



Appeal Decision

Site visit made on 27 July 2022

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th August 2022

Appeal Ref: APP/G2245/W/22/3292870

Lyndhurst Cottage, Holly Bush Lane, Sevenoaks, TN13 3UN

- 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 Aidan Birkett against the decision of Sevenoaks District Council.
 - The application Ref 21/01058/FUL, dated 1 April 2021, was refused by notice dated 1 October 2021.
 - The development proposed is the demolition of the existing dwelling and replacement with 4 no. bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal submission included additional plans, a Heritage Statement by Sam Johnson Heritage Ltd (HS) and a draft statement of common ground (SCG). The plans do not alter the proposed development and the HS has been made available to all parties with opportunity for them to comment. Therefore, their inclusion as part of the submission would not be prejudicial to any other parties. However, the SCG has only been endorsed by the appellant and other parties may not have had an opportunity to contribute, so I have not taken this into account. Nevertheless, had I included the SCG it would not have altered my findings.

Main Issues

3. The main issues are a) the effect of the development on the living conditions of the neighbouring occupiers with regard to privacy; and b) whether the development would preserve or enhance the character and appearance of the Vine Court Conservation Area (CA).

Reasons

Living Conditions

4. The appeal site is positioned a considerable distance from the properties to the rear on Vine Court Lane. Therefore, it is only the properties on either side, The Coach House and 7A Holly Bush Lane, where the proposal may impact privacy of the occupants. Both properties are positioned toward the road and their rear gardens would be flanked by the replacement dwelling, as is the situation with the current property on site.

5. The proposed boundary treatment between the appeal site and the rear garden of The Coach House would adequately prevent overlooking from any ground floor windows in the replacement dwelling, and 2 of the 4 first floor windows could be obscure glazed with fixed opening without harming the living conditions of future occupants of the replacement dwelling.
6. However, the other 2 first floor windows would constitute Juliet balcony windows both of which are primary to the bedrooms they serve (1 and 2). It would not, therefore, be appropriate to obscure glaze or fix the opening of these windows., as this would result in unacceptable levels of outlook for future occupiers. Although these 2 windows would be set back from the shared boundary, the higher ground level of The Coach House's garden means the proposed alterations to boundary landscaping would not be sufficient to prevent overlooking. Moreover, any new landscaping would take a significant amount of time to mature.
7. With reference to the Residential Extensions Supplementary Planning Document, it is noted the Council normally calculate the private amenity area as an area 5m deep from the rear of the property. Reviewing the evidence before me I consider that it is highly probable the proposed bedroom 1 balcony window would overlook this area, which in the case of the Coach House includes a reasonably large amount of glazing at ground floor level. Nevertheless, the occupants of The Coach House state that they also make significant use of the rear part of the garden, which contains a swimming pool, and would also be overlooked by the proposed bedroom 2 Juliet balcony window. Consequently, the replacement dwelling would unacceptably reduce the privacy of the occupants of The Coach House, to the detriment of their living conditions
8. The proposed boundary treatment would also screen any ground floor windows in the replacement dwelling from overlooking the garden of No 7A as well as any forward facing first floor windows. This is because a larger amount of the existing mature planting along this shared boundary would be retained. The only first floor window facing No 7A would be an obscure glazed bathroom window. The proposal would not therefore have a significant impact on the privacy of the occupants of No 7A.
9. The appellant has stated that the proposed windows are integral for the passive solar gain of the property, however this does not overcome the harm caused to the privacy of the occupants of The Coach House.
10. The proposed replacement dwelling would, therefore, harm the living conditions of the occupants of The Coach House with regard to privacy. It would be contrary to Policy EN2 of the Sevenoaks Allocations and Development Management Plan (ADMP) insofar as it seeks to safeguard the living conditions of existing and future occupants of nearby properties.

Conservation Area

11. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. Paragraph 189 of the National Planning Policy Framework (the Framework) requires that heritage assets, as irreplaceable resources, 'should be conserved

in a manner appropriate to their significance' and paragraph 199 confirms 'great weight' should be given to their conservation.

12. The significance of the CA (according to the Vine Court Conservation Area Appraisal and Management Plan (CAAMP)) stems back to the demolition of Vine Court which made way for a planned scheme of roads and large detached Victorian villas, which in the main face Vine Court Lane. Overtime, the rear sections of the villas gardens, facing onto Holly Bush Lane, have been severed from the main dwelling and either new dwellings built, or ancillary buildings (such as coach houses) converted. As such Holly Bush Lane has an individual character of new and old properties showing an evolution of development within the area.
13. The appeal site is one such plot with the current house having replaced a previous one approximately 20 years ago. The site is surrounded by locally listed buildings which inform the CA's significance. They are 18-22 Vine Court Road, good examples of the Victorian re-build, The Coach House, a converted coach house, and 7A Holly Bush Lane, a dwelling built after 1945 by a nationally important architect.
14. The proposed replacement dwelling would have a similar location, footprint, and height to the existing dwelling thus retaining the built form to open space ratio of the site. Most of the boundary treatments and trees in and around the site would be retained or similarly replaced. The frontage of the site, including access and gates, would remain as existing.
15. There is potential that the upper most part of the proposed dwelling would be partially visible from the road, however as it would be well set back within the appeal site and the upper part clad in wood, I am satisfied it would largely go unseen recessing into the mature and verdant background of trees and soft landscaping. The proposal would, therefore, retain the relationship between the appeal site with, and preserve the character of, and views along Holly Bush Lane.
16. The proposal would have negligible impact on the setting of 18-22 Vine Court Road, which are located some distance away across mature gardens and boundary planting. The importance of The Coach House and No 7A within the CA stems from the history of the buildings themselves and less so their setting, which in the case of The Coach House has already significantly changed by severance from the house it was originally attached to. Therefore, as the proposal would not significantly alter the location, footprint, or height of the built form within the appeal site, it would not have a detrimental impact to the setting of The Coach House and No 7A.
17. Turning to the design of the proposal. It would be contemporary and cubic in form relying on green roofs and 90 degree angles, vertically shaped glazing, and accent materials to provide a high quality finish. The proposal would clearly be of a form and style not comparable to, or replicating of, the Victorian villas which are the main architectural focus of the CA. However, there are examples of modern design within the CA not less the neighbouring property No 7A.
18. The CAAMP encourages high quality and innovative design, and the Council's Conservation Officer supports the proposal stating that developments which are interesting examples of individual and original design are far more successful within the CA than a more standardised approach.

19. The merits of a specific architectural style are, by its very nature, subjective. Nevertheless, the proposal constitutes a comprehensively designed building, with consideration of its setting and proposes the use of contemporary materials informed by the aesthetics and pallet of its surroundings. As such the proposal would constitute a high quality design.
20. It would not significantly alter the relationship of the site with its surroundings due to the enclosed nature of the site, and would retain the current built form to open space ratio, grain and density of development, characteristic of the CA. It would not overwhelm, dominate, or obscure the key visual and physical elements which denote the significance of the CA, including the locally listed buildings.
21. Consequently, the proposed replacement dwelling would preserve the character and appearance of the Vine Court Conservation Area in compliance with policies EN1 and EN4 of the ADMP and the Framework. These policies seek to ensure the high quality design of new development, with due consideration of its surroundings and with specific regard to preservation or enhancement of relevant heritage assets.

Other Matters

22. The appellant has referred to several further policies from the development plan and along with various paragraphs from the Framework. I have had regard to these, but they do not mediate the harm caused to the living conditions of neighbouring residents. The lack of harm to trees, highway safety and the living conditions of occupants of the other surrounding properties, by definition, is incapable of weighing against the harm that I have found.
23. The Council is not bound to accept the recommendations of their officer either given within pre-application advice or within the officer report related to a specific planning application.
24. Concerns have been raised in relation to noise disturbance, adequacy of the existing dwelling and sustainability matters. As I am dismissing the appeal for other reasons, I have not pursued these matters further.

Conclusion

25. I have found that the proposed development would preserve the character and appearance of the CA and would not harm the living conditions of the occupants of No 7A. However, these matters do not alter the harm the proposal would have on the living conditions of the occupants of The Coach House. The appeal scheme would conflict with the development plan in this regard. Whilst the development would provide a modern family sized dwelling and would have some economic benefits during the construction phase, that does not alter my view that the appeal should be dismissed.

RJ Redford

INSPECTOR