

Appeal Decision

Hearing held on 16 October 2024

Site visit made on 16 October 2024

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/C3620/W/24/3349162

Elm Tree Wood, Walliswood Green Road, Walliswood, Surrey RH5 5QJ

- 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 Murray Shotter against the decision of Mole Valley District Council.
 - The application Ref is MO/2024/0423/PLA.
 - The development proposed is change of use from residential and equestrian to a residential/live work equine veterinary practice (administrative functions only no on-site treatment of horses) including the replacement of existing stables with small, detached home office storage building; revised application further to application MO/2023/1562.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council formally adopted the Mole Valley Local Plan (MVLP) 2020-2039 on 15 October 2024. This now forms the statutory development plan for the area. It replaces the policies contained within the Mole Valley Local Development Framework; Core Strategy (2009) and the Mole Valley Local Plan (2000), that were in effect at the time of the Council's decision. I have had regard to both parties' comments made at the Hearing in respect of the MVLP, in my decision.
3. The proposal was described on the planning application form and the Council's decision notice as set out in the banner heading above. However, having discussed this matter at the Hearing, the parties accept that it does not accurately describe the nature of the proposal.
4. The appellant considered that the appeal site had a mixed residential and equestrian use, suggesting that the stables had previously been used as a commercial livery yard. Be that as it may, the Council directed me to a planning permission that restricted the stable development for private purposes in connection with the dwelling.¹ In the absence of any substantive evidence to the contrary, I consider the appeal site to have a residential use.

¹ Planning application reference MO/88/0972 as set out at section 3 of the Council's officer report.

5. The submitted floor plan is annotated to suggest that the proposed building would contain a home office/library and storage rooms. However, the description refers to a live/work use. It is evident from the evidence presented that the appellant wishes to operate his business from the appeal site, including having attending staff members. Based on all that I have heard and read, I am clear that the proposal could not reasonably be considered as a home office. Instead, I consider that the proposal amounts to 'the erection of a building for use as a veterinary office and the change of use from residential to a mixed residential and veterinary office use.' As it seeks to clarify and more accurately describe the development proposed, no party would be prejudiced by me considering the proposal on this basis.

Main Issue

6. The main issue in relation to this appeal is the effect of the proposed development on the character and appearance of the area, with regard to the impact on trees and ancient woodland.

Reasons

Character and Appearance

7. The appeal site comprises a detached 2-storey dwelling and single storey stable block within spacious grounds. Open agricultural land to the west and tree planting forming part of the ancient woodland of Wallis Wood to the east produce a strong, verdant rural character. The appeal site is located in an Area of Great Landscape Value (AGLV). It makes a positive contribution to the surrounding landscape through its spacious, rural appearance including mature hedgerows to the front boundary.
8. The Council accepts that the appeal site constitutes previously developed land and raises no objection in principle to a business development in this location. Despite replacing existing stables, the proposed veterinary building would be of a large size, greater in footprint than the host dwelling. Nonetheless, the Council is clear that it does not have any objection to its size². The main matters in dispute are therefore the effect of the building's appearance and the comings and goings associated with the proposed use on the character and appearance of the area.
9. The proposed building would be used as an office base for an ambulatory equine veterinary practice where vets treat horses remotely at their client's premises. It would not therefore operate as a traditional veterinary surgery where members of the public would visit. At the Hearing I heard that the appellant and 3 part-time members of office staff would work from the building, although this would be mixed with some home working and in the case of the appellant, regular working off-site. In addition to the appellant, 3-4 vets would visit the premises for meetings or to collect medicines as required. There may be days where no vet visits are required, and others where there are some.
10. Based on the evidence before me, activity would be that of a typical office limited to a small number of staff and deliveries arriving and leaving by car. The size and configuration of the building would limit the number of staff that

² Paragraph 5.8 of the Council's statement of case.

could attend at any one time. I am mindful of the fact that the existing stables if occupied even for private residential purposes, may have resulted in additional comings and goings, given the lack of appropriate land within the appeal site to turn out or exercise horses. Nevertheless, I acknowledge that the level of activity proposed is likely to result in an increase from the current situation. Even so, from the evidence presented I am not persuaded that the vehicular comings and goings arising from the proposed use would be particularly significant or harmful to the overall rural character of the appeal site. This is particularly the case given the proximity to the main road which has a regular degree of activity already.

11. The circumstances of the permission granted for a veterinary office at 3 Brittleware Cottages differ from those at the appeal site in that it related to an existing veterinary surgery³. Even though the appeal site is not currently in use for commercial purposes, I find that the comings and goings generated would remain low-key and not particularly discernible within the established context. Furthermore, it is likely that the level of activity could be adequately controlled by conditions requiring the provision of a management plan relating to operation of the business and prohibiting use as a veterinary surgery with public access.
12. The proposed building would extend further into the appeal site than the existing stable block. Nonetheless, the mature hedgerow and timber gates would limit its visibility from the road, the only public vantage point from which the proposed building would be seen. Of a modest height and set back into the site against the backdrop of tall, mature trees, it would not appear particularly incongruous or conspicuous. Although flat in the centre, the roof would have a shallow pitch from the eaves, such that its form would not appear particularly out of character from outside of the appeal site. The canopy is not a particular feature found on the host dwelling and it would largely be unnecessary to mark the entrance door to the building given that visiting members of the public would not be in attendance. Nevertheless, it would be a relatively simple structure, that would not detract from the overall plain aesthetic of the proposed building.
13. I find that the proposed dark timber cladding and grey standing seam metal roof would help the building to assimilate quietly into its surroundings and it would not have a particularly obvious commercial appearance. Even if it becomes more visible in winter months when leaf coverage on the boundary hedge is reduced, it would appear as a simple rural outbuilding. I therefore find that notwithstanding the location of the appeal site within an AGLV, the visual impact of the proposed development has been overstated.

Trees and Ancient Woodland

14. The adjacent ancient woodland makes a significant contribution to the verdant, sylvan character of the locality. Paragraph 186c) of the Framework is clear that development resulting in the loss or deterioration of irreplaceable habitats, such as ancient woodland should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

³ Planning application MO/2011/1155 at 3 Brittleware Cottages, Charlwood as set out at paragraph 5.19 of the Council's statement of case.

15. Policy EN9 of the MVLP advises that support will be given to development proposals that retain existing woodland, trees and hedgerows. It goes on to state that where woodland, trees and hedges are to be removed, they should be accurately identified, with a clear justification set out for their loss, together with details of any mitigation or replacement planting as part of an overall approach to achieving biodiversity net gain.
16. The proposal is supported by a Tree Survey (TS) including an Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement (AMS)⁴. The TS advises that a group of trees within the appeal site would be removed, and I observed that this had taken place before my visit. Trees adjoining the appeal site form part of the ancient woodland but there is no reference to this designation in the TS such that I can be confident it has been fully considered.
17. The 'TS Schedule with Recommended Tree Works' indicates that trees G2 and G5 would be cut back to give 2m and 1.5m clearance respectively from the proposed development. However, multiple trees are marked as G2 and G5 on the accompanying Tree Protection Plan. Without further explanation of the proposed pruning works it is not clear how many of the trees would be affected and to what extent. Whilst the author of the TS suggested that they plot the individual trees that require tree pruning to enable the building works and provide a specification for each tree, no further information has been provided⁵.
18. At the Hearing the appellant advised that pruning works have already taken place. During my visit I observed that some of the more mature specimens appeared to have had branches removed. Nevertheless, there were a number of G5 trees that continue to overhang the existing stable block. There is no compelling evidence before me to indicate that no further pruning works would take place to either group of trees as a result of this proposal. To the contrary, the TS is clear that pruning works are proposed.
19. The designation of ancient woodland does not necessarily preclude the pruning of trees commonly undertaken as part of regular maintenance in respect of overhanging branches. However, it would not be appropriate to allow works arising as a result of new development without an understanding of what those works would entail, and the resultant impact that this would have on the biodiversity and landscape value of the trees. The upper sections of the trees are visible from the main road as well as from the dwelling, such that they contribute positively to the character and appearance of the area. The TS is clear that the existing trees would have a lifespan of 20-40+ years without the development, which is not insignificant. The effect of the pruning works on their longevity is unknown.
20. Moreover, the appellant advised during the Hearing that the proposed building would be constructed on the existing concrete pad such that it would not impact on the root protection area (RPA) of the adjacent ancient woodland trees. However, the AMS advises that existing hard surfacing and shed bases within the RPA's of the retained trees will be removed. If this is the case, a new foundation base would be required and it is clear from the Tree Protection

⁴ Challice Consulting Ltd Tree Survey dated 15 March 2024.

⁵ As set out within the email dated 10 May 2024 from Challice Consulting to the Council, Appendix 4 of the Council's statement of case.

Plan that this would encroach into the RPA of at least 2 G2 and 1 G5 tree. However, the AMS also indicates that there is no requirement for additional hard standing within the RPA's of the surveyed trees. I therefore find the appellant's evidence with regard to the impact of the proposal on the ancient woodland trees, imprecise and contradictory. Construction details do not form part of the submission and the proximity of the building to the trees and potential future pressure for further pruning or removal, does not appear to have been considered either.

21. Mitigation in terms of additional or replacement planting has not been proposed. The appellant suggests that this could be dealt with by condition. However, it would not be possible to determine the acceptability of any proposed mitigation unless the impact of the works is known in advance, which is not the case here.

Conclusion – Character and Appearance

22. I find that the proposed development would not result in an adverse impact on the rural character and appearance of the area arising from the design or use of the building as a veterinary office. However, in the absence of any robust evidence to the contrary, I cannot conclude that the proposal would not adversely affect the ancient woodland. The works could have a permanent and harmful effect on the biodiversity value of the ancient woodland and the contribution it makes to the character and appearance of the area. The proposal would therefore conflict with Policy EN9 of the MVLP and paragraph 186c) of the Framework, as set out above. It would also conflict with Policies EN2 and EN4 of the MVLP which seek amongst other things, to retain existing trees and protect the rural character of the countryside.

Other Matters

23. Discussions at the Hearing revealed that the proposal involves the relocation of an existing business. Any economic benefits provided in terms of local employment and service to existing clients within the rural locality would therefore remain the same. This attracts limited weight.
24. Reference is made to appeal decision T/APP/C3620/C/99/1032572 which allowed the use of a building for storage purposes subject to conditions restricting the number of vehicular movements and monitoring by CCTV. This decision was made under a different local and national planning policy context more than 20 years ago, relating to a different type of use and was supported by a S106 legal agreement. The circumstances are not therefore comparable to those before me. Even so, I have not found harm with regard to the level of proposed activity.
25. The Council has drawn my attention to a planning application that is pending determination at the appeal site for the erection of a two-bay timber garage with first floor storage⁶. Whilst the appellant has queried the relevance of this, it is clear that the proposed garage would be sited in the same position where the car parking for the appeal scheme is proposed. Although I acknowledge that the appeal site benefits from a large area of hardstanding, the two proposals could not be implemented in accordance with either set of plans

⁶ Planning application reference MO/2024/1420.

simultaneously. They are not therefore compatible with each other. However, as I am dismissing the appeal in relation to the main issue, I am not required to consider the implications of this any further.

26. Surrey Wildlife Trust has indicated that suitable habitat for great crested newts and reptiles is present within the appeal site and that, their presence cannot be entirely ruled out⁷. Circular 06/2005 states that it is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Had I been allowing the appeal I would have needed to consider the likely extent to which protected species may be present, and whether a condition requiring a precautionary method of working through a construction environmental plan would have met the 6 tests of conditions⁸. As this is not the case, I have not considered it further.
27. The lack of objections in respect of highway safety and the living conditions of neighbours are neutral matters weighing neither for, nor against the proposal.

Planning Balance and Conclusion

28. I have not found harm in relation to the appearance of the building or its use as an office for an equine veterinary practice. However, the absence of harm is neutral in the planning balance and it, along with the limited weight to economic benefits arising from the proposal, do not outweigh the harm identified in respect of the character and appearance of the area and biodiversity value of the ancient woodland. There are no considerations that lead me to determine the proposal otherwise than in accordance with the development plan. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Phillip Rowe	PROwe Planning Solutions
Murray Shotter	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Susan Read	Senior Planning Officer
Sherelle Munnis	Deputy Development Manager

⁷ Surrey Wildlife Trust consultation response dated 07/05/2024.

⁸ As set out within paragraph 56 of the Framework.