



Late Observations Sheet
DEVELOPMENT CONTROL COMMITTEE
14 February 2013 at 7.00 pm

Late Observations

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DEVELOPMENT CONTROL COMMITTEE

14 February 2013

LATE OBSERVATION SHEET

Item 4.1 SE/12/02797/FUL Land to Rear of 7 Serpentine Road, Sevenoaks TN13 3XR

Following a request at the Site Visit this morning. I have attached a copy of the previous Appeal Decision letter from the Planning Inspectorate for the previous application scheme as referred to within the main papers. (As Appendix A).

I am aware that further representations from the neighbours at No.9 Serpentine Road & 61 Bayham Road have been sent directly to the Members of this Committee and they have also been copied to the planning officers as well for information.

Whilst much the information presented relates to the merits of the application, which are covered in the officers' report, there are a number of points of clarification that I would wish to bring to the attention of the Members of Committee.

The proposed dwelling will be 8.2m in height, whilst the height of the previous scheme refused scheme was 9.4m. Therefore the difference in height between the two schemes is actually 1.2m and not the 1.5m difference which has been referred to the main papers. The height of the proposed building has not changed, just the reported difference to the earlier refused scheme.

Therefore in the paragraphs 2, 13, 27, 48, 50 & 62 the difference in height should read 1.2m.

Whilst this clearly flags up the fact the difference is no as great as originally reported, I still consider on balance that the reduction in height of 1.2m to still be sufficient to overcome the previous concerns regarding the overbearing impact on the residential amenity of No.9 Serpentine Road.

I would also confirm that all the assessments in relation to potential loss of light, were carried out on the basis of the height of the building on the drawings and its position, which has not changed.

The local resident also refers to garden grabbing. The National Planning Policy Framework excludes land in built-up areas such as private residential gardens from the definition of previously developed land. Paragraph 53 of that document advises that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example, where development would cause harm to the local area.

However, the Framework does not preclude development on garden land as a matter of principle. The saved policies of Sevenoaks Local Plan and the Sevenoaks Core Strategy both contain policies EN1 & SP1 respectively to protect the character of local areas, but neither document sets out any express aim to resist inappropriate development of residential gardens.

Sevenoaks Core Strategy policy LO1 advises that development will be focused within the built confines of existing settlements, with the principal focus being within the Sevenoaks

Supplementary Information

urban area. The appeal site is within that area. Notwithstanding that the application site does not constitute previously developed land, I consider that the development would not be unacceptable in principle. It would not conflict in this respect with the National Planning Policy Framework or Sevenoaks Core Strategy Policy LO1.

It is fully acknowledged that the proposal will result in the loss of double garage and parking spaces in front, which currently serve No.7 Serpentine Road. Whilst the proposed scheme will provide two parking spaces for the new dwelling, the existing property No.7 Serpentine Road will be left with no off street parking spaces. I would reiterate that the Kent Highways Officer raises no objection to this arrangement.

The residential character refers to respecting the regular building lines in the Bayham Road area. The building line along the northern side of Bayham Road is not completely uniform and the positioning of the proposed dwelling is only marginally forward of the principle of 61 Bayham Road, when comparing the two storey elements. It should also be remembered that the proposal dwelling is actually sited approximately 1m further back than the existing garage in relation to bay window and 2m in relation to the main two storey element of the proposed house.

The Residential Extensions guidelines have been referred to in the report, as they are the most appropriate test for assessing new development and its impact in neighbouring properties. The principles for assessing the impact of extensions or new buildings on neighbouring properties do not differ.

The kitchen referred to is served by windows in the rear elevation as well as the side elevation. It also appeared from the site visit that the side window in question, served as a utility room connected to the main kitchen. Further research confirms that the approved layout for the side extension to 61 Bayham Road shows this area being laid out as a utility room. It should be noted that utility rooms are not classed as a habitable rooms. Therefore the main outlook from the kitchen is to the rear elevation, which will be unaffected by this proposal.

Amend Recommendation

Add condition

13. The development shall be constructed at the level indicated on the approved drawing Cob/11/445/01D.

In the interests of the visual amenity of the local area as supported by Policy EN1 of the Sevenoaks District Local Plan.

Item 4.2 – SE/12/01819/OUT The New Inn, 75 St Johns Hill, Sevenoaks TN13 3NY

Further Information

Two further letters of objection have been received, raising the following issues:

- 1 Parking in this area is dreadful and it would be folly indeed to exacerbate the problem
- 2 Overdevelopment of the site

3 Residential use in this location is inappropriate

Officer's Recommendation

These issues are addressed in the report, and the Officer's Recommendation remains unchanged.

Officer's Recommendation

These issues are addressed in the report, and the Officer's Recommendation remains unchanged.

Item 4.3 SE/11/01874/FUL The Red Barn, Stack Road, Horton Kirby, Dartford DA4 9DP

Since the publication of the report correspondence has been received from the applicant commenting on the report and also offering a financial contribution of £10,000. It is understood the applicant has also written to Members.

This update covers an amendment to the original report, issues arising from the correspondence and the offer of a financial contribution.

Update to Report

Para 41 of the report includes a calculation of the contribution required following the methodology in the Affordable Housing SPD of £35 696. The viability appraisal by the Council's consultants concludes that a slightly lower contribution of £35,647 is justified (see paras 63, 103 and Appendix 1). Two references in the report to a figure of £35,648 are incorrect.

Additional Correspondence

After the Committee Report was published, further correspondence was received from the applicant on 6th, 7th and 12th February.

This correspondence reiterates a number of the points referred to in the main report. It also raises a number of other issues that are summarised below, followed by the Group Planning Manager's comments on each issue:

- The applicant states that the Council, in considering his actual costs incurred have ignored the costs he is incurring in interest, whilst paying off his mortgage.

Para 76 of the committee report refers to this point. A developer's finance costs would normally finish upon the sale of all relevant properties. As this dwelling would not be sold, the appropriate deadline when assessing the finance costs being incurred would be the completion of the project. The applicant has taken out a 25 year mortgage and because of the much longer period for repayment the finance costs are far higher than would be the case for a loan covering the construction period. Appendix 1 shows that the total interest costs over the full 25 year term mortgage amount to £442,000 on a loan of £593,000. The interest costs to the end of the mortgage term could not be considered genuine economic constraints in this context.

Supplementary Information

- There were earlier financial appraisals than those referred to in the committee report.

There was an earlier financial appraisal that was not accepted by the Council or the applicant. It is not included in the report because it is not considered relevant to the decision that needs to be made now. The appraisals referred to in the report reflect the data information supplied by the applicant and a more appropriate valuation for the dwelling proposed.

- There is no right in law to amend a S106 Agreement as stated in para 89 of the report.

The legislation on the modification and discharge of S106 Agreements allows for a right to apply to the Council to seek changes to an agreement or for it to be discharged. This method can only be used in certain circumstances. However, at the Council's discretion, the planning authority can informally enter into discussions and agree variations to an agreement or its discharge, without complying with these restrictions.

Offer of a Financial Contribution

Up until the time the report was published the applicants' position had consistently been that no contribution was justified in the circumstances of the case.

Following the publication of the Committee report an offer of an affordable housing contribution of £5,000 was received from the applicant, which has since been increased to £10,000 to be paid on commencement. The offer is accompanied by a draft legal agreement.

Until this point the applicant had not been willing to make any contribution (other than a willingness to pay the contribution if the dwelling was sold outside the family within 10 years, though it was made clear there was no intention to make such a sale). The report does not therefore consider any alternative to the options of a full contribution or no contribution.

The main report explains why officers consider a contribution is justified in this case. The offer now made raises the possibility of a partial contribution. This is a complex case with significant issues in dispute. Challenges from developers to financial contributions are not uncommon and the Council needs to be careful to maintain consistency. Nevertheless Members may consider that in the particular circumstances of this case there are some grounds for flexibility in the total amount involved. Factors that could be taken into account include:

1. The development is unusual in that the applicant is carrying it out for his own use. As a result costs that a private developer would incur, including sales and marketing of the completed development and an allowance for developers profit do not apply, and it is because of these extra costs that the scheme would not be viable as a commercial development. Guidance on viability in the Affordable Housing SPD is primarily aimed at property developers but Officers consider it is reasonable to exclude extra costs that are not incurred where the development is not being built for sale. Nevertheless Members may wish to give some weight to the comparison with the position for a private developer.

2. The applicant's proposal to include additional sustainability features beyond what is required under policy adds significantly to the cost of the development. Policy gives preference to securing the affordable housing contribution but Members could give some weight to the applicant's proposals which include solar panels, rainwater harvesting and a ground source heat pump.
3. The development involves a barn conversion which the applicants report argues entails much higher than normal construction costs. The assessment carried out for the Council does not support the high figure proposed but estimates are subject to some uncertainty given the nature of the project.

None of these factors justify waiving the contribution, nor do they individually justify a lower figure, but looking at them in combination it may be argued that there is a case for some compromise in the overall figure. If Members consider that the offer of £10,000 is acceptable in the circumstances of the case then the following recommendation could be agreed:

Recommendation

- A) That delegated authority be given to the Director of Community and Planning to grant permission subject to appropriate conditions and a completed S106 Agreement securing an affordable housing contribution of £10 000 payable on commencement, within 6 weeks of the committee resolution.
- B) If a completed S106 Agreement securing an affordable housing contribution of £10 000 payable on commencement is not received within 6 weeks of the committee resolution, then the application be refused as per the original recommendation, for lack of an affordable housing contribution.

Item 4.4 SE/12/03108/FUL Asda Stores Ltd, London Road, Swanley BR8 7UN

This item was Withdrawn from Committee on 11th February - Councillor Ball has expressed that this application should be withdrawn from the forthcoming DC Committee agenda and allows officers delegated powers to approve.

Appeal Decision

Site visit made on 7 August 2012

by **P E Dobsen MA (Oxon) DipTP MRTPI FRGS**

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

Decision date: 12 September 2012

Appeal Ref: APP/G2245/A/12/2173717

Land adjoining 7 Serpentine Road, Sevenoaks TN13 3XR

- 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. R. Roubicek against the decision of Sevenoaks District Council.
 - The application (Ref SE/11/02670/FUL), dated 10 October 2011, was refused by notice dated 30 December 2011.
 - The development proposed (adapted from the Council's decision notice) is "erection of dwelling to rear of Nos.7 and 9 Serpentine Road, including demolition of existing garage, and construction of 2 replacement parking spaces for No.7".
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Decision

1. The appeal is dismissed.

Main Issues

2. There are 2 main issues in the appeal. These are: a) whether the proposal represents a cramped over-development of the site which would harm i) the street scene on Bayham Road and/or ii) the residential amenities of No.9 Serpentine Road, by reason of an overbearing proximity, leading to an undue loss of natural light and outlook; and b) whether access to the proposed replacement parking spaces for No. 7 Serpentine Road would endanger the safety of traffic using the junction of Serpentine Road and Bayham Road.

Reasons

3. The appeal site, which is approximately rectangular in shape and about 0.02 ha. in size, lies at the rear of Nos.7 and 9 Serpentine Road, and is at present occupied by part of the garden and a double garage for No. 7 with a crossover from Bayham Road. That southern side frontage of No.7 is lined mainly by high shrubbery, and it presents a relatively wide gap in this medium density residential area (known as Holly Bush) on the eastern side of Sevenoaks. No.7 is a 2 storey dwelling house attached to No.9 to the north, whose rear rooms and small garden also overlook the appeal site.
4. The locality contains mainly 2 and 3 storey Victorian and Edwardian detached and semi-detached dwellings, although there is also a scattering of modern infill, and a few older buildings. The sizes, frontage widths and heights, and architectural styles, materials and detailing of the houses all exhibit considerable variety, together with their garden gaps and occasional garages and other outbuildings, giving a street scene of markedly mixed character,

although there are also some relatively uniform groups of dwellings of similar age and design, such as those at the southern end of Serpentine Road.

5. The proposed dwelling, approximately square in plan form, is shown in drawings COB/11/445/01A, 02B and 03A. Although atypically small, and on an unusually small plot compared with most detached dwellings in the locality, it would contain 3 storeys with bedrooms on the upper 2 floors. The house would have a bay window and other windows at the front, but no windows to habitable rooms in the flank elevations. The 3 windows at the rear upper floors are shown on the plans with obscure glazing, in order to minimise any overlooking of nearby dwellings.
6. The new house would also have 2 parking spaces at the front, located on the existing crossover to the garage about 30m. from the middle of the Bayham Road/Serpentine Road junction. 2 replacement parking spaces for No.7, as shown on drawing COB/11/445/01A, would be constructed between Serpentine Road and Bayham Road, with access from the former.
7. I have considered this proposal in the light of the relevant saved (2008) development plan policies (principally EN1 *Development Control: General Principles*) in the Sevenoaks District Local Plan, and in the adopted Sevenoaks Core Strategy (2011), as indicated in the Council's reasons for refusal and Officers' report on the application. There is no particular dispute as to the purposes, content or interpretation of the policies and no need here to describe them in detail. In broad summary, where new development is proposed they aim to protect and enhance the character of residential areas through a high standard of design, and to protect the residential amenity of existing occupiers. Highways policies aim to secure the safety and free flow of traffic.
8. *Issue a (i) Effect of proposed dwelling on the street scene:* The proposed dwelling is designed architecturally in a modern variant of a late-Victorian/Edwardian cottage style which, together with the proposed materials (details of which could be the subject of a condition) would be acceptably in keeping with its surroundings and the general locality. Its frontage width and height would not appear out of scale with its 2 nearest neighbours at 61 Bayham Road and 7 Serpentine Road, and together with the front building line would achieve a harmonious visual transition between the two.
9. As noted above, the open gap between those 2 houses is a relatively wide one in this area, and the house would not appear cramped in terms of its relationship with 61 Bayham Road. Moreover, there are no protected or significant trees along the southern garden boundary of 7 Serpentine Road, much of whose shrubbery would be retained, so as not to diminish excessively the contribution of garden greenery to the street scene. For these reasons, and despite the small size of its plot I do not consider that the proposed house would appear as a cramped over-development of the site which would harm the street scene on Bayham Road.
10. *Issue a (ii) Effect of proposed dwelling on residential amenities of No.9 Serpentine Road:* During my site visit, I took particular care in assessing the effect of the proposed dwelling on No.9, whose owners have submitted detailed objections to it. I am much less concerned about any potential impacts upon No.61 Bayham Road, or upon any dwellings further afield.

11. Owing to the rising gradient of the land from east to west, the house would be sited at a significantly higher level than No.9, and would be considerably greater in height, bulk and massing than the existing garage, although it would occupy a broadly similar footprint. It would also bring more intensive domestic activity into the existing garden area at the rear of the garage. As a result, I consider that the house would have an unduly overbearing proximity when seen from the rear habitable rooms and garden of No. 9. This would reduce natural light to the garden, and, albeit to a lesser extent, to certain habitable ground and first floor rooms at the rear of the house. It would also adversely affect their outlook, and the private character and use of the rear garden, thereby diminishing the overall residential amenities of the property, contrary to the relevant development plan policies.
12. *Issue b) Effect of proposed access on safety and free flow of traffic using Bayham Road:* The locality comprises a network of quiet residential streets carrying mainly private cars and delivery vehicles etc. Their widths and alignments are fairly typical of such medium density residential areas. Traffic speeds are generally low. The existing site contains a wide crossover and a short access drive to a double garage, and this drive would be replaced by 2 off-street parking spaces. I have assumed that the existing drive accommodates the domestic traffic movements associated with one dwelling (ie. No. 7) and that would not change if the proposed dwelling were built. Thus there would be no predictable increase in traffic movements using this crossover. In these circumstances, there would be no significant change arising from the development, either in the access arrangements or in the number of movements generated. Thus the new dwelling would not itself entail any harm to the safety and free flow of traffic using Bayham Road. However, there is an objection by the local highways authority to the 2 replacement car parking spaces at no. 7, owing to their location hard by the junction with Bayham Road, and for that reason I agree that movements into and out of these spaces would represent an unnecessary and unacceptable traffic hazard.
13. In summary, I find that the proposed dwelling would not harm the street scene on Bayham Road. However, the changed parking arrangements for No.7 Serpentine Road would undermine the safety of road users, and the new house would significantly harm the residential amenities of No.9 Serpentine Road, by reason of an overbearing proximity leading to a loss of light and outlook. Those aspects of the proposed development would be contrary to the development plan (notably SDLP policy EN1), and are the reason why the appeal must fail.
14. I note that the appeal is accompanied by a signed and executed unilateral planning obligation dated 10 July 2012. In accordance with the Council's policies for planning obligations this would provide a sum of £18,963 as a contribution towards the provision of affordable housing in Sevenoaks district. It would meet the 3 tests for obligations set out in para. 204 of the National Planning Policy Framework¹ and is therefore a material consideration in the appeal. However, it would not overcome the planning objections to the development stated above.

¹ i.e. that obligations should be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

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15. I have considered all the other matters raised by the main and 3rd parties (including local objectors to the scheme) but there are none which alter or outweigh my findings on the main town planning issues.

Paul Dobsen

INSPECTOR

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