

CHECAA

Craigweil House and its Environs

Conservation Area Association

'Preserving our Regal, Historic and Architectural Heritage for Future Generations'

AW-312-14-HH – 37 Kingsway – extensions to bungalow – 14-1-2015

Head of Planning Services
Arun District Council
Maltravers Road
Littlehampton
BN17 5LF

BY EMAIL ONLY

14 January 2015

Dear Sir

OBJECTION – AW/312/14/HH – 37 Kingsway – located within the Craigweil House
Conservation Area and the Craigweil House Area of Special Character -
front, side and rear extensions to semi-bungalow

INTRODUCTION

1. CHECAA comprises in excess of 200 members, each committed to ensuring that the spirit and intent of conservation as set out in Section 69 of the Act; in Policy Area 2 of the Arun District Local Plan and elsewhere are respected and complied with in every application submitted for development at Craigweil House Conservation Area (CA). Similarly, they seek to ensure that the criteria of the Area of Special Character (ASC) in Planning Policy Area 1 are addressed. Much more conflict with the Local Plan exists.
2. The applicant site, 37 Kingsway is located within this uniquely, dual-designated, area.
3. CHECAA's Planning Applications Scrutiny Committee has studied this application in detail and is not persuaded that the proposals serve to preserve or enhance the character or appearance of the CA or its setting. Nor is it satisfied that the development proposals will make a positive contribution to the ASC. Indeed, they believe that the proposed development will do nothing but harm the CA and ASC and we object to this application.

TREE BRITISH STANDARD IMPLICATIONS TO BE ADDRESSED

4. **At the outset, we feel that the requirements of British Standard 5837:2012 – ‘Trees in relation to design, demolition and construction –Recommendations’ should be addressed by the applicant and Arun District Council as a priority for it is, as a ‘Recommendation’ binding upon them and no longer advisory.** Photographs ‘A’ and ‘B’, attached, are taken looking north, towards the existing garage at the end of the existing tarmac and graveled driveway. The garage front entrance is in line with the rear of the semi-bungalow of the applicant site. The fence and wall to the right are owned by the applicant.
5. The vegetation to the right (east) of that fence and brick wall to the front is all in the ownership of Mr. and Mrs. Houlton at 39 Kingsway who have carefully and selectively planted it with unusual to rare specialist trees and shrubs through more than twenty years and wish to see them all retained for their enjoyment and not to be harmed or killed by development.
6. Although all the trees and shrubs are specimen scarcity in the area, including several Camellia; Magnolia Grandiflora; New Zealand Holly (Olearia Macrodonia) the tallest tree seen adjacent to the garage in Photograph ‘A’ is a deciduous Cercis Siliquastrum or Judas Tree – the specie of biblical significance as the tree from which Judas Iscariot, hanged himself, having betrayed Jesus. The Cercis is a very uncommon tree, rare in this area with only one other being known to CHECAA. **We consider this tree, in public view, is of significant amenity value, especially in the spring when it flowers prolifically with deep pink blossom before the leaves appear. The distinctive heart shaped leaves are of significant amenity value. In Israel, every Cercis is a protected tree.**
7. **Sadly, this tree appears not to have been protected by the LPA – maybe it was not recognised if viewed in the winter months – but CHECAA asks that it now be made the subject of a Tree Preservation Order for the applicant made clear to the writer today that he intends, next week, to excavate footings and build a 6’ high wall in place of the fence. We consider the Cercis and all these trees to be at risk of imminent harm or being killed.**
8. The applicant has declared that there are no trees within falling distance of the site and these photographs show that this is a false declaration. He mentions no tree at all and submits no Tree Survey or details of Root Protection Areas and we ask that the LPA require him to comply with the BS 5837:2012 in this and other respect, as is seen to be appropriate for these precious trees should not and must not, in our view, be sacrificed to this tawdry proposed development. The Magnolia Grandiflora specimen is unique in this area – a magnificent tree of some 2.5m in height and with evergreen, leathery, highly glossed green, red and bronze coloured leave right now. In spring the flowers add to this superb amenity tree which must not be harmed. Such vegetated areas are make Craigweil special.

9. Photograph 'C', which the applicant allowed me to take today is from his kitchen doorway and shows the Cercis and its juxtaposition with the garage corner – some 1.5m away. Its spring flower, perfume and leafage will be a joy to experience and he is privileged to enjoy this annually. However, he lives in London and visits Kingsway usually bi-weekly in the summer to tend the unoccupied property.
10. Photograph 'D' shows the lower trunk area of the Cercis taken in the garden of No. 39 Kingsway. It has single trunk from the bole which splits into three branches at just under 1m height. Measuring the diameter of the main trunk at that height and then measuring the diameter of the three split trunks at 1.5m. Calculating the Root Protection Area (RPA) -which I spent time explaining to the applicant - in accordance with Annex C and D of the British Standard delivers an RPA of around 40m square or a Radius of a nominal circle of around 3m (12'9").
11. Given that the feeder roots are contained in the top 300mm of the soil within this RPA, the placing of highly toxic concrete anywhere near that area – where creep would occur – would be a highly dangerous activity and certainly harmful to all those trees mentioned above. However, since these roots cannot immediately find open vegetated area, due to the driveway and garage, they will have extended their search for water, nutrition and oxygen and have run under the driveway and garage to the front and rear lawns and onto the rear lawn of No. 39 and this increases the importance of not allowing development adjacent to the vegetation.
12. **Lastly, on the issue of these splendid specimen trees, it must be remembered that they are not owned by the applicant but by Mr. and Mrs. Houlton who wish them to remain unharmed. Any harm caused by the applicant would be criminal damage and the LPA, in granting any consent, it has to be mentioned would undoubtedly take on a duty of care for the trees and a liability should they be harmed by any consent granted. It is 'Development – v- Trees' again, as CHECAA sees things – not uncommon at Craigweil.**
13. The applicant was at pains to show the writer cracks in the cheaply erected garage and to attribute these to the Cercis tree. His attention was drawn to the fact that, in such a situation, he was required to produce to the LPA a Structural Engineer's report and an Arboriculturalist's report to substantiate his claim and, also, that as a civil engineer, personally, I saw only settlement cracks due to poor construction.
14. Section 7.5.1 of the British Standard starts by saying *'The use of traditional strip footings can result in extensive root loss and should be avoided. We feel it not necessary to quote the whole of section 7.5 but ask that this be studied by the Case Officer who should have little difficulty in accepting our view that a wall cannot be built upon piles and beams and that, given the levels and position and the proximity of the neighbour's property at No. 39, there is no scope for implementing any of the complex and expensive slab supporting techniques available for use in extreme situations. There no need to allow it.*

**Judgment of Mr. Justice Lindblom in the Queen's Bench Division
given on the 12 June 2014 in the case of:**

The Queen –and- Sevenoaks District Council –and- (1) West Kent Housing Association and (2) The Right Honourable Philip John Algernon Viscount De L'Isle in which the dictum of South Lakeland District Council regarding the definition of S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 was re-stated and reinforced.

15. It has long been felt by CHECAA that detailed compliance with the extremely rigorous tests and 'balancing exercise' laid down in the Queen's Bench Division in the South Lakeland District Council case by Lord Justice Sullivan and the Sevenoaks District Council case by Mr. Justice Lindblom have not been followed as strictly as their Lordship's Ruling laid down and we think it right to remind the LPA, briefly, of these significant cases and to ask that Decision Makers now apply the appropriate tests in all conservation areas by following Sullivan L.J.'s that ***'if a proposed development would conflict with the objective of preserving or enhancing the character or appearance of a conservation area then there will be a strong presumption against granting planning permission for development which would harm the character or appearance of a conservation area precisely because there is a consideration of "considerable importance and weight".***
16. ***'As the Court of Appeal has made absolutely clear' (and I continue to quote verbatim from the Judgment of Mr. Justice Lindblom in all these matters) 'in its recent decision in Barnwell the duties in section 66 and 72 do not allow a local planning authority to treat the desirability of preserving the ...character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the case of Barnwell it has not been firmly dispelled. When an authority finds that a proposed development would harm ...the character or appearance of a conservation area, it must give that harm considerable importance and weight.'***
17. The Judgment continues ***'This does not mean that an authority's assessment of likely harm ...to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. BUT it is to recognise, as the Court of Appeal emphasised in Barnwell, that a finding of harm to the setting of a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so.***

18. But an authority can only properly strike the balance between harm on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preserving and if it demonstrably applies that presumption to the proposals it is considering.’ *‘Once he had found that there would be some harm to the conservation area, the officer was obliged to give that harm considerable importance and weight in the planning balance. The members were told that there was a “legislative duty” on the Council “to have special regard to the preservation of conservation areas BUT this was not the same thing and demonstrably applying the strong presumption against approval in the planning balance on which the written and oral advice given to the committee – and the committee’s decision – was based.’*
19. Finally, on these cases, we quote Sullivan L.J. who states *‘There I a” strong presumption” against granting planning permission for development which would harm the character or appearance of a conservation area precisely because the desirability of preserving the character or appearance of the area is a consideration of “considerable importance and weight’.*

OTHER ASPECTS OF THIS APPLICATION ADDRESSED

20. The Craigweil House Conservation Area has evolved, in phases, through more than 80 years, with development ceased during and after World War 2 for reasons obvious. Planning consent was granted for the applicant house in the mid-1950’s, when house building had re-started and its design and materials used are sympathetic to and in keeping with those around it. **Particularly, the bungalow** is set in appropriately spacious grounds in accord with the design concept of the developer, Sir Arthur Du Cros and his eminent architect, Joshua Auty, FRIBA, and **is as described in the CA Statement ‘with spacing between properties at ground level providing a sense of spaciousness.’** It is set back from the road.
21. That specific merit of the existing bungalow enjoying spacious grounds is a distinctive and integral part of the original design concept recognized and lauded by Graham Steaggles, the English Heritage Conservation Area Inspector’s report and accords with the CA Statement description of the character and appearance of Kingsway. *Allowing the proposed wall to wall development, involving the total development of all the space to the east of the bungalow would serve only to defy and fail to comply with the CA designation and Statement, which is not acceptable in our view. A significant feature highlighted is the wide verges and open, spacious front gardens.*
22. The application fails to address the fact that the site location is within the latest ADC designated CA and ASC; it appears to ignore both designations or to show how the proposed development will succeed in satisfying the many and varied constraints imposed upon the applicant by each designation. The applicant does not even say that the development with ‘preserve or enhance the character or appearance or setting’ of the CA **but CHECAA contends, firmly, that the proposals will not and that they will do nothing but harm the CA and ASC.**

23. Yet again, the applicant makes no mention of the fact that the site is within the Craigweil House Area of Special Character or of how, in that context, the proposed development will serve to make a *'positive contribution to the special character of the area, particularly with regard to the characteristics included in the descriptions of each area given in supplementary planning guidance* (now 'Document'). In this context, we respectfully draw attention to that SPD which, inter alia, says *'houses are set back from the verges throughout Kingsway with spacing between properties both at ground and first floor levels.'*
24. It is abundantly clear, therefore, that the effect of this proposed infilling of the whole land area of No. 37 Kingsway would conflict heavily with CA and ASC provisions and requirements and CHECAA contends that it should not be permitted. On this basis alone we feel that the application should be refused, but there is more to be considered.
25. By way of comment, we have to record the ludicrous inconsistency of the Conservation Area Advisory Committee which, when considering the first application, rejected it totally and now, with only a driveway removed in the re-submission, states that it has *'No Objection'*. **We ask the Officer to ignore this.**
26. At Section 7 of the application it is claimed that no trees or hedges on the site or adjacent land will have to be removed or pruned or are within falling distance of the proposed development. This has been addressed in detail above but we think it right that the applicant be required to submit a Tree Report and that the Arun Tree Officer be asked to inspect all vegetation and to report for trees affected are owned by a third party at No. 39 and to harm or kill them mechanically or with toxic cement will constitute criminal damage.
27. Another spurious claim appears in the answer to Section 8 on the form when the applicant claims that the development will not *'affect existing car parking arrangement'*. **This is untrue for there exists ample parking space to the east of the house for no less than two cars BEFORE one reaches the existing garage. If the garage is removed, as is now proposed, and supplanted by the utility looking 'car port' then the visual effect on the street scene will be devastating – it will create and undesirable precedent and be visually offensive.**
28. **More than that, the whole of the side conservatory development, together with the car port will protrude forward of the front of the property- south and the visual effect of that will be damaging to the established character and appearance of the conservation area whilst failing to preserve or enhance the area or its setting in any way. Once again, it will be harmful to the CA and it certainly will make no 'positive contribution' as is required by the ASC.**

29. Moving now to the front of the semi-bungalow, the room now marked 'lounge' has a pleased, skillfully tiled feature of a bow window. The applicant – to clarify inadequate drawings, yesterday assured me that all this is to be removed and replaced by a flat fronted window, flush with the wall. **This will cause harm to the building and the street scene and character of the area, in our view.**
30. In view of the many and varied window styles on the submitted drawings of AW/312/14/HH, the writer enquired of the form of intended windows and was told by the applicant (Mr. Roger Smith) yesterday that those windows on the plans – most are leaded currently – do not, in any way, depict windows to be installed. **CHECAA considers this to be unsatisfactory for windows are a significant part of the visual effect of any property.**
31. Moving now to the 'New Entrance Lobby' with a flat front, also brought forward to take up some 50% of the existing footpath vegetated at the side, we find this unacceptable and visually damaging and we see no merit in it. **The end effect of the re-alignment of the front elevation is that it is featureless, unimaginative and does not serve to satisfy the requirements of CA or ASC designations.**
32. **Simultaneously, of course, all these aspects adversely affect the hard surfacing and we see no application under the Article 4 Direction which is required for this.**
33. Conflict with Policy GEN7 appears to be gross but we ask the Case Officer to note just four aspects of it. GEN7 requires that *'Planning Permission will only be granted for schemes displaying high quality design and layout'*. CHECAA says that these development proposals, as mentioned by others – the roof of the car port and building a high wall hard up to the eastern boundary fail the GEN7 test!
34. GEN7 requires that development *'does not have an unacceptable adverse impact on adjoining occupiers, land, uses or property...'*. We say this test is not satisfied and that it will also have an overbearing effect on No. 39. **This is wedged in!**
35. The applicant, manifestly fails to *'take account of any unacceptable adverse impacts that may arise from adjoining uses or property'* – *flying in the face of GEN7(v) – and there are many.*
36. The application also fails the GEN7 requirement for it fails to *'make a positive contribution to the quality of the environment.'* **CHECAA says it causes harm to the environment; the character of the establish CA and its appearance.**
37. It has to be stressed, for so many people, including applicants and planners are unaware of the facts, that the Craigweil Private Estate (just part of the Craigweil House Conservation Area) has emerged in phases since the early 1930's and that the most recent house was built just 7 years ago. This was never a Wimpey type housing estate but Sir Arthur Du Cros offered pieces and parcels of land for sale.

38. Approved buyers could buy as many pieces of land as they wished on which to build their home. It follows, therefore that there are distinctly differing types of development, each representative of the period in which they were built. No. 37 was built in 1953 as were those around it and CHECAA feels that this small group should be assessed and valued on the basis that any modification should reflect that era as well as complying with the CA and ASC constraints overall.
39. Conflict with Policy DEV19 is apparent for part (111) requires that *'the extension does not have an adverse overshadowing, overlooking or overbearing effect on neighbouring properties.'* In simple words, this is totally unsympathetic to No. 39 and, in terms of; overbearing' it makes the Berlin Wall appear to have been quite attractive and creative!
40. This development *'compromises the established spatial character and pattern of the street'* – Kingsway - and this conflicts with the CA Statement; the ASC SPD and the formal letter of assessment of the area by English Heritage.

Over 200 members of the Craigweil House Conservation Area Association ask that this application, upon the many grounds cited, please be REFUSED.

Yours faithfully

Richard D. Ostler
Chairman

**Attached – Photographs 'A' to 'D' inclusive marked Img 234 and Img 235.
(E-mailed separately due to size)**



A



B



C



D