

Appeal Decision

Site visit made on 29 September 2016

by **R J Maile BSc FRICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 October 2016

Appeal Ref: APP/M2270/W/16/3151762

Holly Villa, Langton Road, Langton Green, Tunbridge Wells, Kent, TN3 0HP.

- 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 Verizun LLP against the decision of Tunbridge Wells Borough Council.
 - The application ref: 16/500812/FULL, dated 19 January 2016, was refused by notice dated 11 May 2016.
 - The development proposed is "Demolition of single storey front extension and outside WC. Extension and conversion of existing buildings to provide 4 residential dwellings. Provision of associated parking."
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Procedural Matter

1. The description of the development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of the development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Decision

2. The appeal is allowed and planning permission is granted for demolition of single storey front extension and outside WC. Extension and conversion of existing buildings to provide 4 residential dwellings. Provision of associated parking at Holly Villa, Langton Road, Langton Green, Tunbridge Wells, Kent, TN3 0HP, in accordance with the terms of the application ref: 16/500812/FULL, dated 19 January 2016, subject to the conditions set out in Annex A to this decision.

Main Issues

3. The main issues in this case are:
 - a) Whether the loss of the existing A1 retail use of part of the premises should be resisted.
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- b) Whether the proposed layout and design of the scheme respects the context of the site.
- c) The adequacy of on-site parking provision.
- d) Whether the proposal would cause significant harm to the amenities of nearby residents.

Reasons

a) Loss of existing A1 retail use.

- 3. The appeal site is located with its principal frontage to Langton Road (A264), which is a busy highway and 'bus route. It has a return frontage to Stonewall Park Road. This is a narrow street that provides access to the Coach House, which is to be converted and extended as part of the scheme before me.
- 4. Holly Villa is partly in A1 retail use, being occupied as a gallery for the sale of furniture and artefacts. It also includes a large residential unit comprising a reception room and kitchen at ground floor level, with four bedrooms and two bathrooms above. The premises are Victorian, although there is a more recent extension in the southwest corner in the form of a shop front. This would be replaced by a new bay in keeping with the original bay on the Langton Road frontage.
- 5. This section of Langton Road contains a variety of retail uses including a food and wine store, a newsagents, a café with bakery facility, a restaurant and a hairdresser. Additionally, there is a general stores attached to the petrol filling station a short distance to the west of the appeal site. There is also a regular 'bus service to Tunbridge Wells, which is a major centre with a wide range of retail and community facilities.
- 6. The A1 retail units described above are all available within a 5 minute walk of the property. The current use of the premises does not provide for the day to day requirements of local residents.
- 7. There is conflicting evidence as to the marketing of the site for A1 purposes. Neither is there any evidence before me to suggest that the existing business is no longer viable. The premises are nevertheless located at the eastern extremity of the retail sector of Langton Road. They are of limited size and, having regard to the availability of existing retail uses to serve Langton Green residents, a continued retail use is not justified.
- 8. For these reasons, I find on the first main issue that the loss of the existing A1 retail use of part of the premises should not be resisted and that development as proposed would accord with the thrust of Core Policies 7 and 8 of the Core Strategy¹ and "saved" Policy CR13 of the Local Plan².

b) Layout and design.

- 9. The removal of the shop front structure and its replacement by a matching bay would contribute towards the restoration of the character and appearance of

¹ Tunbridge Wells Borough Local Development Framework: Core Strategy - Development Plan Document (June 2010).

² Tunbridge Wells Borough Local Plan (March 2006).

the building as an architectural entity. The small extension to the northeast corner of Holly Villa would be screened in public views and would align with the principal rear elevation of the building.

10. The design of the Coach House, together with the flank and rear additions to the original structure, would enable effective use to be made of this building whilst respecting the varied character of residential development along Stonewall Park Road.
11. Accordingly, I conclude that the detailed scheme before me would enhance the appearance of Holly Villa as viewed from Langton Road, whilst the extensions to the Coach House would enable this somewhat neglected structure to be put to an appropriate use.
12. I therefore find upon the second main issue that the layout and design of the scheme respects the context of the site as required by Core Policy 5 of the Core Strategy.

c) Adequacy of parking provision.

13. The Highway Authority has expressed concerns as to the provision of adequate and safe off-street parking to serve the development. No formal objection has, however, been raised.
14. Currently, the site provides for the parking of one vehicle in the Coach House with access directly onto Stonewall Park Road. The proposals before me would achieve an improvement in terms of highway safety due to the cessation of the use of the existing garage for car parking. A new garage and a single parking space would be provided abutting the original structure. Access to this facility would entail the removal of part of the west flank boundary wall, thus providing enhanced visibility towards the south for vehicles emerging from the garage and parking space.
15. Visibility to the north would remain constricted by the wall of the original Coach House. Nevertheless, given the narrowness of the carriageway of Stonewall Park Road and the speed of traffic which I observed during my site visit, I have concluded that highway safety would not be prejudiced by the proposals to relocate the garage of the Coach House and to provide an additional off-street parking space.
16. The three dwellings to be formed within the principal structure will not possess any on-site parking. Likewise, the existing shop and large residential unit have no on-site parking provision.
17. I acknowledge the concerns of local residents and the Highway Authority as to the lack of kerbside parking in the vicinity due to the narrowness of Stonewall Park Road, where many of the houses also lack any on-site parking provision. However, some kerbside parking is permitted in Langton Road, including a deep bay to the east of the appeal site and parking along the main road to the west.
18. The existing retail use of part of the premises would result in a level of traffic generation, including deliveries. The appeal site is well placed in terms of the availability of day to day retail facilities within easy walking distance. There is

also a regular 'bus service to Tunbridge Wells, where there is a wide range of retail and community facilities and a main line railway station. Accordingly, the site is within a sustainable location.

19. Having regard to the availability of kerbside parking nearby and the fact that there is currently no on-site provision to serve the combined retail unit and residential use I have found in relation to the third main issue that on balance the proposed parking arrangements, which are restricted to the Coach House, are adequate to serve the development as required by "saved" Policy TP5 of the Local Plan and the supporting text at paragraph 11.35.

d) Amenities of nearby residents.

20. The original brick Coach House would be extended rearwards by a part single storey and part two storey structure. This would not project beyond the rear elevation of the garage that serves 4 Stonewall Park Road to the north. Having regard to the relationship of the extended Coach House to no. 4 and the hipped design of the roof structure to the two storey element, I am satisfied that there would be no harmful impact upon the residential amenities of the occupiers of 4 Stonewall Park Road.
21. During my site visit I carefully noted the relationship of the minor two storey extension to Plot 1 in terms of its relationship with 2 Holly Villas to the east. Given the fenestration of no. 2 and the detailed siting and orientation of the two dwellings, I am also satisfied that this element of the scheme would not impact upon the residential amenities of the occupiers of that property.
22. The Council has rightly expressed concern as to the potential for overlooking of the walled garden of 2 Holly Villas from the rear-facing bedroom window of the extended Coach House. Various options have been put forward on behalf of the appellant to address this concern, including a scheme indicated on Drawing no. 2015-682-011 Rev E to create dummy windows to the rear-facing bedroom and bathroom at first floor level. However, such an arrangement would reduce the amenity of those two rooms.
23. Paragraph 187 of the Framework³ encourages decision takers at every level to seek to approve applications for sustainable development wherever possible.
24. I am satisfied that a scheme similar to that shown on Drawing no. 2015-682-011 Rev D would resolve concerns regarding overlooking of the rear garden of 2 Holly Villas. This would utilise top-hung, part obscure glazed windows to the rear elevation at first floor level of the Coach House to serve the bathroom and Bedroom 3, together with the oriel bay window shown on that drawing within the north elevation. The oriel bay window could be purpose made to achieve the partial obscure glazing shown on that drawing, together with a suitable means of escape in case of fire. This would then accord with the requirements of the Building Regulations, which was a concern referred to in the Council's statement.
25. Accordingly, and subject to a condition as suggested by the Council, I find in relation to the fourth main issue that development as proposed would not cause any significant harm to the residential amenities of existing and future

³ The National Planning Policy Framework.

occupiers of adjoining properties, as required by Core Policy 5 of the Core Strategy and "saved" Policy EN1 (ii) of the Local Plan.

Conditions

26. I have considered the 10 conditions suggested by the Council against the tests of the Framework and advice provided by the Government's Planning Practice Guidance issued on 6 March 2014. I find all to be reasonable and necessary in the circumstances of this case, although I have amended their wording where required. My reasons for the conditions are:
27. Condition 1 is the standard commencement condition imposed in accordance with section 91(1) (a) of the Town and Country Planning Act 1990. Conditions 2 and 6 will ensure a satisfactory appearance to the completed development in the interests of the visual amenities of the area. Conditions 3, 5 and 8 will safeguard the privacy and amenities of adjoining residents.
28. Condition 4 will allow the Local Planning Authority to exercise control over any future development at the appeal site in the interests of the character and amenities of the locality. Conditions 7 and 9 are necessary in the interests of pedestrian and highway safety.
29. Condition 10, which requires the development to be carried out in accordance with the approved plans, provides certainty.

Conclusion

30. For the reasons given above, I conclude that the appeal should be allowed.

R. J. Maile

INSPECTOR

Schedule of Conditions

Annex A

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until full details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and samples.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order) no windows/dormer windows or other openings other than those expressly authorised by this permission shall be constructed within the side (south and north) elevations at first floor level of Plot 4, or within its roof slopes, without the prior written consent of the Local Planning Authority.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order) no development within Classes A, B, C, D and E of Part 1, Schedule 2 to that Order shall be undertaken at the site without the prior written consent of the Local Planning Authority.
- 5) Before first occupation of the development hereby permitted the windows at first floor level of the Coach House serving the bathroom and Bedroom 3 to the rear (east) elevation and the east facing element of the oriel window to the first floor of the north elevation of the Coach House shall be fitted with obscured glass to a minimum of Level 3 on the Pilkington scale, shall be non-opening below a height of 1.7m above finished floor level and permanently retained in that condition.
- 6) The development hereby permitted shall be constructed at the levels shown on the approved plans unless the Local Planning Authority gives prior written approval to any variation.
- 7) Before first occupation of the development hereby permitted the area shown on the approved plans as vehicle parking shall be surfaced and drained in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. The vehicle parking area shall thereafter be retained for the use of the occupiers of the development, and visitors to it; and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 shall be carried out on the area so designated or in such a position as to preclude vehicular access to it.
- 8) No access shall be gained to the flat roofed area indicated on the approved plans other than for the purposes of carrying out routine maintenance to the dwelling of which it forms part. In particular, this flat roofed area shall not be used as a veranda, balcony, roof garden or similar amenity area; nor shall balustrades, railings or other means of enclosure be erected around it.

- 9) Before first occupation of the development hereby permitted the pedestrian visibility splays indicated on the approved plans shall be cleared of any obstruction exceeding a height of 0.6 metres above the level of the nearest part of the access point hereby permitted and permanently retained in that condition.
- 10) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no.

2015-682-002 Rev B:	Location Plan – scale 1:1250; Site Plan as Proposed – scale 1:100.
2015-682-051:	Existing Site Plan – scale 1:200.
2015-682-1001:	Existing Block Plan – scale 1:500.
2015-682-1002:	Proposed Block Plan – scale 1:500.
2015-682-020:	Existing Plans and Elevations of Holly Villas – scale 1:100.
2015-682-010:	Proposed Holly Villas Conversion – Floor Plans and Elevations – scale 1:100.
2015-682-021:	Existing Coach House Floor Plans and Elevations – scale 1:100.
2015-682-011 Rev D:	Proposed Coach House Floor Plans and Elevations – scale 1:100.
2015-682-030 Rev C:	Proposed Street Scenes – scale 1:100.