

Appeal Decision

Site visit made on 14 March 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 19 April 2017

Appeal Ref: APP/D3830/W/16/3165113

**Land Adjacent to Mead House, Cantelupe Road, East Grinstead,
West Sussex RH19 3BJ**

- 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 Mr Mark Bright, Lodgecrest (Mead House East Grinstead) Limited against the decision of Mid Sussex District Council.
 - The application Ref DM/16/2057, dated 11 May 2016, was refused by notice dated 30 November 2016.
 - The development proposed is construction of detached building containing two 1 bed and one 2 bed apartments.
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Decision

1. The appeal is allowed and planning permission granted for construction of detached building containing two 1 bed and one 2 bed apartments at Land Adjacent to Mead House, Cantelupe Road, East Grinstead, West Sussex RH19 3BJ in accordance with the terms of the application Ref DM/16/2057 dated 11 May 2016 subject to the conditions in the schedule at the end of the decision.

Main Issues

2. The main issues are:
 - the effect of the proposal on the setting of St Swithun's Church, a Grade II* listed building and the setting of the East Grinstead Conservation Area;
 - the effect of the proposal on the living conditions of the occupiers of Mead House in respect of outlook and daylight; and
 - whether the proposed development provides appropriate mitigation measures in respect of the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC).

Reasons

The Setting of Heritage Assets

3. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 states that in considering whether to grant planning permission for development which affects the setting of a listed building special regard shall be had to the desirability of preserving the building or its setting. Section 72 of
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the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

4. The appeal site fronts onto Cantelupe Road and is located to the south of Mead House, a former office building which has recently been converted and enlarged to provide residential accommodation over four storeys. Between the appeal site and Mead House is an access road which leads to a car park serving the residential development. Properties on Cantelupe Road include a mix of commercial and residential uses and are characterised by a range of ages and forms with the neighbouring property to the south being two storeys.
5. To the rear of the appeal site is East Grinstead Museum, a striking modern building set back some distance from Cantelupe Road. St Swithun's Church a Grade II* listed building within the East Grinstead Conservation Area is located beyond the museum. The appeal site is not within the conservation area with the church grounds marking the boundary which also wraps around to the south of the appeal site.
6. St Swithun's Church is a late 18th century Gothic church building in the Perpendicular style. The tower is a landmark in the town and a focal point of the conservation area. The East Grinstead Conservation Area derives its character from the historic core centred on the High Street with a range of building forms, ages and uses. A key element of the significance and setting of the listed building and conservation area is the availability of views of the church tower. The absence of development on the frontage of Cantelupe Road is part of the value of the setting. The appeal site is therefore within the setting of the listed church and the conservation area.
7. The proposed apartment block would partially obscure the existing public views of St Swithun's Church and its churchyard from Cantelupe Road thereby detracting from the way in which the listed building and the conservation area are appreciated. However, similar views from Cantelupe Road towards the listed building and conservation area would still be possible following the construction of the proposed development. Views from the church and the churchyard towards the development would not be adversely affected as the scheme would be viewed against higher and more modern development on the western side of Cantelupe Road.
8. The proposed development would therefore conflict with Policy B10 of the Mid Sussex Local Plan, 2004 (the Local Plan) which seeks to protect listed buildings and their settings and Policy B15 which states that development affecting the setting of a conservation area should not adversely affect its character and appearance with particular attention paid to the protection or enhancement of views into and out of a conservation area. Policies DP32 in respect of listed buildings and DP33 in respect of conservation areas, of the emerging District Plan, 2016 apply similar approaches to the Local Plan.
9. Policy EG4 of the East Grinstead Neighbourhood Plan, 2016 (the Neighbourhood Plan) states that proposals relating to designated heritage assets will only be permitted where a number of criteria are met including that the proposal leads to less than substantial harm in relation to the significance of the heritage asset. Consequently I find that the proposed development would be harmful to the setting of St Swithun's Church and the East Grinstead Conservation Area which contributes to their significance as designated heritage assets but this harm would be less than substantial.

10. The National Planning Policy Framework (the Framework) states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the Framework states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. This is addressed in the planning balance below.

Living Conditions

11. Policy B3 of the Local Plan states that new development will not be permitted if significant harm is likely to be caused to the amenities of nearby residents due to a number of impacts including reductions in outlook and daylight. Policy DP24 of the emerging District Plan applies a similar approach to the protection of living conditions as does Policy EG3 of the Neighbourhood Plan.
12. The distance between the proposed development and neighbouring properties together with the respective heights of the buildings and the depth of the proposed development would mean that the occupiers of neighbouring buildings would not experience an overbearing impact or sense of enclosure.
13. At first and second floor levels of the proposed development on the northern elevation windows would serve a bathroom and kitchen respectively. The outlook of occupiers of Mead House toward the proposed development would not be adversely affected as these windows would be fitted with obscure glazing which could be secured through a planning condition.
14. At ground floor level of the northern elevation, the proposal includes a bedroom window. The introduction of obscured glazing to a bedroom window would not be appropriate. Some of the ground floor windows of Mead House serve rooms which have dual aspects whilst two other windows serve bedrooms. As the space between the existing and proposed developments is used as an access route for vehicles and pedestrians some degree of overlooking would occur in any event. However, I do not find that the proposal would have an overbearing impact on the outlook of occupiers of Mead House to the extent of causing significant harm.
15. With regard to daylight I have considered the approach proposed by the Building Research Establishment of the effects of the proposed development on Mead House. I have taken account of the distance between the properties, the depth of the proposed development from Cantelupe Road and the south facing aspect of the windows. Whilst there would be some loss of daylight to ground floor residents of Mead House I do not consider that this would be so material as to lead to significant harm to their living conditions.
16. I therefore find that the proposed development would not be contrary to Policies B3 of the Local Plan, DP24 of the emerging District Plan or Policy EG3 of the Neighbourhood Plan which together seek to protect neighbouring occupiers from the adverse impact of development on living conditions.

The Effect on the Ashdown Forest SPA and SAC

17. Under the Conservation of Habitats and Species Regulations, 2010 (the Habitat Regulations) there is a duty to ensure that plans and projects do not have an adverse impact on the integrity of European Sites of Nature Conservation

Importance. The Ashdown Forest as a SPA and SAC is covered by the Habitat Regulations. As the effects of the proposed development would be to result in increased recreational activity likely to disturb protected bird species appropriate mitigation is required in the form of a Suitable Alternative Natural Greenspace (SANG) and a financial contribution towards Strategic Access Management and Monitoring (SAMM).

18. The appellant has provided a signed and dated unilateral undertaking under Section 106 of the Town and Country Planning Act 1990 which provides for a financial contribution to SAMM of £4,954 whilst the mitigation in relation to the SANG of £3,047 can be secured through a planning condition.
19. With such measures in place the impact on the Ashdown Forest SPA and SAC would be mitigated and there would be no conflict with Policy C5 of the Local Plan, Policy DP15 of the emerging District Plan, Policy EG16 of the Neighbourhood Plan or the Habitats Regulations which seek to ensure that development does not adversely affect European Sites.

Other Matters

20. The East Grinstead Museum objected to the proposal on the grounds that it would conceal the presence of the museum, thereby detracting from its appearance and adversely affect the operation of the museum including future expansion plans. Given the height of the proposed development and the distance between it and the museum I do not consider that the proposed development would result in an overbearing impact which would adversely affect the operation of the museum.
21. In addition, I have no evidence before me which would justify dismissing the appeal on the basis that the proposed development would have such an effect upon the existing or future operation of the museum that it would be an impediment to the operation of the business. Concerns have also been raised about the effect of construction but this can be addressed through an appropriately worded planning condition.

Conditions

22. In addition to the standard implementation condition (Condition 1) I have imposed conditions relating to materials to ensure that the appearance of the development is satisfactory (2 and 3). A condition to ensure a satisfactory means of managing surface water drainage and prevent an increased risk of flooding is necessary (4) as is a condition to ensure that landscaping provides an appropriate setting for the proposed development (5). To ensure that the development does not have an adverse effect on a European Site of Nature Conservation Importance in accordance with the Habitat Regulations a condition is required (6).
23. I have imposed a condition in order to protect the living conditions of neighbouring occupiers during construction (7) and to ensure that landscaping works are effective in providing an appropriate setting for the site (8). To ensure that the proposed development helps to reduce the amount of vehicular traffic I have imposed a condition in relation to the parking of bicycles (9) and to provide appropriate vehicular parking (10). A condition to ensure that appropriate provision is made for bin and recycling storage is necessary in the interests of the wider environment (11) and a condition to require first and

second floor windows in the northern elevation to be glazed with obscured glass is necessary to address potential overlooking (12). Finally I have attached a condition specifying the relevant drawings with which the scheme should accord as this provides certainty (13).

24. The Council suggested a condition to incorporate sustainable measures into the development but I have not included this as I find the proposed wording to be imprecise and it would not meet the tests in paragraph 206 of the Framework.
25. Planning Practice Guidance advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In this respect it is necessary for condition 2, 3, 4, 5 and 6 to be conditions precedent as they are so fundamental to the development that it would otherwise be necessary to refuse the application.

Planning Obligation

26. I am satisfied that the obligation under Section 106 is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to the development and therefore consistent with Regulation 122 of the Community Infrastructure Regulations, 2010.

Planning Balance and Conclusion

27. The proposed development would result in less than substantial harm to the setting of the designated heritage assets of the listed St Swithun's Church and the East Grinstead Conservation Area and the contribution which the setting makes to their significance. I give considerable importance and weight to that harm. In weighing that harm against the public benefits of the proposal I find that the proposed development would provide three residential units which should be given substantial weight taking account of paragraph 47 of the Framework which seeks to boost significantly the supply of housing. Notwithstanding the fact that the scheme would only contribute three units I attach substantial weight to this contribution in the event that the Council cannot currently demonstrate a supply of deliverable housing sites. Moreover the proposed development would provide additional residential development on a sustainably located brownfield site to which I attach significant weight.
28. On this basis I find that the public benefits of the scheme outweigh the less than substantial harm to the significance of designated heritage assets. I have not found any other harm arising from the proposals and therefore planning permission should be granted. Consequently, for the reasons set out above, the appeal is allowed.

Kevin Gleeson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall be carried out unless and until samples of materials and finishes to be used for the external walls, roof and windows of the proposed building have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 3) No development shall take place unless or until the following detail has been submitted to and approved in writing by the Local Planning Authority: 1:20 scale elevation and section (through the living room windows / louvred screen) of the front / west elevation. The development shall be carried out only in accordance with the approved details.
- 4) The development hereby permitted shall not proceed until details of the proposed surface water drainage and means of disposal have been submitted to and approved in writing by the Local Planning Authority and no building shall be occupied until all approved drainage works have been carried out in accordance with such details.
- 5) No development shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority full details of both hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development and these works shall be carried out as approved.
- 6) No development shall take place until a scheme for the mitigation of the effects of the development on the Ashdown Forest Special Protection Area (SPA) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall either make provision for the delivery of a bespoke Suitable Alternative Natural Greenspace (SANG) or make provision for the payment of an appropriate financial sum towards the maintenance and operation of a SANG leased and operated by the Local Planning Authority. In the event that the scheme approved by the Local Planning Authority is for the physical provision of a SANG, no dwelling shall be occupied before written confirmation has been obtained from the Local Planning Authority that the SANG has been provided in accordance with the approved scheme. In the event that the scheme approved by the Local Planning Authority does not relate to the physical provision of a SANG, no development shall take place before written confirmation has been obtained from the Local Planning Authority that the financial sum has been provided in accordance with the approved scheme.
- 7) Demolition or construction works shall take place only between 0800 to 1800 on Mondays to Fridays, 0900 to 1300 on Saturdays and shall not take place at any time on Sundays, Bank or Public Holidays.
- 8) Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which within a period

of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

- 9) The residential units hereby permitted shall not be occupied until provision has been made within the site in accordance with details to be submitted to and approved by the Local Planning Authority for the parking of bicycles clear of the public highway and such space shall not thereafter be used other than for the purposes for which it is provided.
- 10) The residential units hereby permitted shall not be occupied until provision for parking has been made within the site in accordance with the details shown on the approved plans. Such provision shall thereafter be used only for the parking of vehicles.
- 11) The residential units hereby permitted shall not be occupied until provision for bin and recycling storage has been made within the site in accordance with the location shown on the approved plans subject to the elevational details being first agreed in writing with the local planning authority. Such provision shall thereafter be retained permanently.
- 12) The proposed windows on the north elevation of the building at first and second floor level shall be glazed with obscured glass. They shall be non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed. Such provision shall thereafter be retained permanently.
- 13) The development hereby permitted shall be carried out in accordance with the following approved plan: Proposed Floor and Elevations Plan Ref 01116/AP/PL01 Rev C.