



# Appeal Decision

Site visit made on 4 September 2023

**by C Harding BA (Hons) PGCert PGDip MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 October 2023**

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**Appeal Ref: APP/P1940/D/22/3309902**

**2 Cedars Cottages, Dog Kennel Lane, Chorleywood, Hertfordshire WD3 5EL**

- 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 Matt Kain and Lorna Dunning against the decision of Three Rivers District Council.
  - The application Ref 22/1040/FUL, dated 27 May 2022, was refused by notice dated 11 August 2022.
  - The development proposed is one and two storey rear extension, refurbishment of existing outbuilding, changes to fenestration, replacement windows.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I am aware that there is a discrepancy between the spelling of the name of one of the appellants between the planning application form and the appeal form. This has been clarified as a misspelling, and I am satisfied that the applicants are also the appellants.
3. At my site visit, it appeared that elements of the proposal had been implemented, including the two-storey rear extension and fenestration alterations. The proposed link between the rear of the appeal property and the outbuilding remained incomplete, as did the refurbishment of the outbuilding. Accordingly, and as I cannot be sure that the works carried out so far wholly align with the provided plans, I have considered the proposal on the basis of the plans before me.

## Main Issues

4. The main issues are:
  - the effect of the proposal on the living conditions of the occupiers of 1 Cedars Cottage, with particular regard to light and outlook, and;
  - the effect of the proposal upon the character or appearance of Chorleywood Common Conservation Area ('the CA').

## Reasons

### *Living Conditions*

5. It is agreed between the parties that elements of the proposal, including the two-storey rear extension, changes to fenestration, replacement windows and refurbishment of the existing outbuilding are acceptable. The evidence indicates that these elements have previously been granted planning

permission and I have no reason to disagree with the parties in this regard. The concerns of the Council are centred on the proposed glazed link structure which forms a single storey extension connecting the property to the existing outbuilding. I have framed my decision accordingly.

6. The appeal site comprises one of a pair of semi-detached properties set back from Dog Kennel Lane within a wooded hollow at the base of rising land. The property is mainly brick built and has a red clay tiled roof. To the rear, is a currently detached range of outbuildings, towards which the rear windows of the dwelling face at close proximity. This fact, along with the location of the properties at the base of a wooded embankment leads the rear of the properties to be of a tight arrangement and of an enclosed character.
7. There is a ground floor rear window in the rear elevation of 1 Cedar Cottages which is located close to the shared boundary with the appeal property. I understand that closest ground-floor window at 1 Cedar Cottages to the shared boundary serves a kitchen.
8. On visiting the appeal site, I was able to see that the boundary treatment between the properties in this location amounted to an informal arrangement of lightweight screens of low height and with some permeability. Views between both rear gardens were available over this arrangement.
9. The proposed glazed connection between the main part of the appeal property and the outbuilding would lead to a solid wall forming the boundary between the properties. Although the floor level of this element would be below ground level, the overall structure would be higher than the current arrangement and would be of solid construction. It would extend the entire length of the shared boundary beyond the proposed two-storey extension, to meet the existing outbuildings.
10. The proximity and height of the kitchen window at 1 Cedar Cottages in relation to the proposed link would be such that it would appear as a prominent structure which would restrict outlook from this window to significant extent, particularly as it would infill the existing gap between the rear of the property and the outbuildings.
11. The current arrangement of the properties and the surrounding topography, along with the level of trees and undergrowth already restricts the level of light and outlook available to the rear of both properties. In this context, I consider that the proposal would be likely to further reduce the outlook and light available to occupiers of 1 Cedar Cottages making use of this room and would lead to it having an oppressive nature.
12. The appellants have stated that the proposal has been designed having regard to the '45-degree rule' taken from the centre of the nearest ground of a habitable room in an adjoining property. Even if I was to agree that the kitchen window would not amount to a window serving a habitable room, I have not been directed to any policy which refers to such a test in relation to single-storey rear extensions. Whilst Three Rivers District Council Development Policies Local Development Document ('DMP') Appendix 2 does mention a similar test, it relates only to proposals for two-storey rear extensions and makes no reference to habitable windows. Accordingly, I afford this factor very modest weight in my considerations.

13. At 2m in height, I acknowledge that the link structure would be likely commensurate in height with boundary treatments in other situations at other properties. However, I have not been directed towards any comparable specific examples, and I have had regard to the specific circumstances of this proposal, which as I have set out above, is of a markedly enclosed character and with already restricted levels of outlook and light.
14. The proposal would be unlikely to harm to the living conditions of the occupiers of the neighbouring property with regard to privacy, and would have the potential to provide a greater degree of privacy due to the higher boundary treatment. However, this would not outweigh the harm that I have identified.
15. I conclude that the proposal would harm the living conditions of the occupiers of 1 Cedars Cottage with particular regard to light and outlook. It would therefore conflict with Three Rivers District Council Core Strategy ('CS') Policy CP12 and DMP Policy DM1 which together state that development should protect residential amenities. It would also conflict with DMP Appendix 2 which states that the projection of single storey rear extensions should be reduced where they would adversely affect adjoining properties.
16. The Council has also raised concern that the proposal would conflict with CS Policy CP1 however I have not been directed to any specific text within this policy, and I find no conflict with it in relation to this main issue.

#### *Character and appearance*

17. The appeal site is located within the CA and as such, I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing its character or appearance. The significance of the CA is derived, insofar as it relates to this appeal, from its rural character centred on the open common, and range of buildings on its fringes.
18. Dog Kennel Lane itself has an open and tranquil character, with an unfenced lane running through a shallow valley with openly accessible grassland and woodland on either side. Built development in the immediate vicinity is generally either set alone, or in small clusters.
19. The parties agree that the proposed two-storey rear extension and changes to fenestration would not be harmful to the character or appearance of the CA. I agree that the scale, design and materials proposed to be used for these elements of the proposal would result in appropriate and sympathetic alterations to the property.
20. The proposed glazed link extension would appear as a modern intervention and would lead to the loss of some of the existing separation between the main dwelling and the outbuilding. However, this structure would be of modest scale in terms of footprint, and as a result, some of the existing separation would be retained. Although of contemporary design, the glazed structure would be of lightweight appearance. Together, these factors would allow the older elements of the property which display cottage character, to be read separately and clearly. Even though they would be physically linked, visual separation between the dwelling and outbuilding, and the hierarchy of built form would be retained.
21. The proposal would lead to a change in character of the rear of the appeal property and its relationship with 1 Cedar Cottages. However, as the appeal property and its attached neighbour are situated within a wooded hollow, the

rear gardens are screened from views from within the wider CA to a significant extent due to intervening topography and substantial dense vegetation. Accordingly, the proposed glazed link would not be readily apparent from beyond very limited, short-range views within the appeal site and from the neighbouring property, and would not, therefore, lead to harm to the character or appearance of the CA.

22. The proposal would preserve the character and appearance of the Chorleywood Common Conservation Area and avoid harm to its significance. It follows that the proposal would thus comply with CS Policies CP1 and CP12, as well as DMP Policies DM3 and Chorleywood Neighbourhood Plan Policies 1 and 2. Taken together, and amongst other things, these policies seek to ensure that development is of a high standard of design which sustains and conserves the significance, character and setting of heritage assets; preserves or enhances the character or appearance of the area; uses materials that are appropriate to the local context, and maintains local distinctiveness.
23. The proposal would also accord with advice with the National Planning Policy Framework, which states that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets.

### **Other Matters**

24. The appellants have stated that a separating wall of no more than 2m in height could be erected between the properties in the location of the proposed link structure without the need for planning permission, and that this would have no worse effect upon living conditions than the appeal proposal.
25. Whether the erection of such a wall would require planning permission is disputed between the parties. However, this is a matter which would fall outside the scope of this appeal, and no evidence has been provided which would formally confirm the lawfulness of such a fallback position.
26. Furthermore, the proposed link structure forms a functional element of a wider development scheme, and the appellant has not indicated that this option would be pursued in the event of the appeal being dismissed. Accordingly, it appears to be no more than a theoretical possibility, and I afford it only limited weight in terms of justifying the appeal scheme.
27. The proposal would bring into active use an historic outbuilding. Together with its refurbishment, this would be likely to have a positive effect on the longevity of this structure. Whilst this would amount to a benefit of the scheme, it has not been demonstrated that this would be wholly reliant on the provision of the link structure and could not be delivered by other means. Accordingly, I afford this factor modest weight in my considerations.
28. It is also stated that the proposal would have benefits in terms of energy conservation, as the glazed link would integrate the proposed study into the appeal property, reducing the number of external doors, and allowing heat sharing within the building. However, as precise details of energy efficiency values or any proposed heating system are not before me, the extent of this benefit in comparison to other potential configurations has not been demonstrated. Whilst energy efficiency would be a benefit of the proposal, I afford it modest weight in these circumstances.

## **Conclusion**

29. Although I have found that the proposal would preserve the character or appearance of the CA, it would lead to harm to the living conditions of the occupiers of 1 Cedar Cottages with particular regard to outlook and light. It would conflict with the development plan as a whole, and there are no material considerations, including the Framework, which would outweigh that conflict. Therefore, the appeal is dismissed.

*C Harding*

INSPECTOR