



Appeal Decision

Site visit made on 7 February 2024

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2024

Appeal Ref: APP/G2245/W/23/3328339

Site formerly known as Sevenoaks Open Air School, Oakhill Road, Sevenoaks, Kent TN13 1NT

- 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 Bernard De Pascallis against the decision of Sevenoaks District Council.
 - The application Ref 23/01585/FUL, dated 6 June 2023, was refused by notice dated 15 August 2023.
 - The development proposed is knock down of existing open air school building and garage and construction of 2no. new business use units.
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Decision

1. The appeal is allowed and planning permission is granted for knock down of existing open air school building and garage and construction of 2no. new business use units at the site formerly known as Sevenoaks Open Air School, Oakhill Road, Sevenoaks, Kent TN13 1NT in accordance with the terms of the application, Ref 23/01585/FUL, dated 6 June 2023, subject to the conditions in the schedule below.

Main Issue

2. The main issue is the effect of the proposed development upon the character or appearance of the Kippington and Oakhill Road Conservation Area.

Reasons

3. The appeal site comprises a narrow piece of land which contains two single storey wooden buildings, one at the front of the site and the other to the rear. The site lies within the Kippington and Oakhill Road Conservation Area (KORCA), which is a designated heritage asset. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the Act), requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
4. From what I have read and from what I saw, the KORCA is primarily focussed on parts of Oakhill Road and Kippington Road, which mainly contain large, 19th and 20th century houses sat within sizable plots. As these are private roads there is a general absence of street furniture and the uncluttered informality of the layout is enhanced by mature planting and landscaping in and around individual properties.

5. Therefore, insofar as it relates to this appeal, the KORCA derives some of its significance from the quality of the spaces in and around the conservation area, as well as the aesthetic value in the quality of the period architecture.
6. The proposal would involve the replacement of the two existing buildings with two, new business units. They would be sited in similar positions to the existing buildings albeit with slightly larger footprints and thus there would be greater site coverage than at present. The front building would be an office and the rear would offer ancillary storage. Parking for two vehicles would be retained on the site frontage.
7. The Council does not appear to be concerned with the loss of the existing buildings on site. From what I saw and the substantive evidence before me I have no reason to conclude otherwise.
8. Both new buildings would be flat roofed, single storey structures finished in vertical timber boarding. They would have a relatively simple, unassuming appearance with sedum green roofs. However, in combination with the car parking spaces being formally laid out on the site frontage, the site would have a greater presence within the street than at present.
9. The appellant has confirmed that since the Council's decision on this proposal, planning permission has been granted on appeal for a new dwelling on the site. This not only establishes a potential future use of the site but also the quantum of built development that the site can accommodate. It is a material consideration to which I must have regard.
10. Although there might be some slight differences between the permitted dwelling and proposed business unit in terms of footprint, design and materials, they would be broadly similar in terms of being single storey buildings close to the site frontage and with parking for two cars next to the building. Indeed, it appears that the dwelling would be set slightly forward of where the front business unit would be positioned and overall that permission has a much greater site coverage.
11. Although the proposed buildings would not be reflective of the wider street scene, the existing situation on site and that of the permitted dwelling would equally not be representative of built form in the wider KORCA. Given the above context, I conclude that the proposed buildings would have a neutral effect on the appearance of the KORCA.
12. The reason for refusal also refers to the proposal representing a more intensive use of the site. Aside from the scale of built form relative to the size of the site this also appears to relate to the comings and goings and general activity from a commercial use. The Officer Report and the Council's Statement consider that the addition of a non-residential building within this location to be out of keeping with the character of the area.
13. A business use would be different from the prevailing residential uses in the KORCA but the site was previously used as a school, another non-residential use. According to the officer report the school use commenced in the 1970's and ceased operating in 2015. Regardless of whether or not the school use could lawfully recommence, it appears to have been operational, and the buildings existed, when Oakhill Road was added to the Kippington Conservation Area in 2007.

14. The Conservation Area Appraisal and Management Plan 2009 notes that Churchill Court was previously a non-residential building within the KORCA. I also noted on my site visit that there is a vacant purpose-built office building outside but immediately adjacent to the conservation area. It therefore does not seem to me that a single, small non-residential use would necessarily be a completely alien occurrence in relation to this conservation area.
15. Whilst there may be deliveries on occasions to the site, it is not uncommon for houses to nowadays also have many different deliveries through the week. There is little to suggest that deliveries to the site would be of a scale to cause material harm to the surrounding area.
16. The Council alludes to potential problems in terms of noise. However, were the use to create problems in terms of noise or vibration, smell, fumes etc then the activity would be likely to fall outside the Class E(g) use, which the appellant indicates to be the proposed use. The Council would then have the option of taking enforcement action if an unauthorised use were taking place.
17. Taking all of the above into consideration, I do not find the building or the use in this instance to be harmful to the character or appearance of the KORCA.
18. The proposal would therefore accord with Policies EN1 and EN4 of the Sevenoaks Allocations and Development Management Plan; Policies L01 and L02 of the Sevenoaks Core Strategy; and Policy C1 of the Sevenoaks Town Neighbourhood Plan which collectively, amongst other things, require new developments to respond to their context and protect both the urban area generally and heritage assets in particular.

Conditions

19. In addition to the standard time limit, a condition is required in the interests of certainty that lists the approved plans.
20. For the avoidance of doubt, a condition is necessary confirming that the finished external materials and the hard landscaping shall be as specified in the approved drawings.
21. There are currently no trees or vegetation of note on the site and much of the site would be covered by buildings or paving. However, there are trees close to the boundary and therefore a condition protecting them and requiring details of the construction/foundations is required to ensure their longer term health and retention. These details would need to be submitted prior to the commencement of the development and the appellant has provided written agreement to such a condition.
22. The site is located within an Area of Archaeological Potential and a suitable watching brief condition is reasonable and necessary. This condition would also be pre-commencement and the appellant has also confirmed in writing that this is acceptable.
23. The details of the soft landscaping and sedum green roof together with its maintenance and management would also be required. Such details would need to be agreed prior to the commencement of the new buildings but would not need to be submitted prior to the demolition of the existing buildings on site.

24. The proposal is predicated on the front building being used only for Class E(g) purposes and the rear building being used for ancillary storage. A condition stipulating this is therefore necessary to define the extent of what is permitted.
25. In order to ensure the development functions well and as intended, a condition requiring the car parking spaces to be completed prior to occupation is also necessary.
26. As a Class E(g) use is one that should be capable of being undertaken within a residential area without causing harm to amenity, it does not seem necessary for me to impose conditions that seek to control hours of operation, deliveries or noise.

Conclusion

27. Taking into account the above and all other matters raised, the proposal is consistent with the wider development plan. Therefore, the appeal is allowed and planning permission is granted subject to the conditions below.

Stewart Glassar

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed below:

Existing Site, Location Plan & Existing Outbuildings	- 8550-PD-01
Proposed Site, Location Plan & Proposed Office and Store Plans and Elevations	- 8550-PD-02
- 3) The external surfaces of the development, including hard landscaping, hereby permitted shall be constructed in the materials shown on plan no. 8550-PD-02. All approved hard landscaping shall be carried out in accordance with the approved details prior to the first occupation of the development or the completion of the development, whichever is the sooner.
- 4) No development shall commence until a scheme showing the exact position of protective fencing to enclose all retained trees as shown on the submitted plans, in accordance with British Standard 5837:2012: Trees in Relation to Construction (or later revision), and full details of the foundations and ground works within those protected areas, has been submitted to and approved in writing by the Local Planning Authority. The protected fencing shall be erected in accordance with the approved details prior to the commencement of development and thereafter maintained for the duration of the construction period and until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until the implementation of a watching brief to be undertaken by an archaeologist has been secured, submitted to and approved in writing by the Local Planning Authority. The details shall ensure that the excavation is observed, and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.
- 6) No development above damp proof course level shall take place until details of the soft landscaping and sedum green roof, including a management plan, timetable for implementation and any maintenance schedules, have been submitted to and approved in writing by the Local Planning Authority. The landscaping and sedum green roof shall be carried out in accordance with the approved details.
- 7) Prior to the occupation of the development hereby permitted, the parking spaces shown on plan number 8550-PD-02 shall be fully implemented and thereafter retained.

- 8) The front building on site shall be used for Class E(g) purposes and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 9) The rear building on site shall be used as storage ancillary to the front building and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

END