

4.1 22/01088/MMA

Date expired 24 June 2022

Proposal:

Minor material amendment to 20/03395/FUL.

Location:

40 High Street, Sevenoaks, Kent TN13 1JG

Ward(s):

Sevenoaks Town & St Johns

Item for decision

Councillor Fleming has referred the application to Development Control Committee on grounds of a loss of privacy to neighbours, which would be contrary to Policy EN2 of the Sevenoaks Allocations and Development Management Plan.

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:

1) The development hereby permitted shall be begun before the expiration of the time limit imposed on application SE/20/03395/FUL

In pursuance of section 91 of the Town and Country Planning Act 1990.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 2038-01, 2038-02, 2038-03, 2038-04, 2038-05, 2038-06, 2038-07B, 2038-08A, 2038-09C, 2038-10A, 2038-11B, 2122 - 18, 2122 - 19, CL2-BSH-01SX Rev A, CL2-BSH-02SX Rev A, CL3-S06SX Rev A, and CL3-S01SX Rev A.

For the avoidance of doubt and in the interests of proper planning.

3) The materials and their specifications (including, where applicable, size, colour, texture, profile, finish, bonding and pointing) shall be implemented in accordance with the details approved under application 21/04127/DETAIL.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

4) The existing first floor flat roof area on the north-east facing rear elevation shall not be used as private amenity space in relation to the development hereby approved. Access shall only be retained for safety and maintenance purposes.

To safeguard the privacy of neighbouring residents as supported by Policy EN2 of

the Sevenoaks Allocations and Development Management Plan.

5) The mitigation measures to provide adequate air quality and noise protection will be implemented in accordance with the details approved under application 21/02798/DETAIL and shall be implemented prior to first occupation.

To ensure that the noise levels in habitable rooms meet the requirements of BS 8233:2014 and that future residents are not exposed to harmful levels of air pollution, to protect the amenity of future occupants.

6) The proposed development shall be carried out in accordance with the Construction Management Plan, as approved under application 21/02905/DETAIL, at all times.

In the interest of Highway Safety and neighbouring amenity in accordance with policies EN2, EN7 and T1 of the Sevenoaks District Council Allocation and Development Management Plan.

7) The Council operates a residential parking permit scheme, for which the future occupants would not be eligible.

In the interest of vehicular parking and permit availability in accordance with policy T2 of the Sevenoaks District Council Allocation and Development Management Plan.

8) The second floor window on the rear facing north-eastern elevation, as shown on the Rear Elevation (drawing 2038 - 11B) that connects to the flat roof terrace area, shall be fixed shut and non-opening at all times.

To prevent the flat roof area being used as a private amenity terrace to safeguard the residential amenities of neighbouring properties in accordance with policy EN2 of the Sevenoaks District Council Allocation and Development Management Plan.

9) The first floor north-west facing window (serving Bedroom 2), as shown on the North Flank Elevation (drawing 2038 - 11B) shall be fixed shut and non-opening at all times, and shall be obscure glazed with glass of obscurity level 3.

To safeguard the privacy of neighbours, in accordance with policy EN2 of the Sevenoaks District Council Allocation and Development Management Plan.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in

light of our statutory policies in our development plan as set out in the officer's report.

Description of site

- 1 The site consists of a three storey terraced building located along the east of the High Street, on the southern approach to Sevenoaks town centre.
- 2 The building is Grade II Listed and is located within the Sevenoaks High Street Conservation Area.
- 3 The building is currently a vacant office use and is flanked by residential properties to the north and south.

Description of proposal

- 4 Planning permission was granted, via Development Control Committee, for the conversion of the building from an office to 4 residential flats (see below planning history).
- 5 The following amendments are now sought to this planning permission:
 - On the rear side elevation of the building (facing north-west), to retain a first-floor window, rather than tile hang over the window. This window would serve bedroom 2 of the approved residential use. The window frame would be replaced and fitted with obscure glass.
 - On the rear elevation of the building (facing north-east), to incorporate a deeper window (lightwell) to serve the basement-level flat. Partial consent has already obtained for this under planning permission 20/03395/FUL, however the elevation plans were not included in the decision notice, and this application seeks to incorporate the missing plan into the decision notice, to correct the decision notice.
 - On the rear elevation of the building (facing north-east), consent has already been provided to replace a set of French doors at second floor level which connect to a flat roof area, with a window. The annotation on this window has changed from 'access through window solely for maintenance purposes', to instead state 'window to have no opening lights'.

Relevant planning history

- 6 20/03395/FUL - Conversion of building from office to residential use by the creation of 4 flats (3 x 1 bedroom and 1 x 2 bedroom). Creation of basement flat and internal alterations. Removal of bay window to front elevation and replacement with a new window.

- 7 All pre-commencement conditions associated with this planning permission have been discharged.

Policies

- 8 National Planning Policy Framework (NPPF)
- 9 Core Strategy (CS)
- SP1 Design of New Development and Conservation
- 10 Allocations and Development Management Plan (ADMP)
- EN1 Design Principles
 - EN2 Amenity Protection
 - EN4 Heritage
- 11 Other:
- Sevenoaks Residential Extensions Supplementary Planning Document (SPD)
 - Sevenoaks High Street Conservation Area Appraisal

Constraints

- 12 The following constraints apply:
- Grade II Listed Building
 - Sevenoaks High Street Conservation Area

Consultations

- 13 Sevenoaks Town Council:
- Support - Sevenoaks Town Council recommended approval, subject to the Planning Officer and Conservation Officer being satisfied with the plans and materials proposed.
- 14 Conservation Officer:
- No objection
- 15 Comments were provided on an accompanying Listed Building application for the works (reference: 22/01170/MMA), as follows:
- I have looked at the additional window details submitted under this MMA application further to the detailed comments I provided in response to the

substantive LBC application; the subsequent informal advice provided; and the new minor amendment now being proposed.

The amendments are considered acceptable.

Representations

- 16 One representation has been received objecting to the works, relating to the following issues:
- Loss of privacy / visual intrusion, through retention and replacement of a north-west facing window (serving bedroom 2); and through change of wording to window 13 (rear window serving a bedroom at second floor level) to say 'no opening lights', instead of 'non-opening'.
 - Potential damage to conservatory, through replacement of the north-west facing window (serving bedroom 2)
 - Health and safety implications
 - Adherence to the Party Wall Act

Chief Planning Officer's appraisal

- 17 The main planning considerations are:
- Impact of the amendments on heritage assets
 - Impact of the amendments on the character and appearance of the area
 - Impact of the amendments on neighbouring amenity

Impact on heritage assets

- 18 Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 placed a duty on a local planning authority, in considering development, which affects a Listed Building or its settings, to having special regard to the desirability of preserving the building or its setting, or any features or architectural or historical interest it possesses.
- 19 The NPPF states that great weight should be given to the conservation of heritage assets (para 199).
- 20 Policy EN4 of the ADMP states that proposals that affect a Heritage Asset, or its setting, will be permitted where the development conserves or enhances the character, appearance and setting of the asset.
- 21 The building in question is Grade II Listed and contributes positively to the character of the Sevenoaks High Street Conservation Area.
- 22 The Conservation Officer has raised no objections to the scheme, and has previously provided advice, through 'details' applications for the site, to confirm the acceptability of the windows proposed to the building.

- 23 The existing north-west facing window is modern, forming part of a flat roof 20th Century latter addition to the rear of the building. As such, there is no objection to its replacement. The retention of a window to this north-west facing elevation is considered preferable to blocking in this window, in heritage terms, in order to minimise the visual alteration of the building.
- 24 Consent to enlarge the lightwell to the basement flat, has already been part-granted under planning permission 20/03395/FUL. This application provides an elevation drawing to confirm the visual appearance of this window. The window would be a sash-opening window of a six-pane glass design, to positively respond to the design of the approved rear windows at first and second floor level (which are also of six-pane and sash-opening in design). As such, this window would conserve the visual character of the Listed Building.
- 25 No objection is raised to these works by the Conservation Officer, and this will enable full and accurate drawings to be incorporated into the planning consent for the works (to reconcile a missing elevation drawing in the existing planning permission - see 20/03395/FUL).
- 26 Finally, there is no physical change proposed to the second floor rear bedroom window (which connects to a flat roof of the rear addition to the building). The change purely confirms the window will have no opening lights, rather than stating it can be opened for maintenance purposes. There would be no impact on the historic fabric or historic significance of the building.
- 27 In summary, all window amendments would be discreetly contained to the rear of the site and would respond positively to the existing pattern and style of windows featured on the Listed Building. The amendments would not be visible from Sevenoaks High Street nor the wider Conservation Area.
- 28 As such, the proposed amendments are considered to conserve the significance of the Grade II Listed Building, and the positive contribution that the building makes to the Sevenoaks High Street Conservation Area, and to remain in accordance with Policy EN4 of the Sevenoaks Allocations and Development Management Plan.

Impact on the character and appearance of the area

- 29 Policy SP1 of the Core Strategy and Policy EN1 of the ADMP state that all new development should be designed to a high quality and should respond to and respect the character of the area in which it is situated.
- 30 All proposed amendments would be contained to the rear of the site and would not be visible from the streetscape nor public realm. The deepening of the basement lightwell to the rear of the property and retention of the north-west facing window would be of a discreet visual change to the building itself. As such, the amendments would continue to respect the

design and character of the site and wider area and are considered to remain in accordance with local policy.

Impact on neighbouring amenity

- 31 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development.
- 32 As with the previous assessment made by the Planning Officer under permission 20/03395/FUL, the proposed amendments would not extend nor increase the built form of the building. As a result, the development would conserve the existing daylight, sunlight and outlook of neighbouring properties.
- 33 Concern has been raised by third parties that the retention of a north-west side-facing window (to the first floor level, serving bedroom 2) would result in a loss of privacy to neighbours located to the north of the site. The window in question is at approximately a 90-degree angle to a window belonging to a neighbouring bathroom.
- 34 The existing window serving bedroom 2 (currently a vacant bathroom) is fitted with obscure glass on the bottom four panes of the window (bottom sash), with the remaining four panes of glass (the top sash) being clear glass.
- 35 The proposed replacement window would result in the whole window being constructed of obscure glass, which would improve the privacy afforded to this existing window.
- 36 Whilst third parties would prefer the window to be wholly blocked in, there is no requirement for the applicants to do this to secure privacy. Fitting side-facing first floor windows with obscure glass is a nationally accepted way of securing privacy (as referenced within the Town and Country Planning General Permitted Development Order). Windows which are obscure glazed - and fixed shut below 1.7m from finished floor level - do not always require planning permission.
- 37 Whilst the applicants have sought to leave the window openable for maintenance purposes (and fix a removable panel to the interior wall of the window when the window is not being maintained), given the close proximity of the bedroom window to neighbouring windows, it would be necessary to ensure the window is fixed shut and remains obscure glazed (with glazing of a level 3 obscurity which is the highest privacy level). This can be secured by planning condition to ensure that privacy is maintained, noting that there is another window that would serve this bedroom.
- 38 As such, new occupants of bedroom 2 would not be able to open, nor look out of, this window and the replacement window would conserve neighbouring privacy, subject to this privacy condition.

- 39 Concern has also been expressed that the plans submitted would enable a second floor bedroom window (to the rear of the site) to become openable onto a flat roof area of the building. As with the existing planning permission for the site, planning conditions can be carried over to ensure this window remains fixed shut, and to prevent the flat roof area of the building from being used as a terrace, to safeguard the privacy of neighbours and the recommendation includes these conditions.
- 40 In addition to the above, the deepened lightwell, by virtue of its subterranean siting, would not alter the existing outlook towards neighbours and would conserve neighbouring privacy. The deepened lightwell was requested by the previous planning officer in order to ensure adequate light levels into the new basement flat, and as such this amendment would positively impact new occupiers of the development.
- 41 In summary, subject to carrying over existing privacy conditions for the site, and applying a new privacy condition to the replacement north-west facing first floor window (to remain obscure-glazed and fixed shut), the proposal would continue to safeguard the amenities of surrounding neighbours and accord with local policy.

Other issues

- 42 Third party comments have expressed concern over health and safety implications and potential damage to the rear conservatory of neighbours to the north of the site, as well as adherence to the Party Wall Act.
- 43 The above matters are civil matters between neighbours and are not material considerations in the planning process. Third parties should seek independent advice on the above concerns.

Community Infrastructure Levy (CIL)

- 44 The proposal is CIL liable and no exemption has been applied for.

Conclusion

- 45 In conclusion, the proposed window amendments are of a discreet nature and respond positively to the character of the existing Listed Building and wider Conservation Area. Privacy conditions can be added and carried over from the existing permission (reference: 20/03395/FUL) to safeguard the privacy of neighbours.
- 46 As highlighted in the report above, the proposed amendments accord with the NPPF and our adopted development plan.
- 47 All other aspects of the scheme remain as per the existing planning permission for the site.

48 It is therefore recommended that this application is granted.

Background papers

2038 - 07 Rev B Existing Elevations - Rear and North

2038 - 09 Rev C Proposed First, Second Floor and Roof Plans

2038 - 11 Rev B Proposed Elevations - Rear and North

2122 - 18 Window Details W8 - Basement Rear

2122 - 19 Window Details Replacement window to North Elevation

CL2-BSH-01SX Rev A Classic Balcony Side Hung Window - 68mm Sq Edge Frame (Head/Cill Section)

CL2-BSH-02SX Rev A Classic Balcony Side Hung Window - 68mm Jambs Section

CL3-S06SX Rev A Classic Spring Sash Window - Standard 44mm Jamb Detail

CL3-S01SX Rev A Classic Spring Sash Window - Standard Specification

The following plans have not been re-submitted within this application but are included for ease of reference and to aid comparison with the proposed plans:

2038-01 Location Plan

2038-03 Site Plan

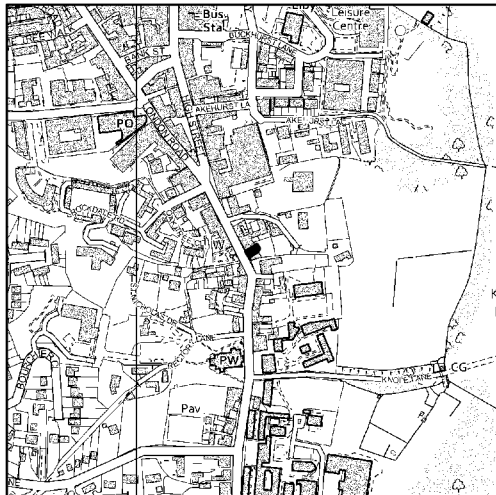
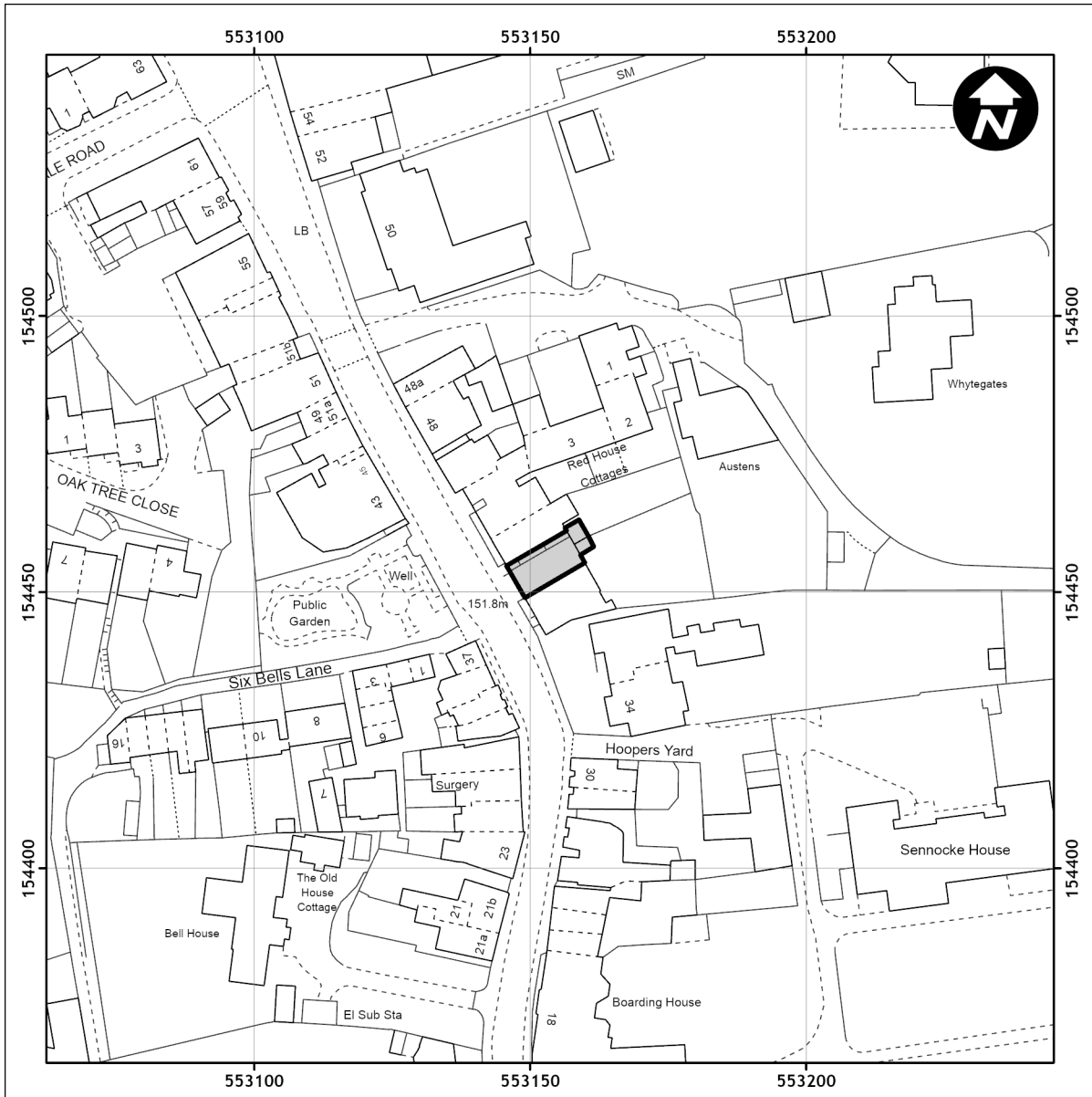
Contact Officer(s):

Samantha Simmons: 01732 227000

Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



Site Plan

Scale 1:1,250

Date 20/07/2022



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Ordnance Survey 100019428.

BLOCK PLAN

