



Late Observations Sheet
DEVELOPMENT CONTROL COMMITTEE
03 October 2013 at 7.00 pm

Late Observations

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DEVELOPMENT CONTROL COMMITTEE

3 October 2013

LATE OBSERVATION SHEET

Item 4.1 - SE/13/01590/FUL Land SW of Forge Garage, High Street, Penshurst TN11 8BU

Consultations and Representations

Following production and publication of the draft committee report (see Para 88 of main report), the Environment Agency and Natural England have responded that they have no further comments to make.

In the Natural England comments set out in the main report, paragraph 67 refers to a letter dated 11 January 2011. This should in fact be 01 November 2011.

Matters of clarification

Bullet point 4 of para. 91 in the main report refers to the consideration of alternative sites and the site search process. I would clarify that the initial site search process, following production of the Rural Needs Survey, was carried out by Penshurst Parish Council. Following this, a Project Steering Group was formed, which included representatives from Sevenoaks District Council. Further surveys and community consultation exercises were then undertaken by Penshurst Parish Council and Sevenoaks District Council as part of the project.

Other Matters

Members should note that the applicant has now submitted a signed S106 agreement. If Members decide to approve the application, the S106 will subsequently be dated by the Council's Legal Services Manager for completion.

A Member has queried whether the post box next to the existing telephone box and adjacent to the proposed site access will be relocated. There are no plans to relocate this post box and KCC Highways have not requested this for highways safety reasons.

A Member has asked how the development takes account of paragraphs 115 and 116 of the National Planning Policy Framework. Paragraph 115 of the NPPF sets out the status of AONB's and the weight that should be afforded to the protection of these landscapes. This is considered and assessed as part of the main report (Paras 143-150).

Paragraph 116 of the NPPF sets a presumption against major development proposals in certain designated areas, including AONB's. The NPPF does not define major development, however the Town and Country Planning (Development Management Procedure) Order 2010 defines major residential development as 10 or more dwellinghouses. On this basis I do not consider that this scheme would be defined under the NPPF as major development, and that Paragraph 116 of the NPPF does not apply to this application.

Supplementary Information

Recommendation

My Recommendation to grant planning permission remains unchanged.

Item 4.2 – SE/13/01293/FUL Mercury House, Station Road, Edenbridge TN8 6HL

Corrections

The following replace the reasons given in the report:

Councillor Davison has called in the application for the following reason:

That the committee should be allowed to take a view on the different ways in which our policies and the NPPF can be interpreted in this type of application.

Councillor Scholey has called in the application for the following reason:

The industrial estate off Station Road has had a mix of employment types (including retail) for many years. Officers were willing to recommend changing the Fi-Glass site into part of a Tesco retail store. Development Control Committee have approved the change of some units on the opposite side of Station Road to a Sainsbury retail store. Therefore, I cannot see any reason of principle not to permit a change of use of Mercury House to retail. The key point is that the site is continued to be used for the employment of people as opposed to housing.

Further information

For information, the Sainsbury's application is being considered by the Secretary of State to decide whether he wishes to call it in. The deadline for call in was 4/10/2013. The Council have been informed by letter today as follows:

'It is regretted that the Department is unable to complete consideration of the proposal by 4 October 2013 and, in exercise of his powers under article 25(1) The Town and Country Planning (Development Management Procedure) (England) Order 2010 the Secretary of State hereby directs your Council not to grant permission on the application without specific authorisation. This Direction is issued to enable the Department to have a further period in which to consider the proposal. The matter will be dealt with as quickly as possible and a further letter will be sent to you when that consideration has been completed.'

Item 4.3 – SE/13/00820/FUL 3 Downs Cottages, Swanley Village Road, Swanley BR8 7NR

- An email has been received from the agent regarding the proposed development. A copy of this email is attached as Appendix 1.

Chief Planning Officers Comments

The following is written in response to the agents email.

During the course of applications submitted at 3 Downs Cottages for the provision of an annexe, officers have entered into pre-application discussions with the applicants and their agent and have regularly updated the agent on issues arising during the course of these applications.

The agents email quotes a response from Council Officer's given during the pre-application process regarding the acceptability of a scheme.

In responding to the pre-application enquiries I am advised that officers set out the policy constraints explaining how each of these would apply to the proposal. In the case of the pre-application enquiry following the refusal of the previous schemes, officers again set out the policy constraints, explaining how they had been applied to the proposals. In addition to this Officers advised how it may be possible to overcome the previous grounds of refusal. Suggestions included substantially reducing the size of the proposal and the accommodation within.

As stated in the email from the agent, the applicants and their agent were advised in the response to the initial pre-application enquiry that it would be preferable to provide the accommodation within a detached outbuilding rather than physically attaching it the main house in the interest of the character and integrity of the Listed Cottage. Officers have remained of this view throughout.

The agent suggests that officers have sought to restrict the extent of an outbuilding as opposed to the amount of extra accommodation that could be provided in an extension. This is not the case, the possibility of extending the main house to provide an annexe was never raised by the applicant. The recommendation to provide the accommodation in a detached outbuilding was relayed to the applicants and their agent following a consultation response from the Councils Conservation Officer as it concurred with the pre-application proposals and as stated previously was considered preferable in the interest of the character and integrity of the Listed Cottage.

I consider it useful to note that in response to the initial pre-application enquiry, the applicants and their agent were advised that the broad principle of a 'modest' extension to the existing outbuilding to create an annexe would be acceptable subject to appropriate design and layout. The applicants attention was drawn to the fact that the LPA would expect the use of any annexe to be clearly ancillary to the main house and that an entirely self contained unit on the site would be unacceptable and subject to policy SP3 of the core strategy.

The submitted scheme to follow did not reflect this advice and as set out in the Officers report at paragraph 46, proposed a large detached outbuilding with all the facilities to be occupied independently. As set out at paragraph 18 of the Officers report this application was subsequently refused. The revised scheme to be considered is also not considered to reflect the advice given by officers for the reasons contained in the report.

In response to paragraph 6 of the agents email, the agents understanding of the issue regarding the affordable housing contribution is correct. To clarify, if a contribution towards affordable housing were secured, this would only address the third ground of refusal.

The agent refers to two other permissions granted within the district for annexes and to officer's response to questioning in relation to these schemes. I am advised that an explanation was given by officers in relation to the granting of these permissions. The applicants and their agent were advised that in the case of the first scheme, the annexe was

Supplementary Information

being provided within an extension to the main house which as set out in the officer's report accompanying the application was linked via an internal doorway. The second application was for a detached annexe where the building in question had previously been granted planning permission (approximately 1 year prior) for residential conversion. It is correct that the applicants and their agents were advised that every application is determined on its merits, the reason being that each individual case will have different constraints and circumstances which apply. It is worth noting that the examples provided by the agent pre-dated policy SP3 of the Core Strategy and the requirement to make a contribution towards affordable housing.

- Information was circulated at the Committee site visit from Councillor Searles which included photographs of the timber barn previous occupying the site. These photographs are attached for information as Appendix 2

Chief Planning Officers Comments

Whilst it is clear from the photographs that originally the barn to be demolished was a substantial construction, as set out at paragraph 77 of the officer's report, this is no longer the case. In this case approximately two thirds of the building has gone allowing nature to reclaim back the openness. Therefore, to clarify, when assessing the proposal against the criteria contained within the National Planning Policy Framework regarding the Green Belt only the remaining built form which remains in situ (thus impacting upon the openness) has been considered when determining whether the replacement building is substantially larger than the one it is replacing.

Recommendation

That permission be refused, as per the main papers.

Dear Richard

Thank you for your email following my concerns raised with you about the handling of proposals for the above site.

I regret that your report does not answer my concerns about the quality of service offered and now that I have seen it, there are serious concerns that I feel need to be addressed.

You state in the report (Page 1 – Note to Applicant) that; “SDC takes a positive and proactive approach to development proposals.” Sadly, this has not been our experience in this case, it seems to me that the expectation of this commitment, is that Officer’s should be prepared to advise applicants, embracing the ethos of development management as opposed to development control.

Your Officer’s were advised of our Clients aspirations but were prepared only to respond negatively. An example of this, is illustrated by their respond to a question – What would be acceptable? “It’s not our job to tell you what might be acceptable.” This is hardly in the spirit of the Council’s statement!

The report raises further concerns, our starting point was based on the approach that it would not be desirable to actually extend the Listed Building and that a detached outbuilding would be a preferred solution. However, it seems that the policy is being used against us by restricting the extent of an outbuilding that could be provided as opposed to the amount of extra accommodation that could be provided in an extension. Sadly, there is no exercise of discretion but only what I would regard as the “traffic warden approach” which is control as opposed to management.

The report is also unclear as regards the request for a contribution for affordable housing. Your report takes the view that this is for the provision of an additional dwelling unit and although we disagree with that approach, it is unclear whether an offer to pay a contribution and to treat it as a separate dwelling (albeit tied to the main house) would overcome this objection. It seems that we are getting mixed messages here, because if a new separate dwelling would not be acceptable in this location then clearly the failure to offer a contribution to affordable housing would not overcome that particular objection.

In the report, you cite an example of an appeal decision which you claim, supports your approach to our application. This would seem to be contradictory because in our pre-application discussions and indeed in our previous submissions, we have referred to 2 permissions granted within your area off similar types of development one involving the change of use of an outbuilding for use as an annex and a second involving a substantial extension to an existing dwelling to provide annex accommodation. The response from your Officer’s at our meeting was, that there are no such things as precedence’s in planning and that each case must be considered on its own merits. Nevertheless, when pressed, your Officer’s were unable to provide any explanation as to why the examples I cited had been permitted when there is a fundamental objection to our proposals. In the interest of fairness, I feel that your report should provide an explanation as to why the 2 examples I referred to were acceptable so that your Members have a balanced basis on which to make a decision.

I could go on and pick up points from your report but I feel that the above examples should give you sufficient information to undertake a thorough review of this case and to examine in some detail whether your staff are actually fulfilling a positive and proactive approach to development proposals.

In addition, I would welcome your thoughts on how my Clients might reasonably expect to bring forward their aspirations for this development.

Kind Regards

Graham

GRAHAM SIMPKIN PLANNING
2 The Parade
Ash Road

