



Appeal Decision

Site visit made on 27 May 2025

by C Coles MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 JULY 2025

Appeal Ref: APP/C3620/W/25/3361549

Glenfield, Fortyfoot Road, Leatherhead, Surrey KT22 8RN

- 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 & Mrs Gary & Jenny Boreham against the decision of Mole Valley District Council.
 - The application Ref is MO/2024/1091.
 - The development proposed is demolition of existing dwelling and erection of new detached dwelling and associated landscaping works.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the application was determined the Council has adopted the Mole Valley Local Plan (2020-2039) (LP). This supersedes those policies of the Mole Valley Local Plan (2000) and the Mole Valley Local Development Framework Core Strategy (2009) that are cited on the decision notice. I am required to determine this appeal on the basis of the development plan which is in force at the time of my decision. The Council has identified the relevant policies from the LP and the appellant has had the opportunity to comment on the relevance of these policies for the appeal, ensuring no prejudice. This appeal has therefore been determined in relation to the policies contained within the LP.

Main Issues

3. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of the occupants of the neighbouring properties with particular regard to outlook, privacy and light.

Reasons

Background

4. The appeal site is located on the west side of Fortyfoot Road within an urban area. The site comprises a detached bungalow within a spacious plot with parking to the front. The property to the northwest (Albert House) is a flatted development with the bulk of the building two-storey in height with a fully hipped roof. Closest to the site is a one and a half storey projection of half hip, half gable design with a room in the roof served by dormers to the front and rear. The property to the southeast (The Glade) is a chalet style dwelling with a room in the roof served by dormers to

the front and rear. A single garage lies between the chalet bungalow and the shared boundary.

5. Fortyfoot Road is relatively wide with deep grass verges and pavements. The properties directly opposite are large two-storey buildings on spacious plots with space to the sides. The character of the area is largely identified from the properties with their main elevation fronting Fortyfoot Road either side of the appeal site and directly opposite. This area has a verdant appearance characterised by spacious plots with development set back from the road frontage with mature landscaping to the front garden areas.
6. The proposed development is for a replacement two-storey detached dwelling (approximately 9m high) with additional accommodation within the roof, an integral garage and outbuilding in the rear garden. The proposal would have two front gables of equal height and width either side of the front entrance which would be replicated at the rear. The positioning of the proposal on the plot would be similar to the existing dwelling although the front gable on the southeastern side would be forward of the existing bungalow by approximately 1.8m and the rear elevation would extend approximately 4.7m to the rear of the existing bungalow. The rear of the property would accommodate a roof terrace at first floor level with opaque balustrade screening approximately 1.8m high.

Character and appearance

7. Policy ENV4 of the LP seeks to ensure all new development is of high-quality design and makes a positive contribution to its local character. New development should be of an appropriate scale, height, massing, proportion and form to existing development and achieve appropriate spacing between buildings, respect building lines and ensure the amenity of future occupiers and residents in the surrounding area is not significantly affected.
8. The proposal would have a more contemporary appearance than the existing dwelling with large amounts of glazing combined with the use of sympathetic materials to the character of the area. Sustainable technology features and benefits are incorporated into the design of the proposal and overall, the design and choice of materials is considered appropriate within the context of Fortyfoot Road.
9. The proposed development would be significantly deeper than the existing bungalow with deep flank walls and little fenestration to provide relief and break up the mass of the side elevations when viewed from Albert House (to the northwest) and The Glade (to the southeast). The proposal would also be approximately 9m high which would be significantly higher than The Glade and a similar height to Albert House. The proposal would fill almost the entire width of the plot at its full height. Although properties on the same side of Fortyfoot Road are also developed close to the side boundaries, the scale of development closest to the boundary on either side of the proposal is typically single storey (The Glade) or one and half storey height (Albert House) with the bulk and mass of development positioned towards the middle of the plots away from the side boundaries creating a feeling of space around the properties. The properties opposite the site are of a similar scale to the proposal but are set within more spacious plots with a greater degree of space around the properties.

10. The proposed development would have gable ends fronting the street scene which adds bulk to the proposal rather than roofs hipped away from the road. First floor accommodation is partially contained within the roof space of the neighbouring properties minimising the height, bulk and mass when compared to the proposal which contains accommodation within the roof space of the second floor.
11. Whilst the proximity of the proposal to the rear boundary would be closer than existing it is acknowledged the site can accommodate a slightly higher density of development provided it does not harm the character and appearance of the area or the living conditions of the occupiers of neighbouring properties. The density of flatted development (such as Albert House) is not directly comparable to that of a single dwelling as the characteristics of how the land is used and the proportions of the site allocated to car parking and garden area are different.
12. For the above reasons, I conclude the overall scale, bulk and mass of the proposal would be out of character with the neighbouring properties. This, coupled with the proximity to the side boundaries would result in the proposed development appearing cramped and over developed on the site contrary to Policy EN4 of the LP which seeks to ensure all new development is of an appropriate scale, height, massing, proportion and form to existing development, achieves appropriate spacing between buildings and makes a positive contribution to local character, amongst other things. The proposed development would also fail to accord with the requirements of the Framework.

Living Conditions

13. The depth of the proposal would extend significantly beyond Albert House to the rear and slightly beyond The Glade to the rear but more significantly to the front. There is a first floor terrace to the rear of the proposal which would be screened on both sides by an approximate 1.8m high opaque screen to protect the privacy of the neighbouring dwellings, preventing any direct overlooking from the sides of the terrace. First floor Windows in the side elevations of the proposal would be obscure glazed. A first floor balcony is proposed to the front of the dwelling but there does not appear to be access to the balcony. Even if there were access, the balcony would be to the front of the dwelling with a view over public areas and behind a 1.8m opaque glass screen. As a result, I am satisfied that there would be no direct overlooking from the proposal to the neighbouring dwellings that would cause a loss of privacy. Whilst there may be the perception of overlooking from the rear terrace, this would not cause sufficient harm to the living conditions of the occupants of the neighbouring properties to warrant a dismissal on those grounds alone.
14. The proposal would be deeper than both the neighbouring properties. The height and location of the proposal on the site would affect the amount of light reaching the closest rear windows on the ground and first floor for Albert House serving living rooms which are habitable rooms. The orientation of the proposal in relation to Albert House would also cause overshadowing to habitable space to the rear and appear overbearing when viewed from the living rooms identified.

15. The 45-degree daylight impact assessment test would not be broken for the closest front and rear windows at The Glade. However, due to the height, depth bulk and mass of the proposal close to the shared boundary with The Glade, the proposed development would have an overbearing impact on The Glade. Whilst solar panels are shown on the roof of the side elevation facing The Glade, I do not consider the presence of solar panels on their own to have any additional impact on The Glade as the harm comes from the height, depth, bulk and mass of the proposal overall.
16. For the above reasons, I conclude, the proposed development would cause harm to the living conditions of the occupants of the neighbouring properties at The Glade by virtue of appearing overbearing and Albert House by virtue of appearing overbearing and overshadowing causing a loss of light to habitable rooms, contrary to Policy EN4 of the LP insofar as the proposal would not protect the amenity of future occupiers and residents in the surrounding area, amongst other things. The proposed development would also fail to accord with the requirements of the Framework.

Other Matters

17. The appellants Statement of Case and Final Comments refer to an outdated version of the Framework. Nevertheless, the substance of the Framework has not substantially altered from the previous version with respect to considerations for this appeal and the most relevant section is Section 12 which Policy EN4 is aligned with. I acknowledge the sustainability credentials of the proposal and that more efficient use of the site is likely, but these factors do not outweigh the harm identified to the character and appearance of the area and living conditions of the occupiers of neighbouring dwellings. The appellant considers the Council have failed to substantiate their decision relying on subjective claims, however, design, by its very nature is subjective and the specific areas where conflict would arise with Policy EN4 and the Framework as a whole have been identified.
18. Paragraph 55 of the Framework states that planning conditions should not be used to restrict national Permitted Development (PD) rights unless there is clear justification to do so. The Planning Practice Guidance also advises that conditions restricting the future exercise of PD rights and conditions restricting future changes of use may not pass the test of reasonableness or necessity. The absence of a condition removing PD rights is not confirmation the site is not overdeveloped, but is a balanced decision based on the justification for removing PD. It is noted that the proposed outbuilding did not form part of a reason for refusal of the application and I have no reason to take a different view.
19. I have also had regard to concerns raised by the Appellants about the way that the Council handled the application, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Conclusion

20. The proposed development would not accord with the development plan when considered as a whole, and there are no material considerations that indicate a decision should be made other than in accordance with it.
21. For the reasons given above, I conclude the appeal should be dismissed.

C Coles

INSPECTOR