining room window at No.45 been considered. There are two No.18 habitable room windows in the schedule of photos but assessment for one, so it is not clear which would experience no adverse effect on natural light.
9. No specific reference has been provided for vertical extensions to buildings in the General Permitted Development Order (GPDO). For additional storeys to a dwellinghouse there must already be a dwellinghouse and development is not permitted for dwellinghouses on detached buildings in commercial use if the building is less than three stories high. Consequently, neither is a relevant consideration in this appeal. In any event, no fallback position exists unless or until prior approval is granted, including after consideration of all relevant limitations or conditions of the permitted development right.

Future occupants

10. Two of the three proposed upside down dwellings (units 1 and 2) each include a ground floor bedroom. Even if these were not the main bedroom these homes are family sized so are anticipated to be fully in use. These rooms may not actually be used as bedrooms, but for another habitable room purpose and not necessarily be limited to use during hours of darkness. Albeit in a wide horizontal slot, views from these single aspect rooms would be inherently limited by this narrow high level window.
11. In the absence of any objective evidence to the contrary, not everyone would be tall enough to have a view of outside activity or other features of interest, instead of just the expanse of the sky. The tops of trees across the other side

of the adjacent surface car park would be too distant to be seen, given the angle of view. Users of these rooms would therefore experience an uncomfortable sense of containment. Even these restricted views would only be possible if these windows were not obstructed by a tall car or a van parked in the car park, which abuts the site with a narrow (about 0.5m) verge. This very limited separation distance would give no meaningful view from these rooms.

12. The car park signs do not restrict overnight parking. Most glare from vehicle headlights during hours of darkness would be below the raised cill height. This would not cause significant visual intrusion if curtains were drawn or blinds closed. However, this exceptionally close vehicle parking and manoeuvring would result in significant noise from combustion engines so unduly influence, or compel, occupants to keep windows closed. There are no details of mechanical ventilation or air conditioning to demonstrate that either would be a suitable and appropriate substitute in this case. Occupants would normally anticipate a less intrusive environment at night, including for sleep. While these effects might not be regularly experienced, they are possible and would cause disturbance. There is no clear evidence that the appellant owns or controls any part of this intervening sliver of land but could not in any event prevent parking and related activity in this public car park.
13. Part of the same car park is next to residential development in Chartwood Place but not adjacent to ground floor windows. There is no objective evidence that cars parked or manoeuvred within the layout of that development are as close to habitable room windows. Even if they are, it is private parking within the control of occupants of that development, including who may live next to it. Outlook from residential development at Jubilee Terrace was towards a street, not a car park, with full height windows.
14. Since the appeal was lodged and after the Council's appeal statement, it granted prior approval to convert the existing building to 4 flats. However, that procedure excludes consideration against the development plan and regard to the National Planning Policy Framework (NPPF) is only so far as relevant to the subject matter of the prior approval. Outlook, noise and light pollution is not subject matter of this sort of prior approval. In any event, the plan provided does not include ground floor bedroom windows facing the car park. Windows to rooms that do are narrow and even if as high up as in the current appeal, some are not habitable rooms; whereas those that are, are dual aspect living spaces so do not rely on car park facing windows.

Findings

15. In the circumstances outlined above I find that the proposal would materially adversely affect the living conditions of some existing occupants of Nos.45-55 South Street, including Lyndon Court, with regard to outlook and natural light. In addition, a small part of the proposal would have a material adverse effect on the living conditions of future occupants of units 1 and 2, with regard to outlook and noise. The proposal is therefore contrary to Policy ENV22 of the Mole Valley Local Plan 2000 (LP). It includes that development should not significantly harm the amenities of the occupiers of neighbouring properties by reason of overpowering effect, overshadowing or overlooking and provide a satisfactory environment for occupiers.

Character or appearance

16. The appeal site and the existing building form part of a discrete pocket of land behind the buildings along South Street and that extend behind in-depth either side of it. They are varied in age and design but also in height and roof form, so overall scale and massing. This includes some single-storey parts but mainly two, two and a half (rooms in roof), three and three and a half (rooms in roof) storeys. Most have pitched roofs but there are some other flat roofs, including rooftop terraces. Despite that the existing building is disused and that the fabric and structure gives a dilapidated impression, in scale and massing it integrates with the townscape context of this immediate area.
17. The proposed building would enlarge the footprint of the existing building and occupy most of the site and perimeter. Though not double the height of the existing building to flat roof eaves level, which is the substantive like for like part, the elevations would be a storey higher and especially apparent in the longer front and rear elevations. Although the projecting structures on the roof would be low level and intermittent or mainly glazed screens, there would be a notable upward increase of an essentially similar, box-like external envelope of built form across the whole site and a larger, less subservient building. This innate presence would not be alleviated by variation in external materials or the small, indented articulations in the building.
18. However, the simple lines of the flat roof at eaves level would not breach some higher ridgelines, including the opposing buildings along South Street. Most of the additional upper storey would largely be faced on three sides by some taller parts of adjoining buildings, so not appear overly intrusive. The main outward facing elevation would result in more pronounced enclosure to this side of the car park but the building would retain an overall horizontal, not vertical, profile and emphasis. It would also be counterbalanced by the wide, open setting of the car park and the trees. This would leave a prevailing impression of space and some natural features, so that the site and its setting on one side would not appear overdeveloped or unduly cramped with built form.
19. Consequently, the proposed building would not be unduly bulky, incongruous or at odds with its surroundings in height, scale or massing or its immediate setting. It would barely, if at all, be glimpsed as any part of the townscape or streetscene in the most important public views from South Street due to the height and layout of intervening buildings. It would be seen from the car park approach roads and the car park, but these are more discrete public locations. Even from here it would not be seen in isolation but as part of the panorama and context of the nearby buildings, so not overly conspicuous or dominant. No other views have been specifically referred to.
20. I find that the proposal would not adversely affect the character or appearance of the immediate area. Accordingly it complies with LP Policies ENV22, ENV23 and ENV24 as well as Policy CS14 of the Mole Valley Core Strategy 2009. These policies include that development should be appropriate to the site in scale, form and bulk and respect the character and appearance of the locality and surrounding built environment. It should also avoid over-development of a site and not have a cramped appearance.

Other Matters

21. Some residents of Chartwood Place also objected because of concerns about their living conditions. One end of the proposed building and some windows would, in particular, be seen from some windows or balconies of these properties but there is no right to a private view. The separation distance and respective orientation of buildings or windows would be sufficient to cause no material harm to the living conditions of any of these residents. Using land that may not be owned or controlled by the appellant for vehicle manoeuvring, or the effect of such activity on private property, would be matters for the respective parties. Some noise and disturbance during construction is an inevitable consequence of new development but is not permanent. A condition could control hours of working and ensure a suitable construction management plan to avoid undue inconvenience meantime.
22. The Council cited privacy in reason for refusal 2 but considering the position of the rooftop gardens inset from edges of the proposed building, and subject to a condition to approve a suitable height for glazed screens, it did not pursue privacy in the officer report or in its appeal statement in this respect. It also has powers to control statutory nuisance, including antisocial behaviour.
23. The site is in the Dorking Town Centre Conservation Area (CA). Its significance includes the historic siting and mainly traditional architecture of Positive Contribution Buildings (PCBs), such as those in front of the site. These help to define tunnelled views along the South Street road frontages. The existing building is relatively modern, utilitarian and in a backland position. Demolition and redevelopment with the proposed building, though larger and contemporary in design, would still be subservient to the PCBs and leave intact these important features in this part of the CA. Some PCBs' roofscape, including a Dragon finial and chimneys, would no longer be seen in some views from the car park but it is not a main thoroughfare and would still be visible from one car park approach road. The Council's Historic Environment Officer did not object and there is no CA reason for refusal. These outcomes would, therefore, have a neutral effect on this part of the CA, so preserve the character and appearance of the CA overall.
24. The Council accepts that it cannot currently demonstrate a 5 year supply of housing sites, with a 2.9 year supply. Delivery of housing was below 75% of the housing requirement over the previous three years (70%) so it also failed the 2022 Housing Delivery Test. This is not disputed by the appellant. By virtue of footnote 8, NPPF paragraph 11(d) is therefore engaged and the starting point is that planning permission should be granted.

Planning Balance

25. The proposal is in an accessible town centre location where making effective use of small brownfield windfall sites for new housing is acceptable in principle under the development plan. Each dwelling would meet national space standards for internal living area and have internal and external amenity areas. Also, I am informed, in circumstances where development elsewhere in the District is constrained by the Green Belt. There would be visual enhancement of the site and no harm to the character or appearance of the immediate area. Employment during construction work and residential occupation thereafter would result in local expenditure and the Council would receive a Community Infrastructure Levy payment. Though a net loss of 1 dwelling compared to what

has been granted prior approval, there would be family sized dwellings and still a net gain of 3 dwellings compared to the existing use of the site.

26. These outcomes would be aligned with objectives of the NPPF to significantly boost the supply of new homes to meet peoples living needs, including families, achieve well-designed places to visit and support the local economy. Though important considerations, three dwellings would make a modest contribution in these regards, so these benefits have moderate weight in favour of the appeal.
27. However, there would be unacceptable material harm to the living conditions of some existing and future occupants, at odds with the development plan. Given the housing land supply and delivery position, reduced weight applies to these policies most relevant to determining this appeal. They are, though, broadly consistent with other aims of the NPPF to promote well-being with a high standard of amenity for existing and future users so as to achieve attractive, welcoming places to live.
28. Dorking town centre includes a tight mix of residential and commercial uses, so inevitably some diminution of already established living conditions. This may be endured by some existing residents for other benefits, such as convenient location. However, in my view, avoiding further harm to the living conditions of existing residents and ensuring satisfactory conditions from the outset for future residents, conducive to normal living expectations, should be an aim of new residential development, even in constrained locations as in this case. Accordingly, these considerations have substantial weight against the appeal.
29. The adverse impacts of granting planning permission would, therefore, significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Consequently, by virtue of NPPF paragraph 11(d)(ii) the presumption in favour of sustainable development, the 'tilted balance', does not apply in this appeal.

Conclusion

30. The proposal conflicts with policies in the development plan. There are no other material considerations in this case, including relevant provisions of the NPPF, to indicate that the decision should be made other than in accordance with the development plan taken as a whole.
31. Consequently, for the reasons given above the proposal is unacceptable so the appeal does not succeed.

Robin Buchanan

INSPECTOR