

4.1-SE/15/03814/FUL

Date expired 8 February 2016

PROPOSAL:

Conversion of existing building from two self contained flats in to 1 family dwelling, including a two storey rear extension with room within roof space and a single storey side extension.

LOCATION:

4 Littlecourt Road, Sevenoaks TN13 2JG

WARD(S):

Sevenoaks Kippington

ITEM FOR DECISION

The application has been referred to Development Control Committee by Councillor Hunter for the following reason; disagrees with the interpretation of policy H4 of the Sevenoaks Allocation and Development Management Plan.

RECOMMENDATION: That planning permission be REFUSED for the following reasons:-

This proposal amounts to the loss of one residential unit through the conversion of two flats into one dwelling. As such the proposal results in a loss of housing stock contrary to the National Planning Policy Framework and policy H4 of the Allocations and Development Management Plan.

Informatives

1) The proposed development has been assessed and it is the Council's view that the CIL IS PAYABLE. Should this decision be appealed and the appeal is allowed full details will be set out in the CIL Liability Notice which will be issued as soon as possible after the appeal decision is issued. Further information can be found here:

<http://www.sevenoaks.gov.uk/services/housing/planning/planning-applications/community-infrastructure-levy-cil>

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by;

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,

- Allowing applicants to keep up to date with their application and viewing all consultees comments on line (www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp),
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Working in line with the NPPF, the application was refused as the proposal failed to improve the economic, social or environmental conditions of the area.

Description of Proposal

- 1 'Conversion of existing building from two self contained flats in to 1 family dwelling, including a two storey rear extension with room within roof space and a single storey side extension.'
- 2 The application seeks the approval of the conversion of the building from two flats to 1 dwelling, and to erect a two storey extension to the rear (south), a single storey side (east) extension, and to undertake a loft conversion. Fenestration changes are also proposed.

Description of Site

- 3 The application site consists of a two storey detached building located to the south of Littlecourt Road. The building is currently split into two flats. The site is situated within the ward of Sevenoaks Kippington and within the built confines of Sevenoaks.

Constraints

- 4 Area of Archaeological Potential.

Policies

Sevenoaks District Core Strategy -

- 5 Policies - LO1, SP1

Sevenoaks District Allocations and Development Management Plan (ADMP)

- 6 Policies - SC1, EN1, EN2, T2, H4

Other

- 7 The National Planning Policy Framework (NPPF)
- 8 Residential Extensions Supplementary Planning Document (SPD)
- 9 Sevenoaks Residential Character Area Assessment SPD

Planning History

- 10 SW/2/60/145 - External fireproof staircase and entrance doorway etc to the first floor flat to make the two existing flats self contained - Granted.

Consultations

- 11 Sevenoaks Town Council recommended approval.

Representations

- 12 Three letters have been received from neighbouring properties. Two of these letters support the proposal, outlining that a single house would be in keeping with the street, and whilst conflicting with policy H4, there are many new builds in the vicinity and no shortage of rental property.
- 13 One neighbour letter was received outlining that the property has been two flats since at least 1971, and raising concern that the extension will cause loss of light to the kitchen and bathroom at 3 Littlecourt Road which have windows on the western side. Concern was also raised that the garage and utility would be within 1 metre of the boundary (*Officer response: the scheme was reduced in size during the application process to address this concern*).
- 14 This letter supported the conversion to one house.

CHIEF PLANNING OFFICER'S APPRAISAL

Principle issues

The Change of use from two flats to one dwelling

- 15 Policy H4 of the ADMP outlines:
- 16 The Council will support proposals that bring empty properties back into residential use to provide opportunities for tenants to downsize.
- 17 The loss of housing stock through change of use or redevelopment will not be permitted unless it is demonstrated that:
 - a) the dwelling no longer provides accommodation of a satisfactory standard and is incapable of being improved at reasonable expense;
 - b) the locality and character of the surroundings are no longer appropriate for residential purposes; or

c) the dwelling is located within a primary or secondary retail frontage, a neighbourhood or village centre area or land allocated for business uses within Policy EMP1, as defined in Appendices 4, 7 and 8.

- 18 It is considered that this proposal amounts to the loss of one residential unit through the conversion of two flats into one dwelling. As such the proposal results in a loss of a residential unit and a reduction in housing stock. Points a) to c) have not been demonstrated. As such policy H4 outlines that this loss of one residential unit is not acceptable.
- 19 The applicants provided a Counsel opinion on the interpretation of policy H4 of the Allocations and Development Management Plan. The Counsel opinion is that policy H4 does not apply to this proposal, as the development, as a whole, cannot reasonably be said to be a “loss of housing stock”. It is argued that there is nothing in policy H4 that indicates that it is concerned with loss of units, and the policy makes no reference to protecting numbers of units. The Counsel opinion argued that the term “loss of housing stock” in policy H4 is ambiguous, and outlines that there is nothing in the explanatory text of the ADMP which supports the LPA’s interpretation. It was considered in this Counsel opinion that the policy appears to be concerned with changes or use or redevelopment which leads to another use altogether taking place. The Counsel opinion outlined that the development proposed, including extension and the conversion of loft space, provides more residential accommodation than the existing two bedroomed flats, and that there is no loss of housing stock.
- 20 The Counsel opinion also outlines that policy H4 is not directed at a situation such as this, so as to prevent an unlawful conversion from reverting to its original single family use. As can be seen from the planning history, the current use of the building as two flats has been in place since prior to 1960 and would be considered lawful.
- 21 The Officer’s interpretation of the policy is that the loss of residential units would be unacceptable unless parts a) -c) of policy H4 of the ADMP can be demonstrated. As such the conversion of 2 flats to 1 dwelling would be unacceptable as there would be a loss of 1 residential unit, which would be a loss in the district’s housing stock. The Council’s legal department were consulted on their interpretation of policy H4. It has outlined that the Officer’s interpretation was correct.
- 22 The Council’s legal opinion outlines that Section 55(3) of the 1990 Town and Country Planning Act specifically states that a change from one dwelling house to two or more dwelling houses constitutes a material change of use. However there is no guidance with regard to a merger of two or more dwelling houses to a lesser number. Generally a reduction in numbers meant there was no material increase in activity or significant external changes, so it was widely accepted that this did not represent a material change of use and planning permission was not required. However in the Richmond case (Richmond upon Thames v SSETR & Richmond upon Thames Churches Housing Trust) the High Court held that an inspector in granting a LDC to convert a 7 flat property to a single dwelling house had erred in examining only the external manifestations and not the nature of the uses before and after. The change gave rise to planning considerations including the loss of a

particular type of accommodation which was a material consideration and should have been taken into account in determining whether a material change of use had arisen.

- 23 The Council's legal opinion outlines that in this case there is a specific policy (H4 of the Allocations and Development Management Plan) which specifically precludes a change of use which would have the effect of loss of housing stock, so it is a material and policy objection in refusing planning permission.
- 24 Based on the legal advice obtained by the Council it is considered that the proposal should be assessed under policy H4 of the Allocations and Development Management Plan, and that this policy does set out that the loss of residential units would be unacceptable.
- 25 As such the loss of one residential unit as outlined above would be contrary to policy H4 of the ADMP and would be unacceptable

Impact on character and appearance of the area

- 26 The NPPF states that the Government 'attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.' (para 56). Policy SP1 of the Core Strategy states that all new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated. Policy EN1 of the ADMP states that the form of proposed development should respond to the scale, height, materials and site coverage of the area. This policy also states that the layout of proposed development should respect the topography and character of the site and the surrounding area.
- 27 The Residential Character Area Assessment SPD outlines positive features to include repeated designs and materials, tree screening, and cul-de-sacs. The only negative feature outlined is noise from London Road. The design guidance outlines that harmonious palettes of materials should be respected, and mature trees should be retained.
- 28 It is proposed to erect a two storey rear (south) extension. This extension should project 4 metres from the existing rear elevation and would run the width of the property. The extension would match the ridge and eaves of the host property, extending the ridge line to the south, creating a small flat roof section at ridge level which will contain a rooflight. It is considered that the two storey extension would fit well with the host property, with the dwelling retaining its appearance as a hipped roof building. The detailing to the rear is shown to be large windows and door units which are not matching in appearance to the host property. However, whilst not matching in appearance, these windows are to the rear of the property and are not visible from the street scene of Littlecourt Road or Courtwood Drive to the south. It is considered that the proposed two storey extension would be acceptable in design terms.
- 29 It is also proposed to erect a single storey side (east) extension projecting 2.4 metres from the existing side elevation. This element would commence
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behind the existing garage and fall in line with the rear (south) of the proposed two storey side extension. This element would be roofed to match the existing garage with a pitched roof. The ridge and eaves of this pitch would be slightly higher than that of the garage at 4.2 and 2.55 metres. It is considered that this element would appear as a clearly subservient addition which would not dominate or overwhelm the original. As such it is considered that this element would be acceptable in design terms.

- 30 The submitted plans indicate that to the front (north) the existing set back entrance would be brought forward to fall in line with the front (north) elevation of the property. This alteration would not result in a significant change to the appearance of the property and it is considered that this would not harm the character and appearance of the property nor that of the street scene.
- 31 The proposal also includes the addition of a dormer at loft level within the rear (south) roof of the proposed two storey extension. The proposed dormer would be pitched and set well back from the sides and eaves of the roof. The ridge of the dormer would match the ridge of the host property, however whilst the design would be improved through setting this down, this is not considered unacceptable as the dormer is pitched and it is only a small element that would match the ridge of the host property.
- 32 It is considered that the proposed works would be acceptable in design terms.

Impact on neighbouring amenity

- 33 Paragraph 17 of the NPPF identifies a set of core land-use planning principles that should underpin decision-taking. One of these principles is that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Policy EN2 of the Allocations and Development Management Plan outlines that proposals will be permitted where they would provide adequate residential amenities for existing and future occupiers of the development, and would safeguard the amenities of existing and future occupants of nearby properties by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity or vehicle movements, overlooking or visual intrusion and where the built form would not result in an unacceptable loss of privacy, or light enjoyed by the occupiers of nearby properties.
- 34 The proposal does not add any new windows to the eastern and western elevations of the property. New windows and a dormer will be in place on the rear (south) elevation, which looks towards the rear garden of the application site and would have similar views as the existing windows on the southern elevation. It is not considered that there would be privacy issues as a result of this proposal.
- 35 The Council's Residential Extensions SPD indicates that a '45 degree' test should be applied to assess whether the proposal would lead to a significantly harmful loss of light to habitable rooms of neighbouring properties. For a significant loss of light to occur, the proposal would need to fail the 45 degree test on both plan and elevation form. The 45 degree on

plan form indicates that any impact would be on the side elevation of 3 Littlecourt Road. The 45 degree on elevation form indicates that any impact would be on the lower 1.1 metre of the side wall. This would not result in a loss of light to any windows of over 50%, and in any case the windows to the side are not for habitable rooms. As such the proposal passes the 45 degree test in relation to 3 Littlecourt Road. To the west of the application site is Christchurch United Reformed Church. The proposal passes in relation to this Church.

- 36 The development would not result in an unacceptable loss of privacy, daylight, or private amenity space to the surrounding residents or the site itself. As such it is considered that there will not be an objectionable harm to neighbouring amenity.

Other issues

Off-street vehicle parking provision

- 37 Ample parking is available on site.

Access issues

- 38 There will be no change to access.

CIL

- 39 The CIL questionnaire has been completed and outlines that the proposal adds over 100sqm of additional floorspace. A self-build exemption for a residential extension has been claimed. The Self Build Residential Extension Exemption Claim Form has been submitted with the applicants' names of Mr and Mrs Popely. This form confirmed all the agreements and has been signed by both applicants. The CIL assumption of liability for has been completed by both parties. I am therefore satisfied that if planning permission were to be granted Mr and Mrs Popely could be exempt from CIL for planning application 15/03814/FUL.

Conclusion

- 40 I consider that the proposed extensions would not harm neighbouring amenity nor the character and appearance of the host property or street scene. However, the loss of a residential unit would be contrary to policy H4 of the ADMP which protects against the loss of housing units. Consequently the proposal is not in accordance with the development plan and therefore the Officer's recommendation is to refuse.

Background Papers

Site and Block Plan

Contact Officer(s):

Hannah Weston Extension: 7387

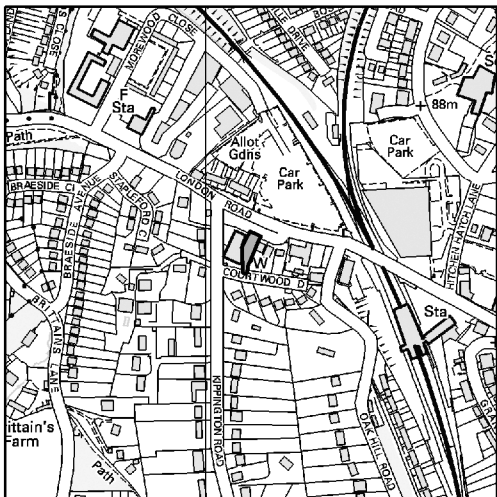
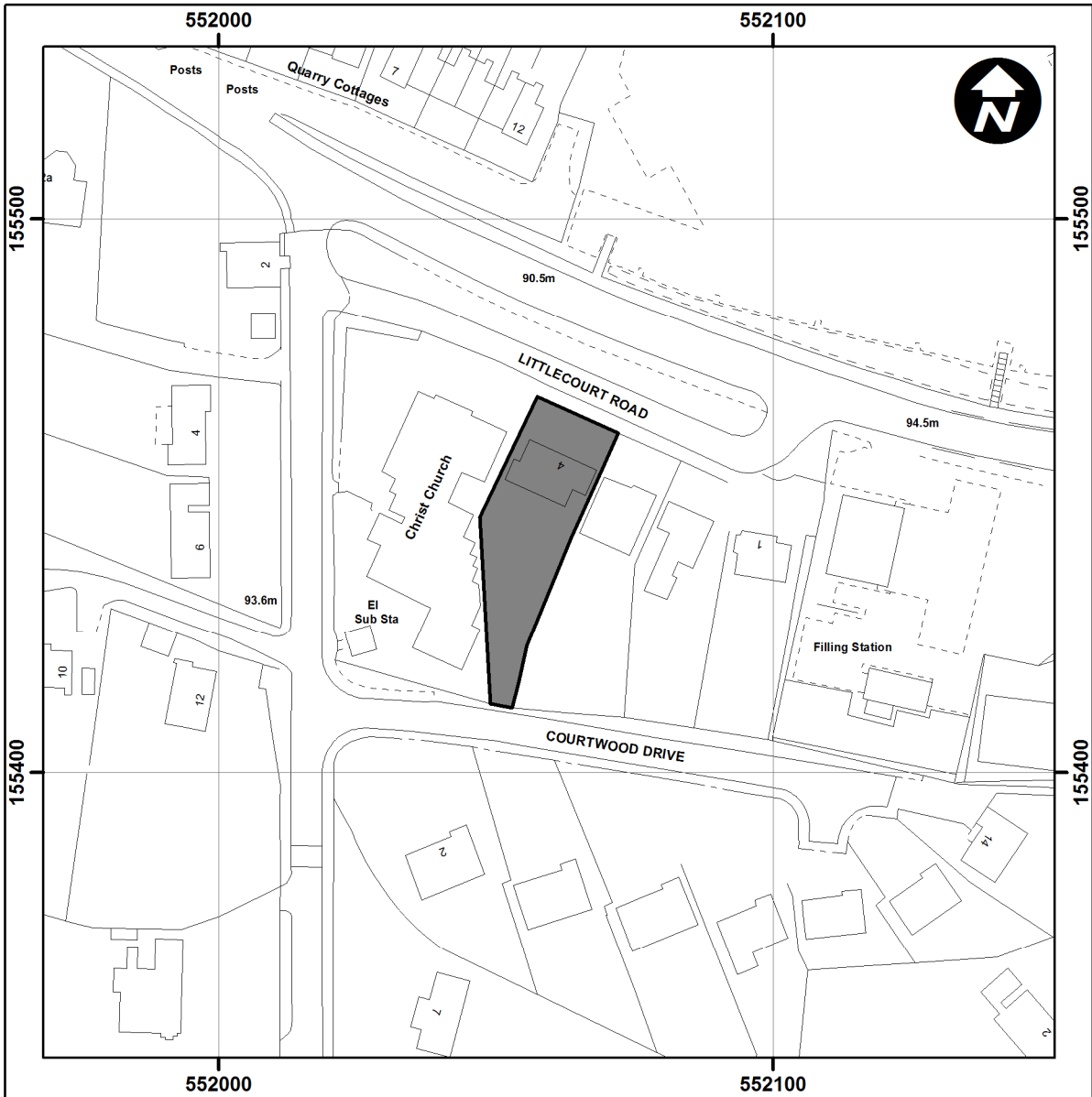
Richard Morris
Chief Planning Officer

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NYTZV7BK0L000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NYTZV7BK0L000>



Site Plan

Scale 1:1,250

Date 20/01/2016



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BLOCK PLAN

