



DEVELOPMENT CONTROL COMMITTEE
09 June 2011 at 7.00 pm

AGENDA

Membership:

Chairman: Cllr. Mrs A Dawson

Cllrs: Cllr. G Williamson, Cllr. B Ayres, Cllr. R Brookbank, Cllr. C Brown,
Cllr. C Clark, Cllr. P Cooke, Cllr. R J Davison, Cllr. M Dickins,
Cllr J Gaywood, Cllr Ms M Lowe, Cllr. P McGarvey, Cllr. Mrs F Parkin,
Cllr. R Piper, Cllr. G Ryan, Cllr. J Scholey, Cllr. J Thornton,
Cllr. J Underwood and Cllr. R Walshe

Apologies for absence

1. **Minutes of the meeting of the Committee held on 7 April 2011** (Pages 1 - 2)
2. **Declarations of interest or predetermination**
3. **Declarations of lobbying**
4. **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**
5. **Planning Applications – Head of Development Services' Report**
 - 5.1. **SE/11/00470/FUL - Green Coppers , Wildernesse Avenue, Sevenoaks TN15 0EA** (Pages 3 - 12)

PROPOSAL: Glazed link extension between main house and garage roof (*Further amendment to planning permission SE/08/00930/FUL*)
 - 5.2. **SE/11/00471/FUL - Green Coppers , Wildernesse Avenue, Sevenoaks TN15 0EA** (Pages 13 - 22)

PROPOSAL: Conversion of existing garage roof, to form gym with rear and side facing dormer entrances (*Amendment to planning permission SE/08/00930/FUL*)

5.3. SE/11/00370/FUL - Fairlawn , Wildernesse Avenue, Sevenoaks TN15 0EA (Pages 23 - 34)

PROPOSAL: Demolition of west wing, garaging and pool annexe and erection of new and replacement extensions including basement and accommodation in the loft space with one roof balcony to south. Erection of a new self-contained pool house.

5.4. SE/11/00371/CAC - Fairlawn , Wildernesse Avenue, Sevenoaks TN15 0EA (Pages 35 - 42)

PROPOSAL: Demolition of west wing, garaging and pool annexe.

5.5. SE/11/00034/FUL - 1 Charts Edge Cottage , Hosey Hill, Westerham TN16 1TA (Pages 43 - 54)

PROPOSAL: Erection of single storey side and rear extension.

5.6. SE/11/00035/LBCALT - 1 Charts Edge Cottage, Hosey Hill, Westerham TN16 1TA (Pages 55 - 62)

PROPOSAL: Single storey side and rear extension

5.7. SE/10/03522/FUL - Chelsham, Church Road, Hartley, Longfield DA3 8DN (Pages 63 - 72)

PROPOSAL: Demolition of existing dwelling and erection of 2 detached dwellings, car port and car port and alterations to vehicular access.

5.8. SE/11/00774/FUL - Hodsoll House , High Street, Farningham Dartford DA4 0DH (Pages 73 - 82)

PROPOSAL: Demolition of existing outbuilding, erection of replacement outbuilding to provide garage, and ancillary residential accommodation to Hodsoll House, associated works

5.9. SE/11/00774/FUL - Hodsoll House , High Street, Farningham Dartford DA4 0DH (Pages 83 - 92)

PROPOSAL: Demolition of existing outbuilding, erection of replacement outbuilding to provide garage, and ancillary residential accommodation to Hodsoll House, associated works

5.10. SE/10/03498/FUL - 81 High Street And The Shambles, Sevenoaks (Pages 93 - 100)

PROPOSAL: Change of use of existing shop and open amenity land to mixed A1 (coffee shop) / A3 (Cafe and outside seating area) use.

- 5.11. SE/11/00102/FUL - Land Adjacent To, 1 & 2 Shacklands Cottages, Shacklands Road, Shoreham, Sevenoaks** (Pages 101 - 110)

PROPOSAL: Replacement of defective septic tank with new treatment plant, all in accordance with the environment permitting Reg 2010 - registering an exempt water discharge activity granted 30th December 2010 to serve no's 1 & 2 Shacklands Cottages

- 5.12. SE/11/00765/FUL - 66 London Road, Sevenoaks, TN13 1AT** (Pages 111 - 116)

PROPOSAL: Change of use of retail unit A1 to A3 restaurants and cafes, on the ground floor.

- 5.13. SE/11/01024/TELNOT - Proposed Telecommunications Mast North Of Junction With London Road, Shurlock Avenue, Swanley** (Pages 117 - 124)

PROPOSAL: 11.8 metre high street furniture style shared telecommunications installation with associated equipment housing and ancillary development thereto.

- 5.14. SE/11/01076/TELNOT- Land South Of Service Station, London Road, Swanley BR8 7QD** (Pages 125 - 132)

PROPOSAL 12.5m high Jupiter streetworks column accommodating 6 no. shrouded antennas with slimline meter cabinet and radio equipment enclosure and development ancillary thereto.

6. Enforcement of Planning Control

- 6.1. 310/05/085: Four Winds, Farley Common, Westerham** (Pages 133 - 238)

7. Tree Preservation Orders

- 7.1. Objection to TPO/01/2011: Crispins, The Street, Horton Kirby, South Darenth** (Pages 239 - 244)

- 7.2. Objections to TPO/206/2011: 14 Woodlands Rise, Swanley** (Pages 245 - 248)

EXEMPT ITEMS

(At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.)

Late Observations

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Director or Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format

please do not hesitate to contact the Democratic Services Team as set out below.

If you wish to speak in support or against a planning application on this agenda, please call the Council's Contact Centre on 01732 227000

For any other queries concerning this agenda or the meeting please contact:

The Democratic Services Team (01732 227241)

Any Member who wishes to request the Chairman to agree a pre-meeting site inspection is asked to email democratic.services@sevenoaks.gov.uk or speak to a member of the Democratic Services Team on 01732 227199 by 5pm on Monday, 6 June 2011.

The Council's Constitution provides that a site inspection may be determined to be necessary if:

- i. Particular site factors are significant in terms of weight attached to them relative to other factors and it would be difficult to assess those factors without a Site Inspection.
- ii. The characteristics of the site need to be viewed on the ground in order to assess the broader impact of the proposal.
- iii. Objectors to and/or supporters of a proposal raise matters in respect of site characteristics, the importance of which can only reasonably be established by means of a Site Inspection.
- iv. The scale of the proposal is such that a Site Inspection is essential to enable Members to be fully familiar with all site-related matters of fact.
- v. There are very significant policy or precedent issues and where site-specific factors need to be carefully assessed.

When requesting a site inspection, the person making such a request must state under which of the above five criteria the inspection is requested and must also provide supporting justification.

DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting of the Development Control Committee held on 07 April 2011 commencing at 7.00pm

Present: Cllr. Mrs. Dawson (Vice-Chairman in the Chair)

Cllrs. Arnold, Brookbank, Mrs. Broomby, Cooke, Davison, Gaywood, Maskell, McGarvey, Mrs. Morris, Mrs. Parkin, Ryan, Underwood and Walshe.

Apologies for absence were received from Cllrs. Bosley, Piper and Scholey.

67. MINUTES

Resolved: That the minutes of the meeting of the Development Control Committee held on 10 March 2011 be approved and signed by the Chairman as a correct record.

68. DECLARATIONS OF INTEREST OR PREDETERMINATION

Cllrs. Mrs. Dawson and Mrs. Parkin declared personal interests in respect of minute number 70 as they were members of the Sevenoaks District Council Access Group.

69. DECLARATIONS OF LOBBYING

Cllrs. Arnold, Mrs. Broomby, Cooke, Gaywood, Maskell, Mrs. Parkin, Ryan, Underwood and Walshe each declared that they had been lobbied in respect of Item 5.01 - SE/10/03224/FUL: Mercantile, Kingsingfield Road, West Kingsdown.

70. PLANNING APPLICATIONS

The Committee considered the following planning application:

Item 5.01 - SE/10/03224/FUL: Mercantile, Kingsingfield Road, WEST KINGSDOWN

The report advised that the partially retrospective application comprised of proposals for the formation of a hardstanding area for parking, a wheel chair ramp and installation of a sewage treatment plant. It was noted that the application had been referred to the Committee by the local Members due to concerns that the development of the site may be inappropriate within the Green Belt. Officers stated that the proposed scheme was considered to be appropriate development within the Green Belt as it would not detrimentally impact upon the open character and appearance of the Green Belt and would not harm the existing residential amenity or the character and appearance of the Area of Outstanding Natural Beauty (AONB).

The Committee was addressed by the following speakers:

Against the Application:	Dr Pontone
For the Application:	Mr Bodsworth
Parish Representative:	-
Local Member:	-

During consideration of this item it was noted by Members that there were objections raised by the local parish council and residents. Members considered whether the

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proposed access ramp was wide enough. The majority of Members expressed the view that the application was an appropriate development within the Green Belt and AONB.

It was MOVED by the Chairman that the recommendation in the report be adopted. The motion was put to the vote and there voted –

11 votes in favour of the motion

3 votes against the motion

Resolved: SE/10/03224/FUL: That planning permission be GRANTED subject to the following conditions:

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2) Once occupation of the mobile home has ceased by Mr Bodsworth, the hardstanding and sewage treatment plant hereby permitted, shall be removed and the site shall be restored to its previous condition, or restored in accordance with a scheme that has been submitted to and approved in writing by the Council.

In order to preserve and enhance the character and appearance of the Area of Outstanding Natural Beauty, in accordance with Policy C3 of the South East Plan and Policy LO8 of the Core Strategy.

3) The development hereby permitted shall be carried out in accordance with the following approved plans: 1 unnumbered 1:2500 scaled location plan, 1 unnumbered 1:500 scaled block plan, 1 unnumbered 1:100 scaled proposed plan, 1:100 proposed elevation, 1 unnumbered 1:50 scaled elevation of sewage treatment plant received on 19/11/10.

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

THE MEETING WAS CONCLUDED AT 7.50 P.M.

CHAIRMAN

5.01 - SE/11/00470/FUL Date expired 29 April 2011

PROPOSAL: Glazed link extension between main house and garage roof
(Further amendment to planning permission
SE/08/00930/FUL)

LOCATION: Green Coppers , Wildernesse Avenue, Sevenoaks TN15 0EA

WARD(S): Seal and Weald

ITEM FOR DECISION

This application is referred to Development Control Committee as the Officer's recommendation varies from that of the Town Council and at the original request of Councillor Coates and later Councillor Thornton.

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

1) All doors and windows shall be constructed in accordance with the detailed drawings submitted under SE/08/02305, unless agreed otherwise in writing by the local planning authority.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 and EN23 of the Sevenoaks District Local Plan.

2) Soft landscape works shall be undertaken in accordance with the details approved under SE/08/02411 unless agreed otherwise in writing by the local planning authority.

To safeguard the visual appearance of the area as supported by policies EN1 and EN23 of the Sevenoaks District Local Plan

3) The soft landscape works shall be carried out before the end of the first planting season following completion of the development or first occupation of the dwelling, whichever is sooner. The landscape works shall be carried out in accordance with the approved details.

To safeguard the visual appearance of the area as supported by policies EN1 and EN23 of the Sevenoaks District Local Plan.

4) If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species

To safeguard the visual appearance of the area as supported by policies EN1 and EN23

of the Sevenoaks District Local Plan.

5) Tree protection measures shall be undertaken in accordance with the details approved under SE/08/02434 unless agreed otherwise in writing by the local planning authority. The approved protection measures shall be in place before demolition commences and before any equipment, machinery or materials are brought on to the land for the purposes of the development. Protective fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the land. Unless agreed otherwise, within a retained tree protected area:

-Levels shall not be raised or lowered in relation to the existing ground level

-No roots shall be cut, trenches cut, or soil removed

-No buildings, roads, or other engineering operations shall be constructed or carried out

-No fires shall be lit; -No vehicles shall be driven or parked over the area;

-No materials or equipment shall be stored.

To secure the retention of the trees on site and to safeguard their long-term health as supported by Policy EN1 of the Sevenoaks District Local Plan

6) Hard landscaping and surfacing shall be undertaken in accordance with drawing numbered FLA/GD/P/180/001/D as approved under SE/08/02411 unless agreed otherwise in writing by the local planning authority, prior to first occupation of the dwelling hereby permitted.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 of the Sevenoaks District Local Plan

7) The proposed window (serving 'Bedroom 3) on the first floor of the west facing elevation of the dwelling shall be obscure glazed at all times. No further windows, other than those shown on the approved plans, shall be inserted in the west facing elevation of the approved dwelling.

To safeguard the privacy of residents as supported by Policy EN1 of the Sevenoaks District Local Plan

8) All works for underground drainage and services shall be carried out in accordance with the details submitted under SE/08/02437 unless agreed otherwise in writing by the local planning authority.

To safeguard trees on site, in accordance with policy EN1 of the Sevenoaks District Local Plan

9) The development hereby permitted shall be carried out in accordance with the following approved plans: 4156-PD4-001, 002, 003, 004, 005 and 006

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

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies CC1, CC4, CC6, BE6

Sevenoaks District Local Plan - Policies EN1, EN23

Sevenoaks District Core Strategy 2011 - Policies SP1

The following is a summary of the main reasons for the decision:

Any potentially significant impacts on the amenities of nearby dwellings can be satisfactorily mitigated by way of the conditions imposed.

The development would preserve the special character and appearance of the Conservation Area.

Informatives

1) This application relates to the amendment described above and does not infer consent for any other changes to the original permission SE/08/00930/FUL (or any later variations).

Description of Proposal

- 1 Planning permission SE/08/00930/FUL was given for the replacement of the pre-existing dwelling with a replacement dwelling of a greater scale. This permission was later amended under a number of later applications (listed below in the history section). Building works for the replacement dwelling are now well progressed in accordance with the amended details.
- 2 Planning permission is now sought for a further amendment to the original planning permission (as later amended) being a glazed link extension of approximately 7.2m x 6m between the main body of the dwelling and the adjoining garage. The link would be behind the slightly increased height link roof (increased in height by approximately 0.6m) and would have an overall height of 7m when seen from the lower ground level to the front and 4.6m when seen from the rear. The addition is a conservatory style element with glazed pitched roof. No other changes to the design or appearance of the dwelling are stated or implied within the application.

Description of Site

- 3 The application site previously consisted of one detached dwelling set on a 'backland' site to the rear of Westcombe House. The site is adjacent to another backland property 'Shelrock' to the west. The rear of the plot backs onto Long Spinney and land to the east of the site forms part of the existing grounds to Blakenhall. The pre-existing dwelling has now been demolished and construction work has been commenced to implement permission SE/08/00930/FUL (as later amended) for the redevelopment of the site with a single detached dwelling. Extensive fencing has been placed on the site to protect trees and building work is well underway with the roof now largely in place. The permitted development has a floor area of approximately 360 - 400 sq m with a detached garage to the west of the building. The permission allows for the erection of an Arts and Crafts

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SE/11/00470/FUL Item No 5.01

style dwelling finished in hanging tiles and red brickwork. The design of the dwelling was altered slightly and a loggia style addition was permitted to the rear (see history below).

Constraints

- 4 The application site is within the built confines of Sevenoaks and is located within the Wildernesse Conservation Area. The site is not within or adjacent to any other areas of special environmental or economic designation.

Policies

South East Plan 2009

- 5 Policies– CC1, CC4, CC6, BE6

Sevenoaks District Local Plan 2000

- 6 Policies– EN1, EN23

Sevenoaks Core Strategy 2009

- 7 Policy – SP1

Other

- 8 Planning Policy Statement 5: Planning and Historic Environment

Planning History

- 9 I refer only to the most relevant and recent planning history:
- 10 10/03458/FUL - Erection of entrance gates and secondary gates with small gatehouse - Granted
- 11 09/02899/FUL - Erection of single detached dwelling with linked garaging (Amendment to previously approved scheme 08/00930/FUL - Reconfiguring of internal layout, changes to the stair-well and lift, and extended loggia) - Granted
- 12 09/02176/FUL - Erection of single detached dwelling with linked garaging (Amendment to previously approved scheme 08/00930/FUL - design change & loggia extension) - Withdrawn
- 13 09/02175/FUL - Erection of single detached dwelling with linked garaging (Amendment to previously approved scheme 08/00930/FUL - loggia extension only). - Granted
- 14 09/00727/FUL - Redevelopment of Site with Single Detached Dwelling (amendment to approved scheme). - Granted
- 15 08/02343/FUL - Amendment to planning permission SE/08/00930 (redevelopment of site with single detached dwelling) to incorporate basement level changes - link to garage and lightwells. - Granted

- 16 08/00931/CAC - Demolition of existing dwelling (to facilitate redevelopment of site with single dwelling and garage) – Granted
- 17 08/00930/FUL - Redevelopment of Site with Single Detached Dwelling. – Granted
- 18 07/03145/CAC - Redevelopment of Site with Single Detached Dwelling. – Non-determination – Appeal Withdrawn
- 19 07/03138/FUL - Redevelopment of Site with Single Detached Dwelling. – Non-determination – Appeal Withdrawn
- 20 07/00266/FUL - Redevelopment of site with single detached dwelling. – Refused
- 21 07/00265/CAC - Demolition of existing dwelling, to facilitate redevelopment with single dwelling. – Refused

Consultations

Sevenoaks Town Council

- 22 The Sevenoaks Town Council recommended refusal on the grounds that the proposed design is totally incongruous with the Conservation Area, and would neither preserve nor enhance the character of the Conservation Area. Informative : Sevenoaks Town Council noted the lack of a Conservation Area Consent application.

SDC Tree and Landscape Officer

- 23 No comment

Thames Water

- 23 No objections

English Heritage

- 24 The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Representations

- 25 This application was originally called to committee by Councillor Coates as ward member for the reasons stated by the Town Council. Councillor Thornton maintained this 'call in' following the election on May 5th. No comment has been received from Councillor Hogarth.
- 26 Three letters have been received from neighbours raising objection to the application. These letters raise the following issues:

The addition would be contrary to the 'Arts and Crafts' style of the dwelling and would not preserve or enhance the Conservation Area.

The development would increase the bulk of the dwelling visible from surrounding properties and Wildernesse Avenue. The proposal will result in overdevelopment of the site.

Head Of Development Services Appraisal

- 27 With regards to the relevant policies of the Development Plan and the recent planning history on the site, the main considerations in this case are the impact of the development upon the special character and appearance of the Wildernesse Conservation Area, the impact of the development upon the amenities enjoyed by neighbouring properties and any other issues such as trees and landscaping.
- 28 I note that permission for the erection of the replacement dwelling has been implemented in accordance with the amended schemes on the site and that the outer shell of the building is almost entirely completed. It is not therefore relevant to reconsider the principle or detail of the larger dwelling as a whole and this consideration should look only at the impact of the alteration now sought.

Character and Appearance

- 29 The dwelling is located within the Wildernesse Conservation Area, the pre-existing building was not noted as a building contributing to character within the Conservation Area Appraisal. The main body of the building is being constructed in a largely Arts and Crafts style.
- 30 Policy EN23 of the Local Plan reiterates the presumption that development within conservation areas should preserve or enhance their special character and appearance.
- 31 The character of the Conservation Area is developed both through the subservience of the dwellings to the landscape and the predominantly treed and vegetated appearance of the surroundings and through the architectural merit of the dwellings themselves. It is noted that the subservience of the dwellings is developed by the large plots and generally large widths to boundaries which allow glimpses of trees and vegetation beyond the dwellings.
- 32 It is noted however, that the proposal would not be widely visible in the surrounding conservation area and would not affect its overall character. The dwelling is substantially set back from the roadway on a backland plot, approximately 120m from Wildernesse Avenue to the rear of Westcombe House. Given the slight bends in the long access driveway and the predominance of the trees and planting, there is no significant view directly into the site from Wildernesse Avenue.
- 33 It is considered that the overall impression of the dwelling remains as an attractive Arts & Crafts building. The small increase in the footprint of the building resulting from the link extension would not materially reduce the sense of spaciousness of the substantial plot. The addition is closely related to the dwelling as constructed, is of a domestic scale and does not impact upon the landscaping surrounding dwelling. The small increase in the height of the link roof would effectively screen the view of this link when viewed from ground level and the use

of glazing ensures that the bulk of the addition is minimised. The amendment reflects the character of the dwelling and preserves the prevailing character of the Conservation Area. There would be no impact upon any surrounding trees and the glazed link extension SE/11/00470 would be placed on an existing concrete slab between the garage and the dwelling.

- 34 The Council's Landscape Officer has raised no objection to the proposal.

Residential Amenity

- 35 The addition is closely related to the building as constructed and its garage. The alteration is at ground floor level to the rear of the dwelling. Given that the nearest property is approximately 30m from the link and any view towards that property would be heavily masked by planting, landscaping and boundary treatments, it is considered that the proposal would not have a significantly harmful effect upon neighbours.

Other Issues

- 36 The access and parking arrangements are unaffected by the proposal.
- 37 As the application is for an amendment to the original consent in 2008 (as later amended), the effect is to again give a full grant of consent for the development as a whole. It is considered therefore that the conditions attached to that permission and the most recent amendments are all appropriate to again be applied to this grant of consent. These conditions relate to materials, door and window construction, soft and hard landscaping, tree protection measures, obscure glazing and windows to the west elevation, underground drainage. A condition relating to the Code for Sustainable Homes was applied to SE/08/00930, though it was not subsequently considered necessary to comply with this condition following a ministerial statement relating to the removal of the South East Plan. This condition was discharged without full compliance with the Code for Sustainable Homes level 3. Even though this requirement has been recently reintroduced with the adoption of the Core Strategy, I do not consider that it would be reasonable to impose this requirement as the main body of the dwelling is now being constructed in accordance with this earlier permission (as subsequently amended).
- 38 The Town Council has indicated that the proposal is not accompanied by a Conservation Area Consent application. Such an application is not required as the proposal does not involve substantial demolition.

Conclusion

- 39 For the reasons stated above, the proposal is in accordance with the Development Plan and I therefore recommend approval of the application subject to appropriate conditions.

Background Papers

Site and Block Plans

Agenda Item 5.1

Development Control Committee: 9 June 2011

SE/11/00470/FUL Item No 5.01

Contact Officer(s):

Patrick Reedman Extension: 7451

Kristen Paterson

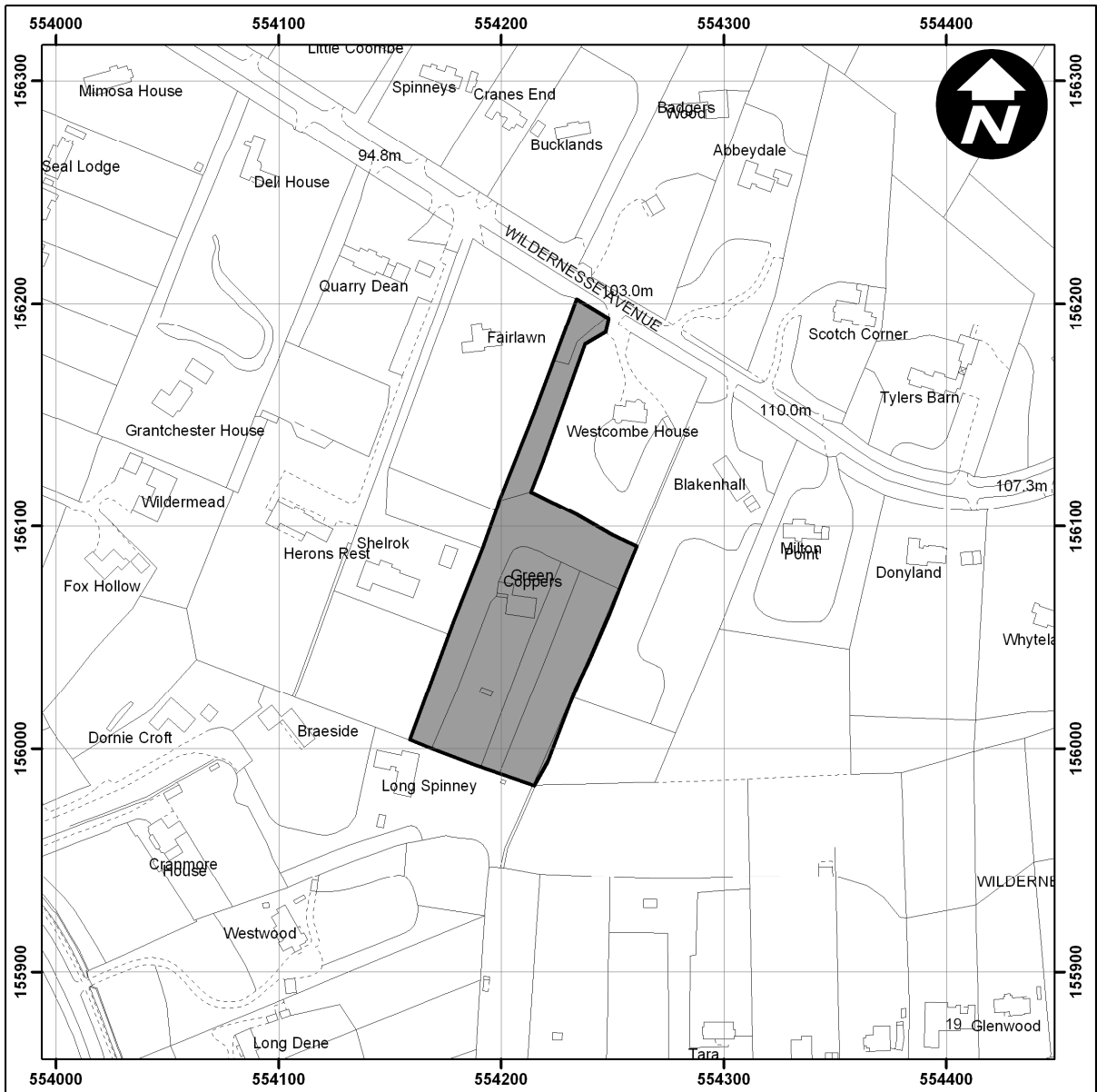
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LH48TTBKOCR00>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LH48TTBKOCR00>



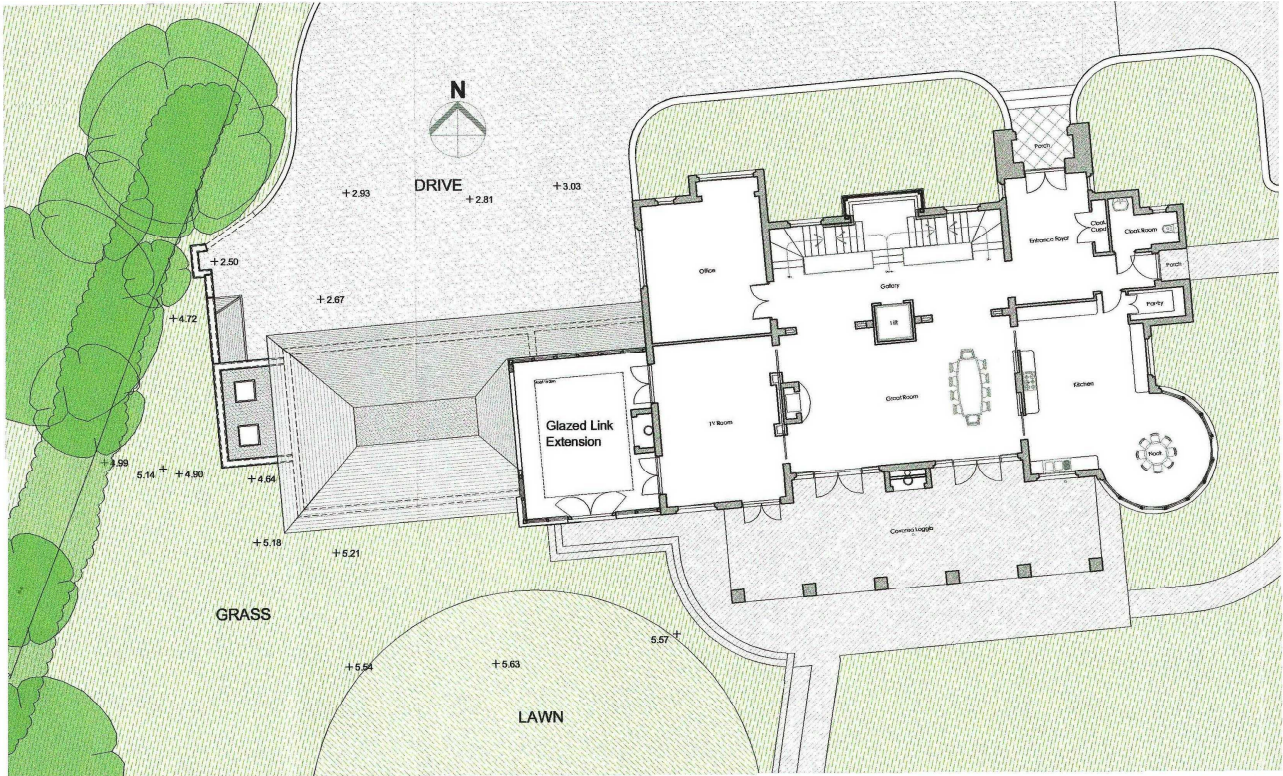
Site Plan

Scale 1:2,500
 Date 23/05/11



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Block Plan



5.02 - SE/11/00471/FUL Date expired 29 April 2011

PROPOSAL: Conversion of existing garage roof, to form gym with rear and side facing dormer entrances (Amendment to planning permission SE/08/00930/FUL)

LOCATION: Green Coppers , Wildernesse Avenue, Sevenoaks TN15 OEA

WARD(S): Seal and Weald

ITEM FOR DECISION

This application is referred to Development Control Committee as the Officer's recommendation varies from that of the Town Council and at the original request of Councillor Coates and later Councillor Thornton.

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

1) All doors and windows shall be constructed in accordance with the detailed drawings submitted under SE/08/02305, unless agreed otherwise in writing by the local planning authority.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 and EN23 of the Sevenoaks District Local Plan.

2) Soft landscape works shall be undertaken in accordance with the details approved under SE/08/02411 unless agreed otherwise in writing by the local planning authority.

To safeguard the visual appearance of the area as supported by policies EN1 and EN23 of the Sevenoaks District Local Plan

3) The soft landscape works shall be carried out before the end of the first planting season following completion of the development or first occupation of the dwelling, whichever is sooner. The landscape works shall be carried out in accordance with the approved details.

To safeguard the visual appearance of the area as supported by policies EN1 and EN23 of the Sevenoaks District Local Plan.

4) If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species

To safeguard the visual appearance of the area as supported by policies EN1 and EN23 of the Sevenoaks District Local Plan.

5) Tree protection measures shall be undertaken in accordance with the details approved under SE/08/02434 unless agreed otherwise in writing by the local planning authority. The approved protection measures shall be in place before demolition commences and before any equipment, machinery or materials are brought on to the land for the purposes of the development. Protective fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the land. Unless agreed otherwise, within a retained tree protected area:

- Levels shall not be raised or lowered in relation to the existing ground level
- No roots shall be cut, trenches cut, or soil removed
- No buildings, roads, or other engineering operations shall be constructed or carried out

- No fires shall be lit;
- No vehicles shall be driven or parked over the area;
- No materials or equipment shall be stored.

To secure the retention of the trees on site and to safeguard their long-term health as supported by Policy EN1 of the Sevenoaks District Local Plan

6) Hard landscaping and surfacing shall be undertaken in accordance with drawing numbered FLA/GD/P/180/001/D as approved under SE/08/02411 unless agreed otherwise in writing by the local planning authority, prior to first occupation of the dwelling hereby permitted.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 of the Sevenoaks District Local Plan

7) The proposed window (serving 'Bedroom 3) on the first floor of the west facing elevation of the dwelling shall be obscure glazed at all times. No further windows, other than those shown on the approved plans, shall be inserted in the west facing elevation of the approved dwelling.

To safeguard the privacy of residents as supported by Policy EN1 of the Sevenoaks District Local Plan

8) All works for underground drainage and services shall be carried out in accordance with the details submitted under SE/08/02437 unless agreed otherwise in writing by the local planning authority.

To safeguard trees on site, in accordance with policy EN1 of the Sevenoaks District Local Plan

9) The development hereby permitted shall be carried out in accordance with the following approved plans: 4156-PD2-001, 002, 003, 004, 005 and 006

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

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies CC1, CC4, CC6, BE6

Sevenoaks District Local Plan - Policies EN1, EN23

Sevenoaks District Core Strategy 2011 - Policies SP1

The following is a summary of the main reasons for the decision:

The development would preserve the special character and appearance of the Conservation Area.

Any potentially significant impacts on the amenities of nearby dwellings can be satisfactorily mitigated by way of the conditions imposed.

Informatives

- 1) This application relates to the amendment described above and does not infer consent for any other changes to the original permission SE/08/00930/FUL (or any later variations).

Description of Proposal

- 1 Planning permission SE/08/00930/FUL was given for the replacement of the pre-existing dwelling with a replacement dwelling of a greater scale. This permission was later amended under a number of later applications (listed below in the history section). Building works for the replacement dwelling are now well progressed in accordance with the amended details.
- 2 Planning permission is now sought for a further amendment to the original planning permission (as later amended) being the installation of two entrance dormer elements to the garage roof to the south and east elevations of the garage. The entrances would be created through the use of a gently sloping flat roof and with glazed doors under. The vertical elevations of the entrance dormers would be tile hung to match the main roof of the garage. No other changes to the design or appearance of the dwelling are stated or implied within the application.

Description of Site

- 3 The application site previously consisted of one detached dwelling set on a 'backland' site to the rear of Westcombe House. The site is adjacent to another backland property 'Shelrock' to the west. The rear of the plot backs onto Long Spinney and land to the east of the site forms part of the existing grounds to Blakenhall. The pre-existing dwelling has now been demolished and construction work has been commenced to implement permission SE/08/00930/FUL (as later amended) for the redevelopment of the site with a single detached dwelling. Extensive fencing has been placed on the site to protect trees and building work is well underway with the roof now largely in place. The permitted development has a floor area of approximately 360 - 400 sq m with a detached garage to the west of the building. The permission allows for the erection of an Arts and Crafts style dwelling finished in hanging tiles and red brickwork. The design of the dwelling was altered slightly and a loggia style addition was permitted to the rear (see history below).

Constraints

Agenda Item 5.2

Development Control Committee: 9 June 2011

- 4 The application site is within the urban area of Sevenoaks and is located within the Wildernesse Conservation Area. The site is not within or adjacent to any other areas of special environmental or economic designation.

Policies

South East Plan 2009

- 5 Policies – CC1, CC4, CC6, BE6

Sevenoaks District Local Plan 2000

- 6 Policies– EN1, EN23

Sevenoaks Core Strategy 2009

- 7 Policies– SP1

Other

- 8 Planning Policy Statement 5: Planning and Historic Environment

Planning History

- 9 I refer only to the most relevant and recent planning history:
- 10 10/03458/FUL - Erection of entrance gates and secondary gates with small gatehouse - Granted
- 11 09/02899/FUL - Erection of single detached dwelling with linked garaging (Amendment to previously approved scheme 08/00930/FUL - Reconfiguring of internal layout, changes to the stair-well and lift, and extended loggia) - Granted
- 12 09/02176/FUL - Erection of single detached dwelling with linked garaging (Amendment to previously approved scheme 08/00930/FUL - design change & loggia extension) - Withdrawn
- 13 09/02175/FUL - Erection of single detached dwelling with linked garaging (Amendment to previously approved scheme 08/00930/FUL - loggia extension only). - Granted
- 14 09/00727/FUL - Redevelopment of Site with Single Detached Dwelling (amendment to approved scheme). - Granted
- 15 08/02343/FUL - Amendment to planning permission SE/08/00930 (redevelopment of site with single detached dwelling) to incorporate basement level changes - link to garage and lightwells. - Granted
- 16 08/00931/CAC - Demolition of existing dwelling (to facilitate redevelopment of site with single dwelling and garage) - Granted
- 17 08/00930/FUL - Redevelopment of Site with Single Detached Dwelling. - Granted
- 18 07/03145/CAC - Redevelopment of Site with Single Detached Dwelling. - Non-determination – Appeal Withdrawn

- 19 07/03138/FUL - Redevelopment of Site with Single Detached Dwelling. – Non-determination – Appeal Withdrawn
- 20 07/00266/FUL - Redevelopment of site with single detached dwelling. – Refused
- 21 07/00265/CAC - Demolition of existing dwelling, to facilitate redevelopment with single dwelling. – Refused

Consultations

Sevenoaks Town Council

- 22 The Sevenoaks Town Council recommended refusal on the grounds that the proposed design is totally incongruous with the Conservation Area, and would neither preserve nor enhance the character of the Conservation Area. Informative : Sevenoaks Town Council noted the lack of a Conservation Area Consent application.

Tree and Landscape Officer

- 23 No comment.

Thames Water

- 24 No objections.

English Heritage

- 24 The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Representations

- 25 Two letters have been received from neighbours raising objection to the application. These letters raise the following issues:

The addition would be contrary to the 'Arts and Crafts' style of the dwelling and would not preserve or enhance the Conservation Area.

The development would increase the bulk of the dwelling visible from surrounding properties and Wildernesse Avenue.

Ward Members

- 26 This application was originally called to committee by Councillor Coates as ward member for the reasons stated by the Town Council. Councillor Thornton maintained this 'call in' following the election on May 5th. No comment has been received from Councillor Hogarth.

Agenda Item 5.2

Development Control Committee: 9 June 2011

- 27 With regards to the relevant policies of the Development Plan and the recent planning history on the site, the main considerations in this case are the impact of the development upon the special character and appearance of the Wildernesse Conservation Area, the impact of the development upon the amenities enjoyed by neighbouring properties and any other issues such as trees and landscaping.
- 28 I note that permission for the erection of the replacement dwelling has been implemented in accordance with the amended schemes on the site and that the outer shell of the building is almost entirely completed. It is not therefore relevant to reconsider the principle or detail of the larger dwelling as a whole and this consideration should look only at the impact of the alteration now sought.

Character and Appearance

- 29 The dwelling is located within the Wildernesse Conservation Area, the pre-existing building was not noted as a building contributing to character within the Conservation Area Appraisal. The main body of the building is being constructed in a largely Arts and Crafts style.
- 30 Policy EN23 of the Local Plan reiterates the presumption that development within conservation areas should preserve or enhance their special character and appearance.
- 31 The character of the Conservation Area is developed both through the subservience of the dwellings to the landscape and the predominantly treed and vegetated appearance of the surroundings and through the architectural merit of the dwellings themselves. It is noted that the subservience of the dwellings is developed by the large plots and generally large widths to boundaries which allow glimpses of trees and vegetation beyond the dwellings.
- 32 It is noted however, that the proposal would not be widely visible in the surrounding conservation area and would not affect its overall character. The dwelling is substantially set back from the roadway on a backland plot, approximately 120m from Wildernesse Avenue to the rear of Westcombe House. Given the slight bends in the long access driveway and the predominance of the trees and planting, there is no significant view directly into the site from Wildernesse Avenue.
- 33 It is considered that the overall impression of the dwelling remains as an attractive Arts & Crafts building. There would be no material increase in the floor area of the dwelling and the proposal would not materially reduce the sense of spaciousness of the substantial plot. The additions are closely related to the garage as constructed, are of a domestic scale and do not impact upon the landscaping surrounding dwelling. Only a small part of the east facing entrance dormer would be seen from the front when viewed from ground level and the impact of this part is insignificant. The amendment reflects the character of the dwelling and preserves the prevailing character of the Conservation Area. There would be no impact upon any surrounding trees and much of the development would be placed on existing concrete slab.
- 34 The Council's Landscape Officer has raised no objection to the proposal.

Residential Amenity

- 35 The additions are closely related to the building as constructed and its garage. The alteration is at ground floor level to the rear of the garage and facing towards the dwelling. Given that the nearest property is in excess of 20m from the development and the fact that the entrance dormers do not directly face towards this property it is considered that the proposal would not have a significantly harmful effect upon neighbours.

Other Issues

- 36 The access and parking arrangements are unaffected by the proposal.
- 37 As the application is for an amendment to the original consent in 2008 (as later amended), the effect is to again give a full grant of consent for the development as a whole. It is considered therefore that the conditions attached to that permission and the most recent amendments are all appropriate to again be applied to this grant of consent. These conditions relate to materials, door and window construction, soft and hard landscaping, tree protection measures, obscure glazing and windows to the west elevation, underground drainage. A condition relating to the Code for Sustainable Homes was applied to SE/08/00930, though it was not subsequently considered necessary to comply with this condition following a ministerial statement relating to the removal of the South East Plan. This condition was discharged without full compliance with the Code for Sustainable Homes level 3. Even though this requirement has been recently reintroduced with the adoption of the Core Strategy, I do not consider that it would be reasonable to impose this requirement as the main body of the dwelling is now being constructed in accordance with this earlier permission (as subsequently amended).
- 38 The Town Council has indicated that the proposal is not accompanied by a Conservation Area Consent application. Such an application is not required as the proposal does not involve substantial demolition.

Conclusion:

- 39 For the reasons stated above, the proposal is in accordance with the Development Plan and I therefore recommend approval of the application subject to appropriate conditions.

Background Papers

Site and Block Plans

Contact Officer(s): Patrick Reedman Extension: 7451

Kristen Paterson
Community and Planning Services Director

Link to application details:

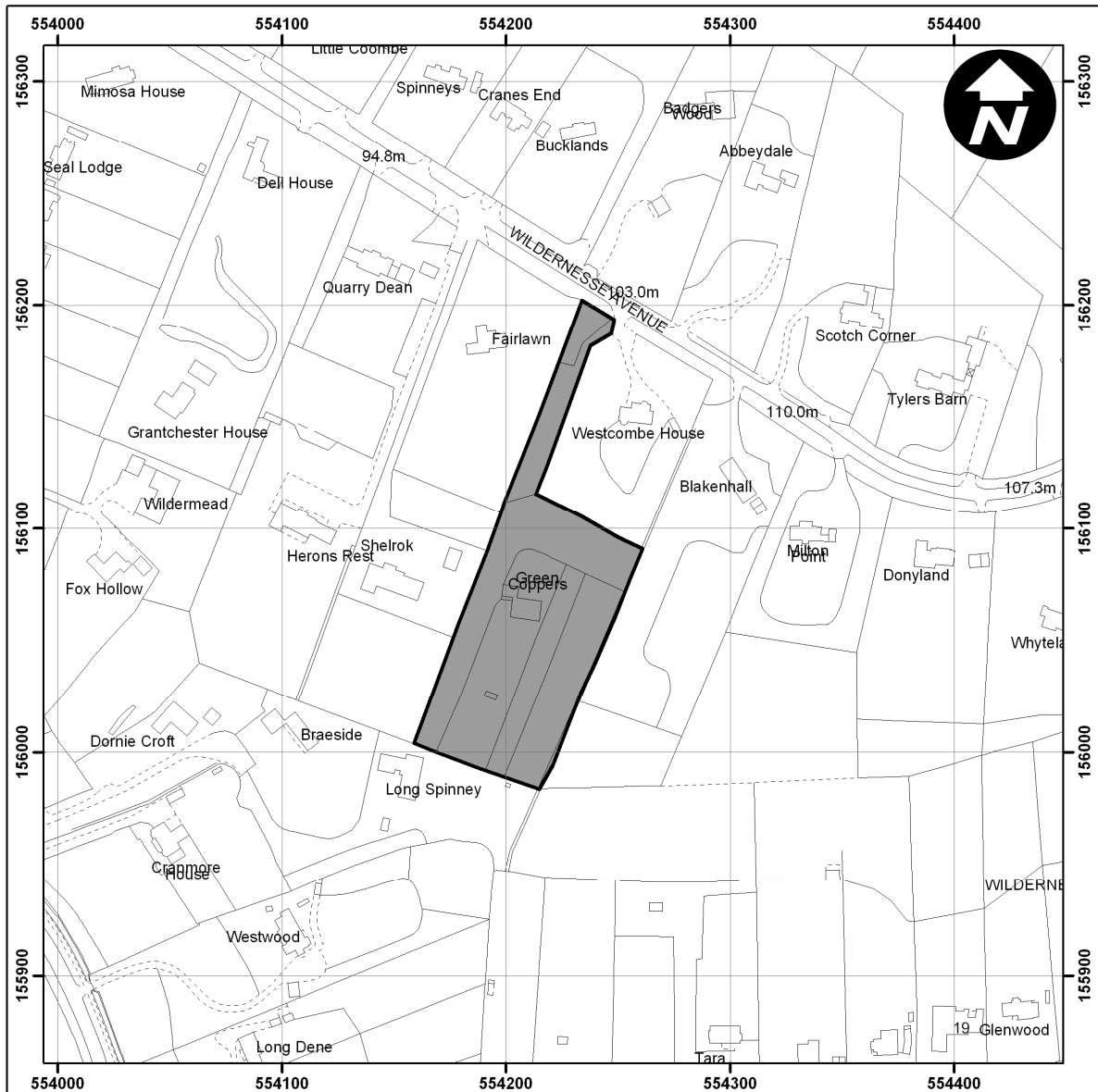
<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LH49ASBKOCRO0>

Link to associated documents:

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<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LH49ASBKOCR00>

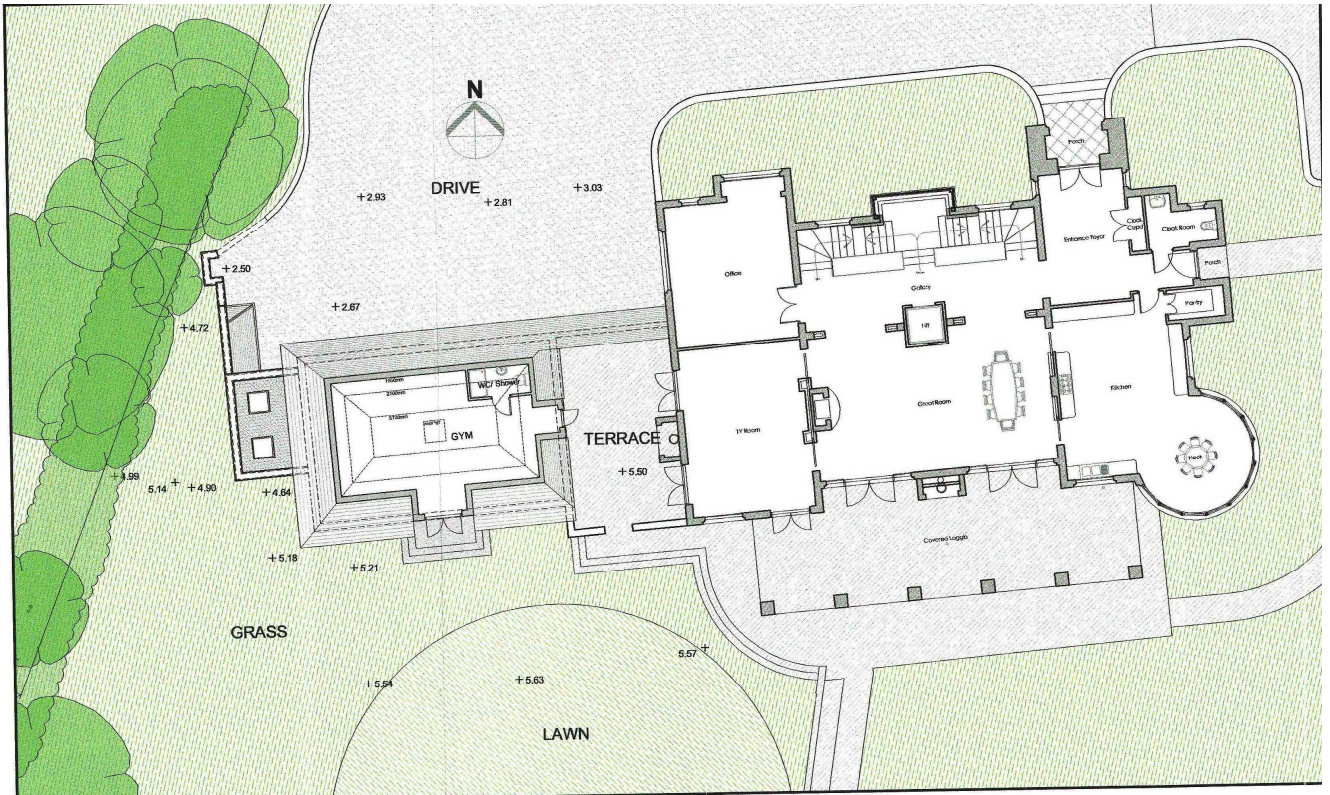


Site Plan

Scale 1:2,500
 Date 23/05/11



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 Sevenoaks District Council, 100019428, 2007.



5.03 - SE/11/00370/FUL Date expired 21 April 2011

PROPOSAL: Demolition of west wing, garaging and pool annexe and erection of new and replacement extensions including basement and accommodation in the loft space with one roof balcony to south. Erection of a new self-contained pool house.

LOCATION: Fairlawn , Wildernesse Avenue, Sevenoaks TN15 OEA

WARD(S): Seal & Weald

ITEM FOR DECISION

This application is reported to Development Control Committee as the Officer's recommendation varies from that of the Town Council and at the original request of Councillor Coates and later Councillor Thornton.

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

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the extensions and outbuildings hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development enhances the character and appearance of the conservation area as supported by Policy EN23 of the Sevenoaks District Local Plan.

3) Prior to the commencement of the swimming pool building hereby permitted, a method statement shall be supplied and approved in writing by the Council. This statement shall give detail of the method of construction of the swimming pool building having regard to the protection of surrounding and adjacent trees. The development shall be carried out in complete accordance with the approved details unless otherwise agreed in writing by the Council.

To safeguard the retention and long term health of trees in accordance with EN1 and EN23 of the Sevenoaks Local Plan.

4) No development shall be carried out on the land until full details of soft landscape works have been submitted to and approved in writing by the Council. Those details shall include:-planting plans (identifying existing planting, plants to be retained and new planting);-a schedule of new plants (noting species, size of stock at time of planting and proposed number/densities); and-a programme of implementation.

To safeguard the visual appearance of the area as supported by EN1 of the Sevenoaks District Local Plan.

5) All soft landscape works shall be carried out before the first occupation of the development hereby permitted. The landscape works shall be carried out in accordance with the approved details.

To safeguard the visual appearance of the area as supported by EN1 and EN23 of the Sevenoaks District Local Plan.

6) If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To safeguard the visual appearance of the area as supported by EN1 and EN23 of the Sevenoaks District Local Plan.

7) The development hereby permitted shall be carried out in accordance with the following approved plans: DS/140/01, 02A, 03A, 04A, 05B, 06, 07A, 08B, 09, 10B, 11B, 12B, 13B, 14, 15, 16, 17, 18A and 19

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

8) Prior to the commencement of the swimming pool building, details of acoustic insulation of the proposed plant room shall be provided to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details and thereafter maintained as such.

To safeguard the amenities of the occupiers of properties adjacent to the site as supported by Policy EN1 of the Sevenoaks District Local Plan.

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies CC6, BE6

Sevenoaks District Local Plan - Policies EN1, EN23, H6B

Sevenoaks District Core Strategy 2011 - Policies SP1

The following is a summary of the main reasons for the decision:

The development would not have an unacceptable impact on the residential amenities of nearby dwellings.

The development would preserve the special character and appearance of the Conservation Area.

- 1 Planning permission is sought for the following extensions and alterations to the dwelling:
 - a) The replacement of the demolished 'west wing' part (see SE/11/00371/CAC) with a two storey projecting wing with catslide roof and dormers creating a first floor. The extension would have a width of approximately 12.8m off of the remaining original part of the dwelling. The extension would have an overall height of 8.2m with a stepped down part adjacent to the original dwelling. A rooflight would be placed in the rear roof slope to create a 2nd floor bedroom.
 - b) The erection of two rear projecting single storey extensions to the rear of the extended and existing part of the dwelling, each having a rearward projection of 10 – 12m from the rear elevation. These elements are of a unique modern design with pitched and flat roof parts.
 - c) The creation of an inverted dormer type balcony and the addition of a skylight to the rear of the main roof of the dwelling to allow for additional loft accommodation.
- 2 The erection of a replacement 4 x 2.5m porch to the main entrance with pitched cat slide style roof.
 - d) The erection of a detached pool house building to the rear of the site near to the western boundary. The pool building would have a floor area of 23m x 7.6m which is enlarged by the diamond shaped roof design providing a canopy to each side of the building. The pool would be approximately 23m from the resultant dwelling.

Description of Site

- 3 The application site consists of one large detached dwelling with adjoining garage and swimming pool extension set within a large landscaped and well treed curtilage. The original dwelling is of an Arts & Crafts style with a main east-west ridge to hip and catslide and two storey front and rear projecting gable element. The main dwelling is constructed with timber frame effect and render with tile hanging to the gable element. The roof is finished with plain tiles.
- 4 The dwelling fronts onto Wildernesse Avenue, though is set back from the highway by approximately 25 - 30 metres (in line with surrounding properties in the vicinity). Unlike other surrounding properties, the dwelling is orientated so that it faces the road at a 45 degree angle. As is generally the case within the Wildernesse Conservation Area, the front of the dwelling is generally obscured by a large amount of mature planting. Access roads run adjacent to both east and west boundaries to houses on plots to the rear of the dwellings on Wildernesse Avenue. The trees on the verges of the avenue to the front are protected.

Constraints

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Development Control Committee: 9 June 2011

SE/11/00370/FUL

- 5 The application site is located within the urban area of Sevenoaks and within the Wildernesse Conservation Area. The dwelling is not listed and there are no TPO protected trees within the site.

Policies

South East Plan 2009

- 6 Policies – CC6, BE6

Sevenoaks District Local Plan

- 7 Policies – EN1, EN23, H6B

Sevenoaks Core Strategy 2011

- 8 Policies – SP1

Other –

- 9 Residential Extensions Supplementary Planning Document 2009

- 10 Planning Policy Statement 5: Planning and the Historic Environment

Planning History

- 11 83/01321 – Part single storey / part two storey extensions incorporating swimming pool, double garage and additional vehicle and pedestrian access – Granted
- 12 06/01948/FUL - Alteration of existing front wall & installation of electrically operated gates. – Granted
- 13 10/02992/FUL - Demolition of west wing, garaging and pool annexe and erection of new and replacement extensions including basement and accommodation in the loft space with roof balconies to south. Erection of a new self-contained pool house. – Withdrawn
- 14 10/02993/CAC - Demolition of existing west wing, garaging and pool annexe and erection of new and replacement extensions including basement and accommodation in roof space in loft with roof balconies to south. Erection of new self contained pool house. – Withdrawn

Consultations

Sevenoaks Town Council

- 15 Sevenoaks Town Council notes that this application is virtually identical to ref:SE/10/02992/FUL, and therefore continues to recommend refusal on the following grounds;
- The side extension is very bulky and the design does not enhance the Conservation Area. The proposal would also cause loss of amenity to neighbouring property contrary to EN1(3) and EN22 of the Sevenoaks District Local Plan

- The design and materials of the rear extensions are not in keeping with the original house contrary to EN1(1) and EN22
- The proposal would result in the loss of 7 trees to the rear of the house. No mention of this is made in the Design Statement. The Town Council would ask for a Tree Preservation Order to be placed on these trees. EN1(2) and EN2
- The design and materials of the proposed swimming pool are not in keeping with the original house and do not enhance the Conservation Area
- The proposal is unneighbourly. It is too close to the boundary with the neighbouring property, Quarry Dean, contrary to EN1 and no mention of plans to deal with noise pollution contrary to EN1(12). The building would appear to be 15.6' at highest point based on scale of 1:100.

NB: Policy EN22 of the Local Plan has been deleted, the Town Council may be referring to Policy EN23.

SDC Tree and Landscape officer

- 16 Following on from our site meeting to view the pegged out area for the proposed pool house. I was surprised to see that it is to be larger than expected. I have known all along that this proposal will necessitate the removal of varying shrubs and trees. I am happy that the trees and shrubs that will be removed will be smaller or non visible externally. There is one mature Oak tree located adjacent to the north western elevation of the pool house. Foundation works will be within the root protection area for this tree. In this instance I suspect that the minimum required in order to safeguard this tree will be a method statement itemising protection procedures during the construction process. This I suspect could be conditioned and attached to the main consent, if provided.

SDC Conservation Officer

- 17 Whilst this revised scheme might seem at first glance to be little different from the earlier one, significant changes have been made. These comprise; 1. a distinct break and gap in the ridgeline between the existing and new elements, clearly differentiating old from new, which meets one of the desired improvements from a conservation point of view. 2. the garage has been set back further from the front wall, 3. the porch has been reduced in size and the dormer window omitted, 4 the first floor dormers to the front elevation have been omitted . All these items combine to reduce the scale and impact of the additions and I do not consider that the essential character of the building in the CA would be compromised. The rear additions are single storey and the pool house set well back. Neither would have an adverse impact therefore. Recommend approval subject to samples/details of materials.

Representations

- 18 One letter has been received from an adjacent neighbour asking that the doors to the plant room of the swimming pool are fully sound insulated.

Ward Members

- 19 This application was originally called to committee by Councillor Coates as ward member for the reasons stated by the Town Council. Councillor Thornton maintained this 'call in' following the election on May 5th. No comment has been received from Councillor Hogarth.

Head Of Development Services Appraisal

- 20 With regards to the relevant policies of the Development Plan listed above, the main considerations in this case are the impact of the development upon the special character and appearance of the Conservation Area (including the character of the existing dwelling and the on-site landscaping), the impact of the development upon the amenities enjoyed by neighbours and any other relevant issues such as access and parking.

Character and Appearance of the Conservation Area

- 21 The dwelling is located within the Wildernesse Conservation Area and is noted as a building contributing to character. The main body of the building is constructed in an Arts and Crafts style. The dwelling is substantially set back from the roadway by approximately 25 - 30 metres and is partially obscured from view from the front by trees and planting. Railings and gates mark the front boundary and access of the dwelling.
- 22 Policy EN23 of the Local Plan reiterates the presumption that development within conservation areas should preserve or enhance their special character and appearance.
- 23 The character of the Conservation Area is developed both through the subservience of the dwellings to the landscape and the predominantly treed and vegetated appearance of the surroundings and through the architectural merit of the dwellings themselves. It is noted that the subservience of the dwellings is developed by the large plots and generally large widths to boundaries which allow glimpses of trees and vegetation beyond the dwellings.
- 24 In this case, the surviving part of the original dwelling is of an interesting character with an interesting roof form and well proportioned division of the east-west timber / render portion and front and rear projecting gable. The site is particularly well treed to the front boundary (inside and outside of the site area) and along the side boundaries.
- 25 The proposal removes the existing two storey western projection which is of little merit in its own right and the unsympathetic double garage and large single storey swimming pool elements. The main two storey western projection now would be partially visible from Wildernesse Avenue albeit seen through the intermediate planting and vegetation. This element would however complement the character of the existing dwelling and would not overwhelm the form and appearance of the dwelling. The proposed extension contains a clear break of roof line to differentiate it from the main dwelling and this result in an appearance of subservience to the remaining original part of the dwelling. The use of the catslide roofs, particularly adjacent to the western boundary reduces the impact of the width of the development and allows the dwelling to remain subservient in appearance to the landscape of the Wildernesse Estate; allowing glimpses

through to the rear of the property and the arrangement allowing for the maintenance of planting to the front and side boundaries.

- 26 The proposed porch is in keeping with the style and appearance of the dwelling and particularly uses an extension of the cat slide roof to tie the element into the character of the original dwelling. The inverted dormer and rooflights are to the rear roof slope and do not increase the profile of the roof.
- 27 The additions to the rear of the dwelling and the swimming pool building are markedly different in character and are of a modern style. Both the rear extensions and the swimming pool building are characterised by their over-sailing roof designs. These elements are, however, to the rear of the dwelling or well back into the garden area. The single storey rear projections are subservient to the form of the dwelling and would not have an adverse impact upon the conservation area. Similarly, the proposed single storey swimming pool is set well back amongst retained landscaping and subservient in scale and form to the dwelling.
- 28 The Tree and landscape officer has indicated that the proposed swimming pool building would require the removal of some trees and shrubs within the vicinity of the western boundary of the site. There is one mature Oak Tree in proximity to this boundary and the pool house would be within the root protection area for this tree. It is indicated, however, that a method statement should be sought to detail how this building would be constructed so as to prevent unnecessary damage to this or other surrounding trees. This could be required as a condition of the consent.
- 29 With regards to the Town Council's request for the serving of a Tree Preservation Order on trees, the Council's Tree and landscape officer has indicated that none of the existing trees within the proximity of the development are worthy of protection.
- 30 The Conservation Officer has indicated support for the scheme. Samples and details of materials will be required to be submitted prior to the construction of the dwelling.

Residential Amenity

- 31 The two storey extended parts are predominantly adjacent to the western boundary of the site where two driveways give access to Shelrok and Herons Rest to the south-west. Beyond these driveways is Quarry Dean, a similarly detached property fronting onto Wildernesse Avenue but being set closer to the road and orientated directly towards Wildernesse Avenue. This site is at a land level below that of Fairlawn. This dwelling is in excess of 30m from the proposed additions to the west of the dwelling and trees and planting on both sites and to the access driveways obscure views between the sites at this point. The resultant western flank of the dwelling faces towards the rear garden area of Quarry Dean. Two roof lights in the cat slide roof of this resultant flank are proposed which appear to be above eye level (and in any case would look skywards and not towards the neighbouring garden area).
- 32 The proposed outbuilding is close to the western boundary (2 – 6m away) and is set well back in the site so that it would not be near to the neighbouring property. The pool building does require some plant for its operation which is shown in a room facing towards the boundary. Whilst, it is unlikely that this plant would cause

Agenda Item 5.3

Development Control Committee: 9 June 2011

SE/11/00370/FUL

a detrimental amenity issue given the distances involved and the intervening vegetation, the area is particularly quiet and the resultant noise may be noticeable dependant on the type of equipment installed. I recommend that a condition be added to the permission to require a scheme of acoustic insulation to this part of the building.

- 33 The adjacent dwelling to the east, Westcombe House is in excess of 50m from the resultant dwelling. The general rise in the landscape, protected trees, boundary treatment and other general landscaping prevents any overlooking from the extended parts of the dwelling or the outbuilding.
- 34 The proposal would not have a significant impact upon any other surrounding dwellings.

Other Issues

- 35 The proposal does not alter the access to the dwelling and continues to provide for a good amount of on-site parking and garaging (5+ vehicles).

Conclusion

- 36 For the reasons stated above, the proposal is in accordance with the Development Plan and I therefore recommend approval of the application subject to appropriate conditions.

Background Papers

Site Plan and Block Plans

Contact Officer(s): Patrick Reedman Extension: 7451

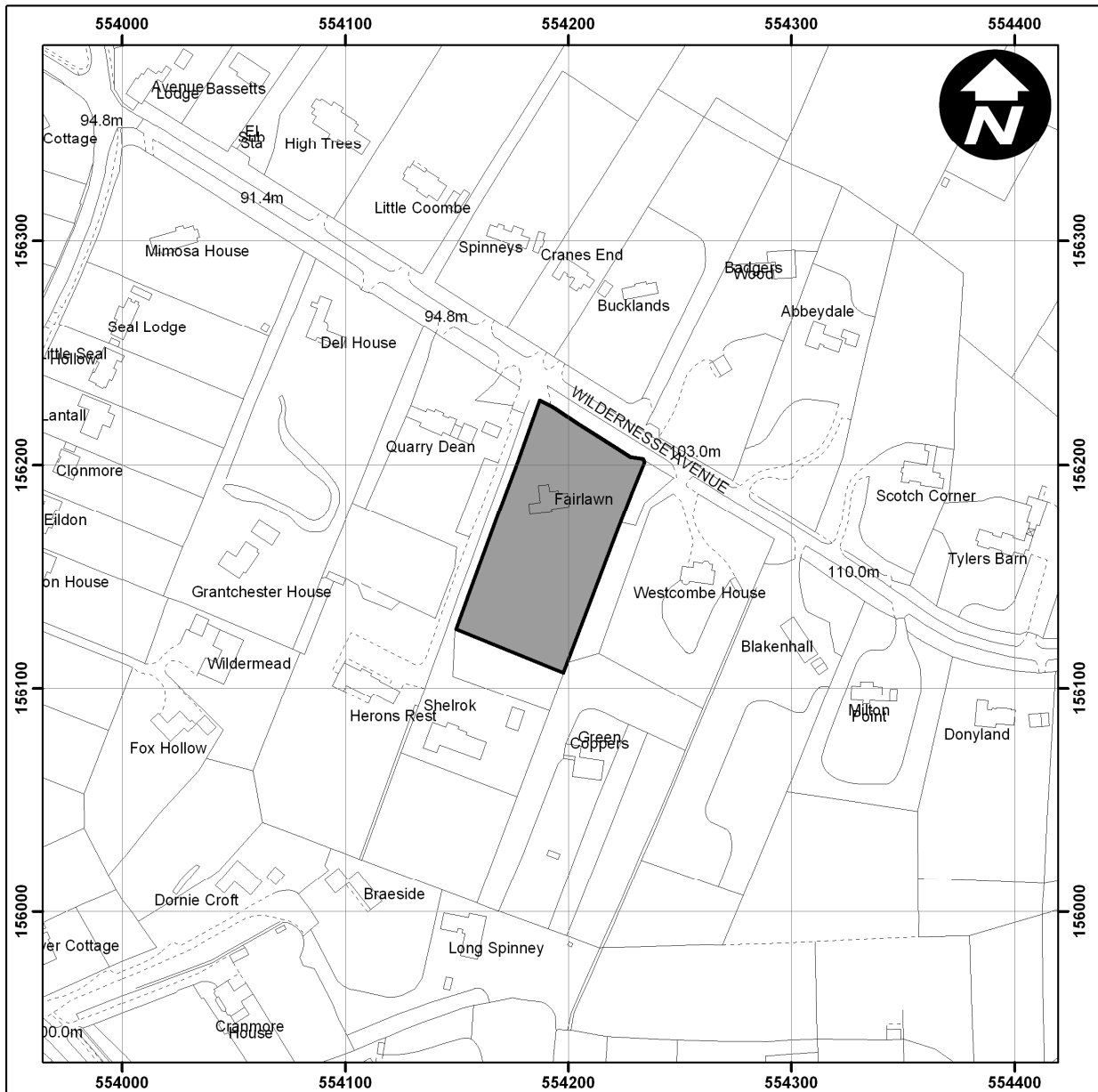
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LGLKWUBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LGLKWUBK8V000>



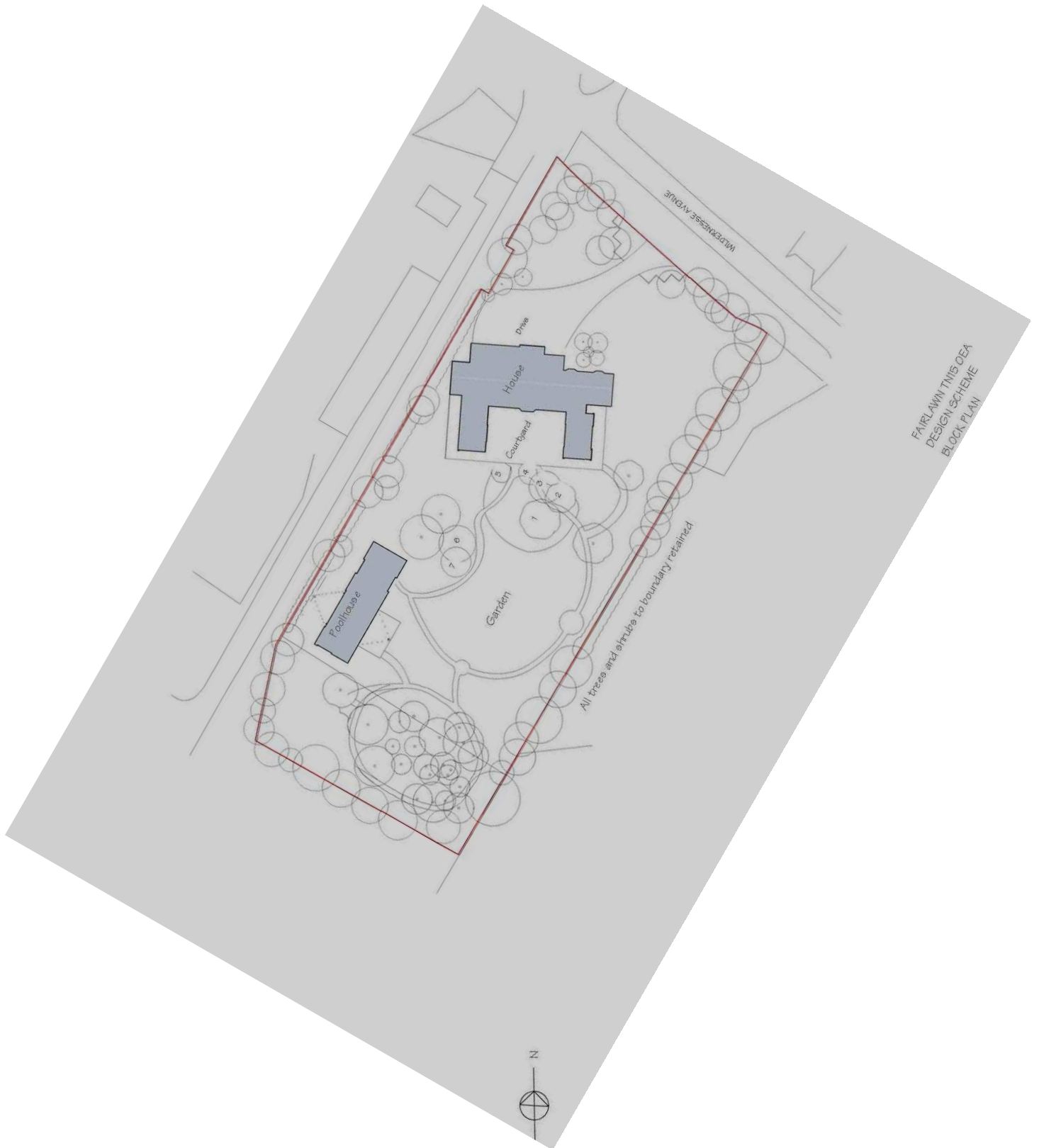
Site Plan

Scale 1:2,500

Date 23/05/11



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Description of Proposal

- 1 Conservation Area Consent is sought for the demolition of:
 - a) The two storey (catslide and dormers) 'west wing' of the dwelling currently projecting approximately 6m from the main western flank of the dwelling and adjoining;
 - b) The gable roof double garage adjacent to the western boundary, and;
 - c) The adjoining rear projecting single storey hipped roof swimming pool building adjacent to the western boundary.
- 2 The proposal for demolition is made concurrently with SE/11/00370/FUL for the extension of the dwelling and the erection of an outbuilding.

Description of Site

- 3 The application site consists of one large detached dwelling with adjoining garage and swimming pool extension set within a large landscaped and well treed curtilage. The original dwelling is of an Arts & Crafts style with a main east-west ridge to hip and catslide and two storey front and rear projecting gable element. The main dwelling is constructed with timber frame effect and render with tile hanging to the gable element. The roof is finished with plain tiles.
- 4 The dwelling fronts onto Wildernesse Avenue, though is set back from the highway by approximately 25 - 30 metres (in line with surrounding properties in the vicinity). Unlike other surrounding properties, the dwelling is orientated so that it faces the road at a 45 degree angle. As is generally the case within the Wildernesse Conservation Area, the front of the dwelling is generally obscured by a large amount of mature planting. Access roads run adjacent to both east and west boundaries to houses on plots to the rear of the dwellings on Wildernesse Avenue. The trees on the verges of the avenue to the front are protected.

Constraints

- 5 The application site is located within the built confines of Sevenoaks and within the Wildernesse Conservation Area. The dwelling is not listed and there are no TPO protected trees within the site.

Policies

South East Plan 2009

- 6 Policies – CC6, BE6

Sevenoaks District Local Plan

- 7 Policies – EN1, EN23

Sevenoaks Core Strategy 2011

- 8 Policy – SP1

Other

9 Planning Policy Statement 5: Planning and the Historic Environment

Planning History

- 10 83/01321 - Part single storey / part two storey extensions incorporating swimming pool, double garage and additional vehicle and pedestrian access - Granted.
- 11 06/01948/FUL - Alteration of existing front wall & installation of electrically operated gates. - Granted.
- 12 10/02992/FUL - Demolition of west wing, garaging and pool annexe and erection of new and replacement extensions including basement and accommodation in the loft space with roof balconies to south. Erection of a new self-contained pool house. - Withdrawn.
- 13 10/02993/CAC - Demolition of existing west wing, garaging and pool annexe and erection of new and replacement extensions including basement and accommodation in roof space in loft with roof balconies to south. Erection of new self contained pool house. - Withdrawn.

Consultations

SDC Conservation Officer

- 14 No objections.

Sevenoaks Town Council

- 15 Sevenoaks Town Council notes that this application is virtually identical to ref:SE/10/02992/FUL, and therefore continues to recommend refusal on the following grounds;
- The side extension is very bulky and the design does not enhance the Conservation Area. The proposal would also cause loss of amenity to neighbouring property contrary to EN1(3) and EN22 of the Sevenoaks District Local Plan
 - The design and materials of the rear extensions are not in keeping with the original house contrary to EN1(1) and EN22
 - The proposal would result in the loss of 7 trees to the rear of the house. No mention of this is made in the Design Statement. The Town Council would ask for a Tree Preservation Order to be placed on these trees. EN1(2) and EN2
 - The design and materials of the proposed swimming pool are not in keeping with the original house and do not enhance the Conservation Area
 - The proposal is unneighbourly. It is too close to the boundary with the neighbouring property, Quarry Dean, contrary to EN1 and no mention of

plans to deal with noise pollution contrary to EN1(12). The building would appear to be 15.6' at highest point based on scale of 1:100.

Representations

- 16 No neighbour letters have been received.

Ward Members

- 17 This application was originally called to committee by Councillor Coates as ward member for the reasons stated by the Town Council. Councillor Thornton maintained this 'call in' following the election on May 5th. No comment has been received from Councillor Hogarth.

Head Of Development Services Appraisal

- 18 This application is for Conservation Area Consent only and as such the only relevant consideration is whether there should be a requirement for any of the parts of the building listed above to be spared from demolition.
- 19 With regards to paragraph HE7.2 of Planning Policy Statement 5, the Planning Authority should 'In considering the impact of a proposal on any heritage asset ... take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations.' Policy EN23 of the Sevenoaks Local Plan reiterates the statutory responsibility to give regard to the 'desirability of preserving or enhancing the character or appearance' of Conservation Areas.
- 20 Notwithstanding the above, it is a close matter of judgement as to whether Conservation Area Consent is necessarily required in this case. Conservation Area Consent is required generally for the demolition of free standing buildings over 115cu m in volume or for the demolition of a significant part of an existing building. This proposal is for demolition of a proportionately small 'part of' the existing building whilst the main two storey parts are to be preserved. In any case, it falls to the LPA to determine this application in accordance with the relevant policies of the Development Plan and the statutory requirement to 'preserve and enhance' the special character of the Conservation Area.
- 21 Whilst the building is indicated as 'contributing to character' in the Wildernesse Conservation Area Appraisal, it is clear that the most important part of the dwelling (the main east - west wing and the gable element) is to be preserved. The parts to the west of the dwelling are later additions to the dwelling. The garage and long projecting pool building do not reflect the style and appearance of the original dwelling and are of limited architectural merit in their own right. The two storey part to the western flank is better in keeping with the style of the dwelling, though its loss would not prejudice the overall composition and the planning application before the Council for consideration would adequately replace this element.
- 22 The Council's Conservation Officer has raised no objection to the proposal.

- 23 As the application is for Conservation Area Consent only, the Town Council's objections relating to trees, the proposed development and to neighbouring amenity are not relevant to this consideration. These comments are, however, relevant to the planning application SE/11/00370/FUL which is also on the Committee agenda.

Conclusion:

- 24 For the reasons stated above, the proposal is in accordance with the Development Plan and I therefore recommend approval of the application subject to the appropriate conditions.

Background Papers

Site and Block Plans

Contact Officer(s):

Patrick Reedman Extension: 7451

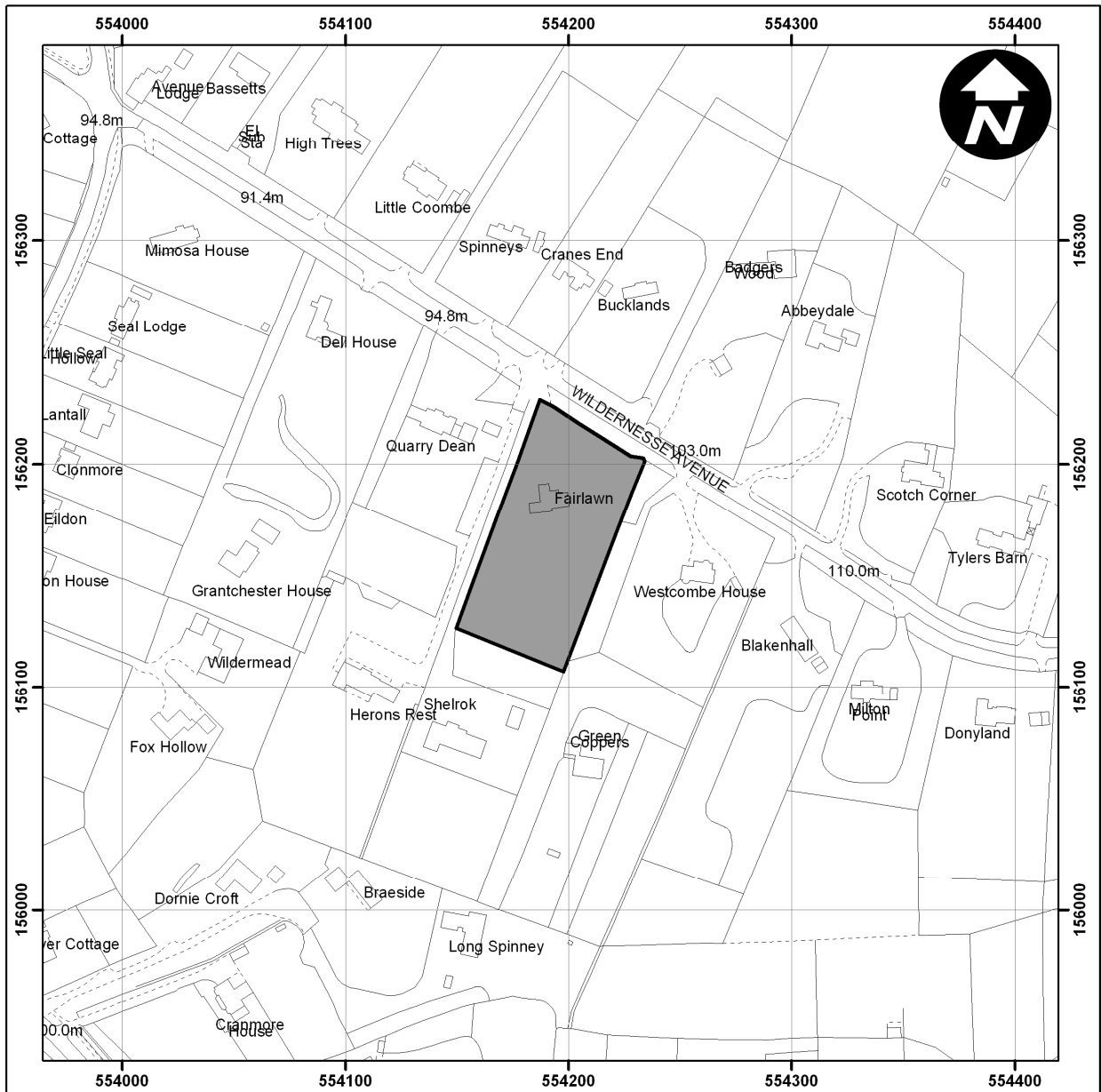
Kristen Paterson – Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LGLKWUBK8V00F>

Link to associated documents:

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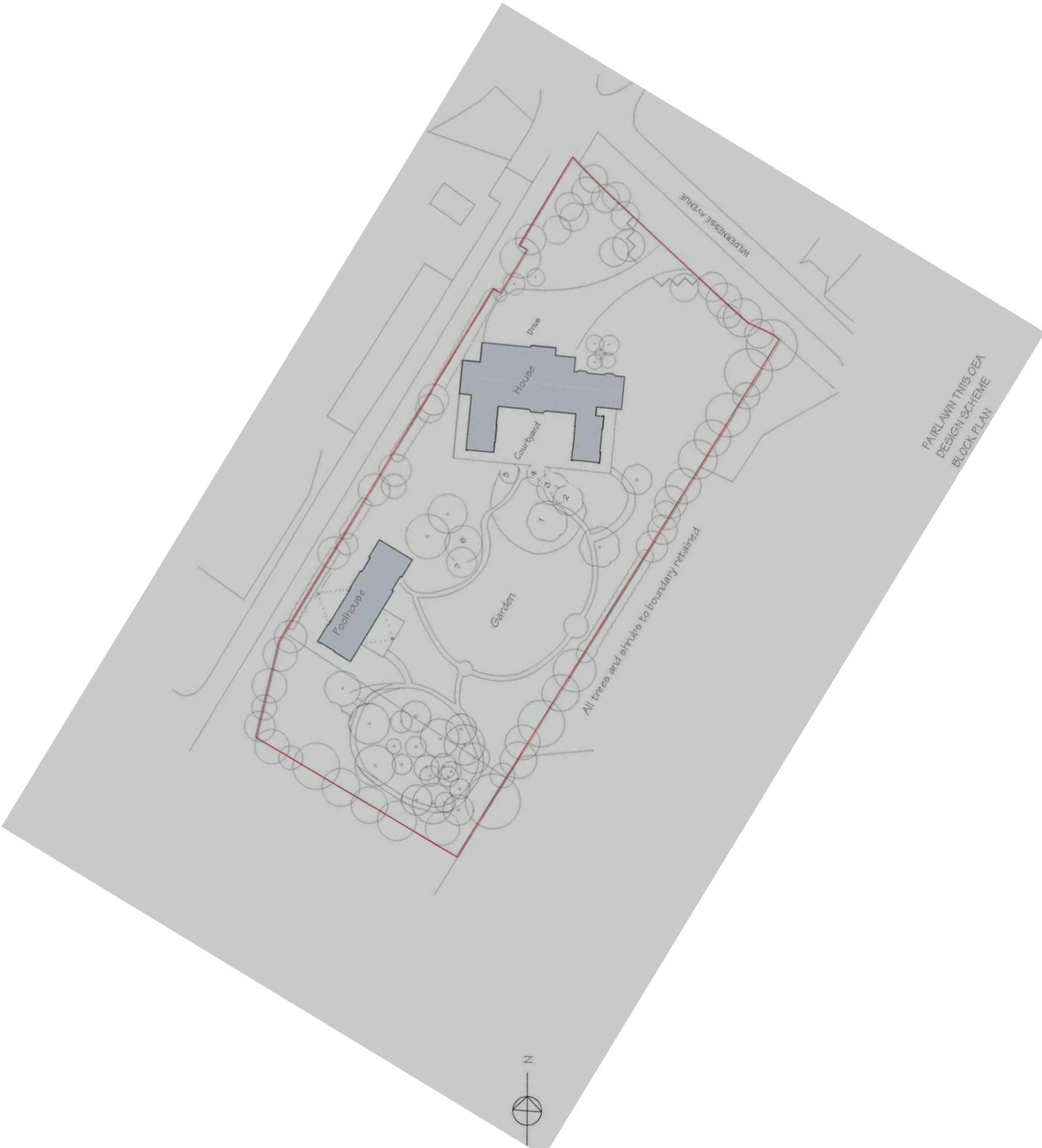
Site Plan

Scale 1:2,500

Date 23/05/11



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In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies H1,H3,H4,H5,T4

Sevenoaks District Local Plan - Policies EN1,H6B,H14A

Sevenoaks District Core Strategy 2011 - Policies SP1,L07,SP2,SP3,SP5,SP7

The following is a summary of the main reasons for the decision:

The development would not have an unacceptable impact on the residential amenities of nearby dwellings.

The scale, location and design of the development would respect the context of the site and preserve the visual amenities of the locality.

Description of Proposal

- 1 The proposal is for a single storey side and rear extension to the semi detached property. The extension will be a flat roofed structure which will stand at 2.7 metres high. It will protrude 2.4 m from the side wall of the existing dwelling towards the flank garden boundary and 3.6 m from the rear of the dwelling at the furthest point.
- 2 The application has been slightly amended in order to take account of the desire to retain existing boundary trees belonging to a neighbour. This would result in the extension being built just inside the boundary wall rather than being built onto it.
- 3 The extension would be flat roofed and clad in oxidised copper, whilst the front elevation would mostly comprise an oak door and most of the rear elevation would be glazed. There would be set back of about 0.5 metres from the front wall of the 1970s addition, itself set back from the original house front wall. The existing external side wall would be left exposed internally.

Description of Site

- 4 The application site at 1 Charts Edge Cottage comprising a semi detached dwelling is situated near to the top of Hosey Hill and opposite Hosey Hill Common. To the north lies the larger detached property of Cottage on the Hill and to the rear (west) by an area of undeveloped land.
- 5 The property is one of a pair of listed C17th /C18th cottages located on the west side of Hosey Common. To the front and side the materials are random rubble stone, with brick quoins and dressings, and with brick to the rear all under a pitched gable ended plain tiled roof. There is a two storey 1970s side addition, also in stone with a hipped roof.

Constraints

- 6 Area of Outstanding Natural Beauty, Grade II Listed Building, Metropolitan Green Belt

Policies

South East Plan

- 7 Policies - SP5, CC1, CC2, BE6, C3

Sevenoaks District Local Plan

- 8 Policies- EN1, H6B, H14A

Sevenoaks Core Strategy:

- 9 Policies - SP1, SP2, L01, L08,

Relevant Planning History

- 10 04/01969 Proposed replacement of brickwork and re-pointing to existing chimney stack. Withdrawn 03.09.2004.
- 11 83/01176/HIST Affixing of gas meter cupboard to external wall. Granted 14.11.1983.
- 12 80/01248/HIST Window alteration. Granted 16.10.1980.
- 13 79/01668/HIST Removal of bow window and insertion of a six paned window and replacement of two paned window with a six paned window at rear of dwelling. Granted 01.02.1980.
- 14 76/01096/HIST Erection of first floor bathroom extension and formation of bow window. PCO.
- 15 76/00671/HIST Demolition of part of existing dwelling internal alteration 1st floor extension at side and erection of dormer windows at rear. Granted 03.09.1976.
- 16 10/02819/LBCALT Erection of single storey side and rear. Granted extension
- 17 10/02818/FUL Erection of single storey side and rear. Refuse extension Permission refused for the following reason: The land lies within the Green Belt where strict policies of restraint apply. The proposal would be inappropriate development harmful to the maintenance of the character of the Green Belt and its openness. This conflicts with policy GB2 of the Sevenoaks District Local Pan.

Consultations

Parish / Town Council

- 18 Object - This appears to be exactly the same proposal as that submitted in October in all forms. Westerham Parish Council's earlier response still stands:

- 19 Westerham Parish Council is opposed to this application. Its mass is overbearing in relation to the comparatively small size and scale of the original dwelling. Westerham Parish Council believes that the design proposed does not compliment the architecture of the existing dwelling and is not a suitable size or form of development for this cottage in the Green Belt and the AONB.

SDC Conservation Officer

- 20 The property is one of a pair of listed C17th /C18th cottages located on the west side of Hosey Common. To the front and side the materials are random rubble stone, with brick quoins and dressings, and with brick to the rear all under a pitched gable ended plain tiled roof. There is a two storey 1970s side addition, also in stone with a hipped roof. The submitted scheme follows pre-application advice. The existing overall width of the house is 11.8 metres. It is proposed to add a single storey side and rear extension, 2.4 metres wide at the front, comprising a hall and garden room. The extension would be flat roofed and clad in oxidised copper, although the front elevation would mostly comprise an oak door and most of the rear elevation would be glazed. There would be set back of about 0.5 metres from the front wall of the 1970s addition, itself set back from the original house front wall. The existing external side wall would be left exposed internally.
- 21 This design and type of construction involves little interference with the existing building, thus retaining the maximum possible amount of the historic fabric and making the addition 'reversible'. Whilst the views of the Parish Council are noted, the scale of the addition is small given that it is of a simple uncluttered modern design, set back from the main front wall, single storey and largely positioned to the rear of the building. As advised in the PPS5, para. 178 '*the main issues to consider in proposals for additions to heritage assets ...are proportion, height, massing, bulk, use of materials, use, relationship with adjacent assets.....Replicating a particular style may be less important, though there are circumstances when it may be appropriate. It would not normally be acceptable for new work to dominate the original asset or its setting in either scale, material or as a result of its siting.*' In the case of 1 Charts Edge Cottage, I consider that the proposed extension would compliment the existing building and not dominate or detract from the character of the original building. Recommend consent subject to samples/ details materials.

SDC Tree Officer

- 22 I refer to the above application. I have visited the site and have studied the plans provided and have made the following observations:
- 23 I can inform you that there are few plants within the front or rear garden of the above property with the exception of two recently planted Birch trees. I have been informed by the owner, that he intends to re-plant these trees in an alternative location. There are however, various species situated on the boundary within the neighbouring garden. These species include a Laurel, a Cherry, a Wych Hazel and a Robinia. These trees are situated less than 1.0m from the proposed extension. They are of low amenity value due to their age, form and past pruning works. They do however, provide an effective screen between the two properties. I have estimated that these trees/shrubs require a RPA of between 1.80m & 3.60m. It

can be seen that these species would be affected by any excavation for the footings of the proposed extension. The developer should provide details of how they intend to install the extension without damaging these plants.

- 24 Assessment following revised submission:
- 25 I have studied the plans and method statement provided by the Arboricultural Consultant. The proposed use of pads to support the proposed extension is certainly preferable to the traditional use of strip foundations. However, I note that the consultant proposes the use of a slab 30cm in depth, this could impact on any roots encountered beneath the floor of the proposed extension. I note that the excavation to accommodate the pads is to be carried out by hand. I recommend that the entire foundations for the extension be completed in this manner.
- 26 In view of the above comments, I have no objection to the proposed development.

Representations

- 27 In respect of the original and revised applications 5 letters of objection raising the following issues:

Harm to MGB and no very special circumstances advanced

Lack of access in case of fire

Design not in keeping with this property – harm to a listed building

Loss of boundary wall

Loss of boundary trees

Harm to AONB

Head Of Development Services Appraisal

Principal Issues

- 28 Comprise the impact upon the MGB, design/impact upon the visual amenities of the area, impact upon listed building, neighbouring amenities

Impact on the Metropolitan Green Belt

- 29 Policy GB1 sets out the extent of the green belt within the District and H14A of the SDLP states that there is a general presumption against inappropriate development within the Green Belt. PPG2 'Green Belts' advises us that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open and that its most important attribute is its openness. Any extension to a dwelling within the Green Belt will affect the openness of the Green Belt and PPG2 recognises that the limited extension of existing dwellings can be acceptable providing it does not result in a disproportionate addition over and above the original size of the building. Policy H14A provides a local

interpretation of what is an appropriate extension and lists a number of criteria with which extensions to dwellings within the Green Belt must comply. These include the fact that the “gross floor area” of the existing dwelling plus the “gross floor area” of any extensions must not exceed the “gross floor area” of the “original” dwelling by more than 50% and that the design of the extension should be sympathetic and well articulated to the existing dwelling and not result in a large bulky or intrusive building in the landscape.

Original footprint	112.015
Previous Extensions	16.77
Proposed Extension	27.16
Total Additions	43.93
Total percentage increase	39.2%

- 30 The dwelling has been extended since July 1st 1948 with the addition of a kitchen extension to the ground floor and a bathroom to the first floor. The kitchen extension was a replacement for a previous side addition. The first floor addition amounts to an increase of 16.77m² in floorspace. In combination with the additional floorspace now proposed these works amount to an increase of just over 39% to the original dwelling. In terms of the floorspace increase therefore this development is considered to be appropriate development. The previous application did not include the original first floor accommodation, resulting in an incorrect assessment of the proposal in floorspace terms.
- 31 The officers report on the previous application, considered that the proposal was inappropriate development by virtue of the floorspace proposed. The calculations carried out were inaccurate insofar as not all relevant original habitable floorspace was included within the calculation. When all original floorspace is calculated, as can be seen above, the total of all later additions including that now proposed fall within ‘appropriate’ limits.
- 32 PPG2 ‘Green Belts’ also refers to the visual amenities of the Green Belt and advises that *the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which although they would not prejudice the purposes of including land within Green Belts, might be visually detrimental by reason of their siting, materials or design.*
- 33 This is a separate test of acceptability within the Green Belt, in addition to the floorspace assessment. It is possible therefore for a development to be within acceptable limits in floorspace terms, but to still be considered unacceptable as a result of the siting, design and materials. Whilst the previous reason for refusal referred to the scheme as being ‘harmful to the maintenance of the character of the green belt and its openness’ it is clear from the officers report that the

concern was not the design but the floorspace increase. Of the 6 criteria referred to in policy H14A only 4 are of relevance to this scheme:

- this property was originally designed for residential purposes
- the gross floor area of the extensions will not exceed 50% of the original dwelling
- this would not facilitate the creation of a new dwelling
- the design of the extension is considered to be acceptable, as discussed in more detail below

34 It is considered therefore that the proposed scheme complies with the relevant policy

Background

35 The current scheme is almost identical to the refused scheme and Officers consider that in order to deal consistently with our previous approach that this application must also be considered acceptable in terms of design as detailed in policy H14A of the SDLP.

Design and Impact upon Listed Building

36 Policy EN1 of the SDLP requires that development takes opportunities to enhance the area and should be designed in harmony with other buildings in the locality. Designs should contribute to enhancing an area and should reflect the scale, height, massing and character of the original dwelling. Policies EN1, H6B and appendix 4 of the SDLP relate to this matter. PPS5 'Planning for the Historic Environment' provides advice in respect of issues to be considered in proposals for additions to heritage assets as detailed above in the Conservation Officers assessment.

37 This scheme represents an unashamedly contemporary design attached to a very traditionally designed dwelling. The contemporary approach to the design of the extension is considered acceptable reflecting a modern addition to the building rather than creating a pastiche of the original dwelling. The SDC Conservation Officer has considered this proposal and considers that the proposed side and rear extension is acceptable in terms of massing and height on the existing dwelling and that the proposed extension would compliment the existing building and not dominate or detract from the character of the original building. It is considered that the height and size of the development is acceptable. Whilst the Residential Extensions SPD states that flat roofs are not the preferred roof form, in the context of this design it is considered appropriate.

38 In the context of the design of this structure members will note that the design was considered appropriate in the assessment of the previous application, and that application was refused on the basis of concerns about the floorspace increase rather than upon a design based concern.

Impact upon surrounding Landscape:

- 39 The site lies within the North Downs AONB and policy L08 of the Core Strategy, as the local interpretation of national guidance on landscape issues seeks to preserve and enhance the natural qualities of the landscape.
- 40 In terms of impact upon the adjacent streetscene the scheme will be relatively inconspicuous: it will be well screened, with a relatively low roof and with most of the structure to the rear of the house. It will be more visible from adjacent land but in overall landscape terms is considered not to be unduly prominent. Amendments and further investigations have been carried out which would enable the retention of the existing boundary wall (rather than the extension being built onto the wall) and it appears that the foundations of the wall would protect the existing boundary trees from damage to their root systems as a result of the construction of the extension.
- 41 Although concerns have been expressed about the design there is no 'in principle' reason that a contemporary design should be inappropriate within an AONB.

Impact on the residential amenities of neighbouring properties

- 42 Policies EN1 and H6B of the SDLP require that development should not result in a material loss of privacy, outlook, daylight, sunlight or have an overbearing or intrusive impact to habitable spaces or private amenity space.
- 43 The proposed development will not have a detrimental impact upon neighbouring privacy as there are no windows proposed for the side elevation which is nearest to the boundary wall which it shares with Cottage on the Hill. The general bulk and mass of the extension is considered not to be visually intrusive to the nearest property which is considered to be a significant distance from the proposed development.

Other Issues

Impact upon Trees

- 44 As can be seen the Tree Officer concludes that the nearby trees are of low amenity value albeit they provide a boundary screen to the site. The initial submission has been amended in response to neighbours concerns about nearby trees/shrubs. The amended plans show the flank wall to have been moved off the existing boundary wall and to be set in behind the wall. The foundations of the adjacent boundary wall have been found to extend to a depth of at least 70cm. albeit with a gap to take account, it would seem of a tree close to the boundary. On this basis it has been advised that ordinary strip foundations will not harm the roots of nearby trees. One small part of the wall does not have strip foundations rather a lintel has been used and in the proximity of that work it is suggested that a pad/slab/beam foundation be used. These works could harm those roots around this lintel and in order to ensure maximum protection to the roots it is suggested that the works to construct the foundations be carried out in their entirety by hand. Subject to this the Tree Officer raises no objections.

Access Issues

- 45 Any access issues would be dealt with by the Building Regulations submission.

Conclusion

- 46 The existing dwelling comprises a Grade II listed house, forming part of a pair of semi detached units fronting Hosey Hill. The unit has been the subject of previous extensions.
- 47 The proposed extension is of a contemporary design and would be sited at the side/rear of the existing dwelling. Amendments have been carried out to the scheme to protect an existing boundary wall and neighbouring trees.
- 48 The scheme is considered to be acceptable in terms of its design and impact upon both the listed buildings and the surrounding area. It would lie sufficiently far from any neighbouring houses to protect their amenities. In light of the above considerations I find this proposal acceptable.

Background Papers

Site and Block Plans

Contact Officer(s): Lesley Westphal Extension: 7235

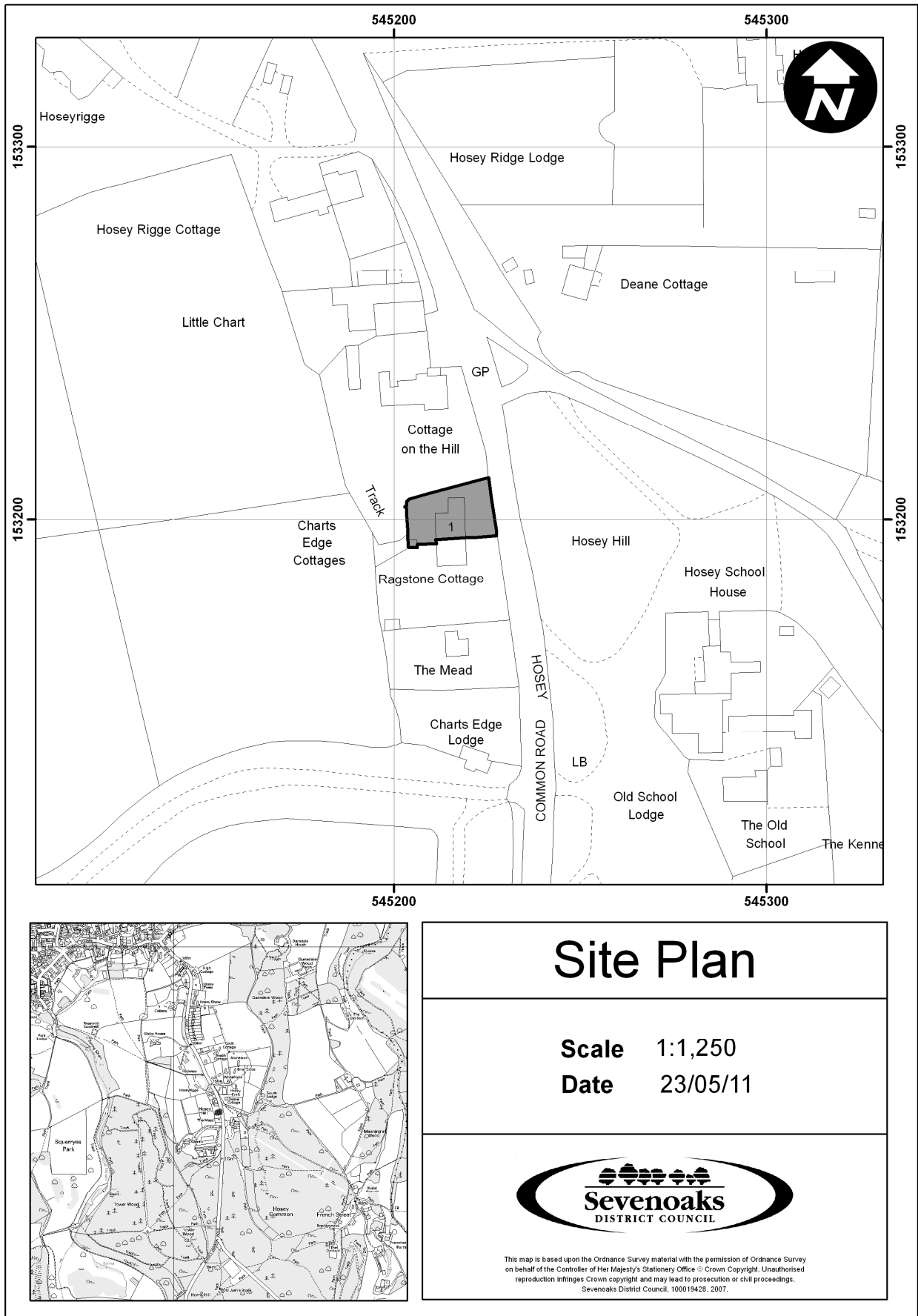
Kristen Paterson
Community and Planning Services Director

Link to application details:

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Site Plan

Scale 1:1,250

Date 23/05/11

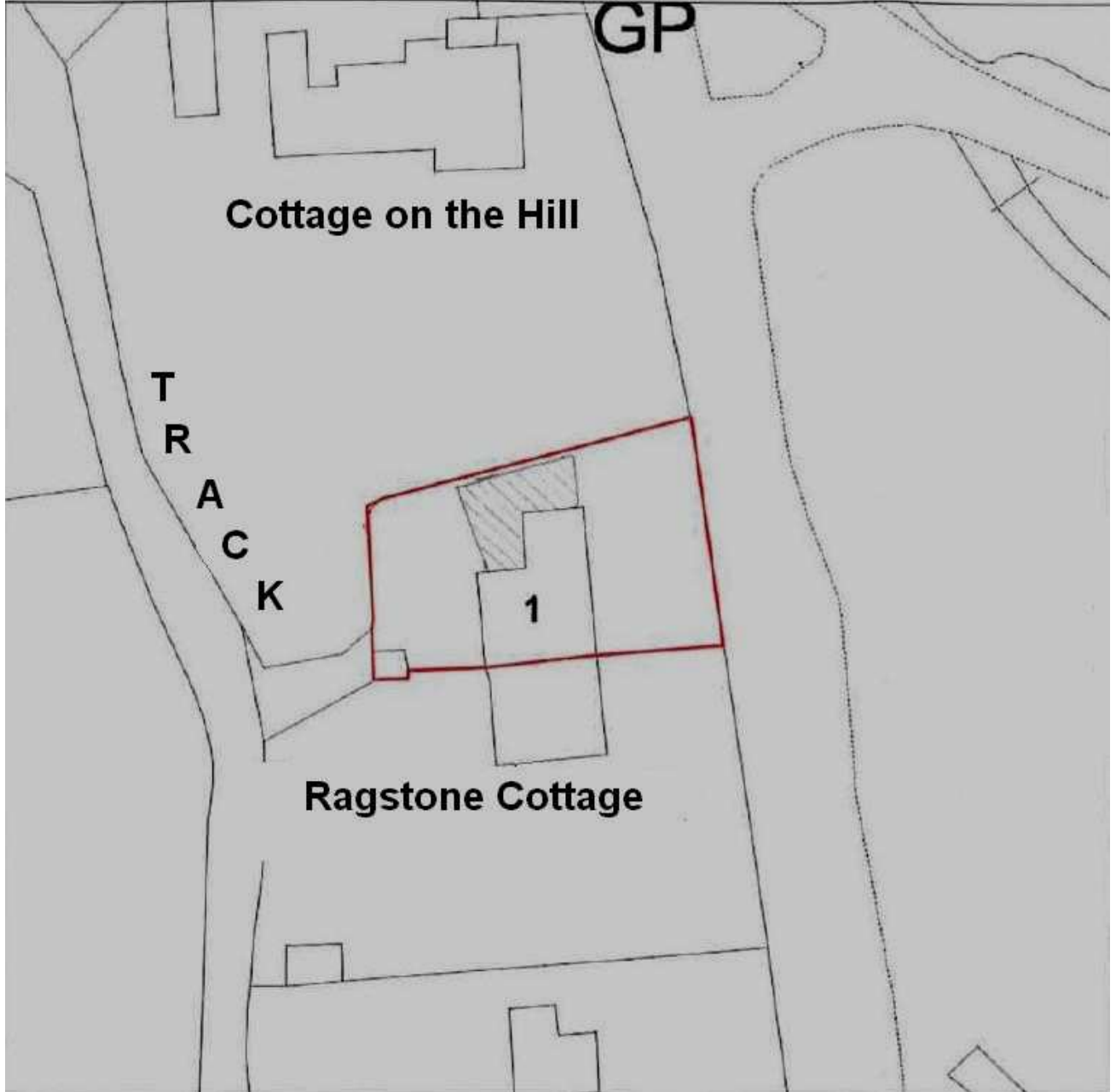


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Agenda Item 5.5

Development Control Committee: 9 June 2011

SE/11/00034/FUL Item No 5.05



Agenda Item 5.5

Development Control Committee: 9 June 2011

SE/11/00034/FUL Item No 5.05

5.06 SE/11/00035/LBCALT Date expired 9 March 2011

PROPOSAL: Single storey side and rear extension

LOCATION: 1 Charts Edge Cottage, Hosey Hill, Westerham TN16 1TA

WARD(S): Westerham & Crockham Hill

ITEM FOR DECISION

This item has been referred to the Development Control Committee because the recommendation is contrary to the views of the Parish Council and Councillor Bracken wishes the Committee to consider the impact upon the existing dwelling and surrounding countryside.

RECOMMENDATION: That listed building consent be GRANTED subject to the following conditions:-

1) The works to which this consent relates shall begin before the expiration of three years from the date of this consent.

In pursuance of section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To maintain the integrity and character of the listed building as supported by EN1 of the Sevenoaks District Local Plan.

3) The development hereby permitted shall be carried out in accordance with the following approved plans: 100 Rev01, 111 Rev00, 112,210 Rev03, 211, 220 Rev01,221 Rev 01,222 Rev 01, tr-889-11 Site, tr-889-11 prop.

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

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies BE6

Sevenoaks District Local Plan - Policies EN1

Sevenoaks District Core Strategy 2011 - Policies SP1

The following is a summary of the main reasons for the decision:

The development would respect the context of the Listed Building

Description of Proposal

- 1 Listed Building Consent for a single storey side and rear extension to the semi detached property. The extension will be a flat roofed structure which will stand at 2.7 metres high. It will protrude 2.4 m from the side wall of the existing dwelling towards the flank garden boundary and 3.6 m from the rear of the dwelling at the furthest point.
- 2 The application has been slightly amended in order to take account of the desire to retain existing boundary trees belonging to a neighbour. This would result in the extension being built just inside the boundary wall rather than being built onto it.
- 3 The extension would be flat roofed and clad in oxidised copper, whilst the front elevation would mostly comprise an oak door and most of the rear elevation would be glazed. There would be set back of about 0.5 metres from the front wall of the 1970s addition, itself set back from the original house front wall. The existing external side wall would be left exposed internally.

Description of Site

- 4 The application site at 1 Charts Edge Cottage comprising a semi detached dwelling is situated near to the top of Hosey Hill and opposite Hosey Hill Common. To the north lies the larger detached property of Cottage on the Hill and to the rear (west) by an area of undeveloped land.
- 5 The property is one of a pair of listed C17th /C18th cottages located on the west side of Hosey Common. To the front and side the materials are random rubble stone, with brick quoins and dressings, and with brick to the rear all under a pitched gable ended plain tiled roof. There is a two storey 1970s side addition, also in stone with a hipped roof.

Constraints

- 6 Grade II Listed Building

Policies

South East Plan

- 7 Policy - BE6

Sevenoaks District Local Plan

- 8 Policy – EN1

Sevenoaks Core Strategy

- 9 Policy - SP1

Others

- 10 National Policy: PPS5 Planning for the Historic Environment

Relevant Planning History

- 10 04/01969 Proposed replacement of brickwork and re-pointing to existing chimney stack. Withdrawn 03.09.2004.
- 11 83/01176/HIST Affixing of gas meter cupboard to external wall. Granted 14.11.1983.
- 12 80/01248/HIST Window alteration. Granted 16.10.1980.
- 13 79/01668/HIST Removal of bow window and insertion of a six paned window and replacement of two paned window with a six paned window at rear of dwelling. Granted 01.02.1980.
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- 16 10/02819/LBCALT Erection of single storey side and rear. Granted extension
- 17 10/02818/FUL Erection of single storey side and rear. Refuse extension Permission refused for the following reason: The land lies within the Green Belt where strict policies of restraint apply. The proposal would be inappropriate development harmful to the maintenance of the character of the Green Belt and its openness. This conflicts with policy GB2 of the Sevenoaks District Local Plan.

Consultations

Parish / Town Council

- 18 Westerham Parish Council is opposed to this application. Its mass is overbearing in relation to the comparatively small size and scale of the original dwelling. Westerham Parish Council believes that the design proposed does not compliment the architecture of the existing dwelling and is not a suitable size or form of development for this cottage in the Green Belt and the AONB.

SDC Conservation Officer

- 19 The property is one of a pair of listed C17th /C18th cottages located on the west side of Hosey Common. To the front and side the materials are random rubble stone, with brick quoins and dressings, and with brick to the rear all under a pitched gable ended plain tiled roof. There is a two storey 1970s side addition, also in stone with a hipped roof. The submitted scheme follows pre-application advice. The existing overall width of the house is 11.8 metres. It is proposed to add a single storey side and rear extension, 2.4 metres wide at the front, comprising a hall and garden room. The extension would be flat roofed and clad in oxidised copper, although the front elevation would mostly comprise an oak door and most of the rear elevation would be glazed. There would be set back of about 0.5 metres from the front wall of the 1970s addition, itself set back from the original house front wall. The existing external side wall would be left exposed internally.

- 20 This design and type of construction involves little interference with the existing building, thus retaining the maximum possible amount of the historic fabric and making the addition 'reversible'. Whilst the views of the Parish Council are noted, the scale of the addition is small given that it is of a simple uncluttered modern design, set back from the main front wall, single storey and largely positioned to the rear of the building. As advised in the PPS5, para. 178 '*the main issues to consider in proposals for additions to heritage assets ...are proportion, height, massing, bulk, use of materials, use, relationship with adjacent assets.....Replicating a particular style may be less important, though there are circumstances when it may be appropriate. It would not normally be acceptable for new work to dominate the original asset or its setting in either scale, material or as a result of its siting.*' In the case of 1 Charts Edge Cottage, I consider that the proposed extension would compliment the existing building and not dominate or detract from the character of the original building. Recommend consent subject to samples/ details materials.

Representations

- 21 5 letters raising the following objections:
- Height scale and bulk would be over bearing and out of character with the existing dwelling
 - The proposed materials would not be in harmony with the character and architecture of the existing property
 - Insufficient distance between the flank wall and the boundary wall to complete the project which will result in damage to the boundary wall.

Head Of Development Services Appraisal

Principal Issues

Impact upon the fabric and setting of the listed building.

- 22 Policy EN1 of the SDLP requires that development takes opportunities to enhance the area and should be designed in harmony with other buildings in the locality. Designs should contribute to enhancing an area and should reflect the scale, height, massing and character of the original dwelling. Policies EN1, H6B and appendix 4 of the SDLP relate to this matter. PPS5 'Planning for the Historic Environment' provides advice in respect of issues to be considered in proposals for additions to heritage assets as detailed above in the Conservation Officers assessment.
- 23 This scheme represents an unashamedly contemporary design attached to a very traditionally designed dwelling. The contemporary approach to the design of the extension is considered acceptable reflecting a modern addition to the building rather than creating a pastiche of the original dwelling. The SDC Conservation Officer has considered this proposal and considers that the proposed side and rear extension is acceptable in terms of massing and height on the existing dwelling and that the proposed extension would compliment the existing building

and not dominate or detract from the character of the original building. It is considered that the height and size of the development is acceptable. Whilst the Residential Extensions SPD states that flat roofs are not the preferred roof form, in the context of this design it is considered appropriate.

- 24 In the context of the design of this structure members should note that an almost identical scheme was granted Listed Building Consent last year on the basis that the impact upon the listed building was considered acceptable.

Access Issues

- 25 Will be dealt with through the Building Regulations process.

Conclusion

- 26 The basic criterion for listing a building is that it must hold special historic or architectural interest. National guidance, in the form of PPS5, is clear that change should be managed in ways that sustain and where appropriate enhances the heritage significance of, in this case, the listed building. The main issues to consider in proposals for additions to heritage assets are proportion, height, massing bulk use of materials use and relationships with adjacent assets. Replicating a particular style may be less important and any new work should not dominate the assets, its setting in either scale material or as a result of its siting.
- 27 In this case the design, bulk, mass and contemporary design are all considered to be acceptable within the context of the original dwelling enabling the maximum retention of original fabric and neither dominating nor detracting from the original dwelling.

Background Papers

Site and Block Plans

Contact Officer(s): Lesley Westphal Extension: 7235

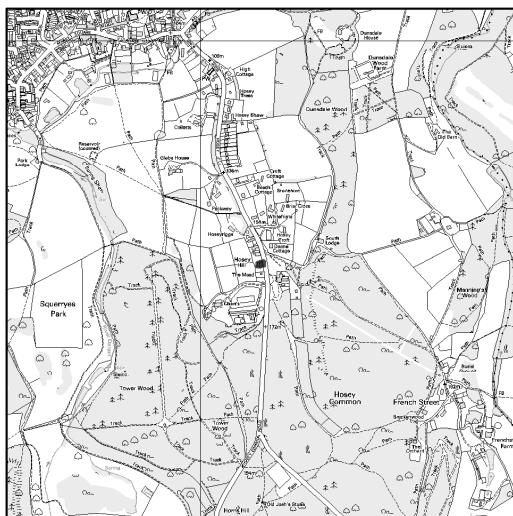
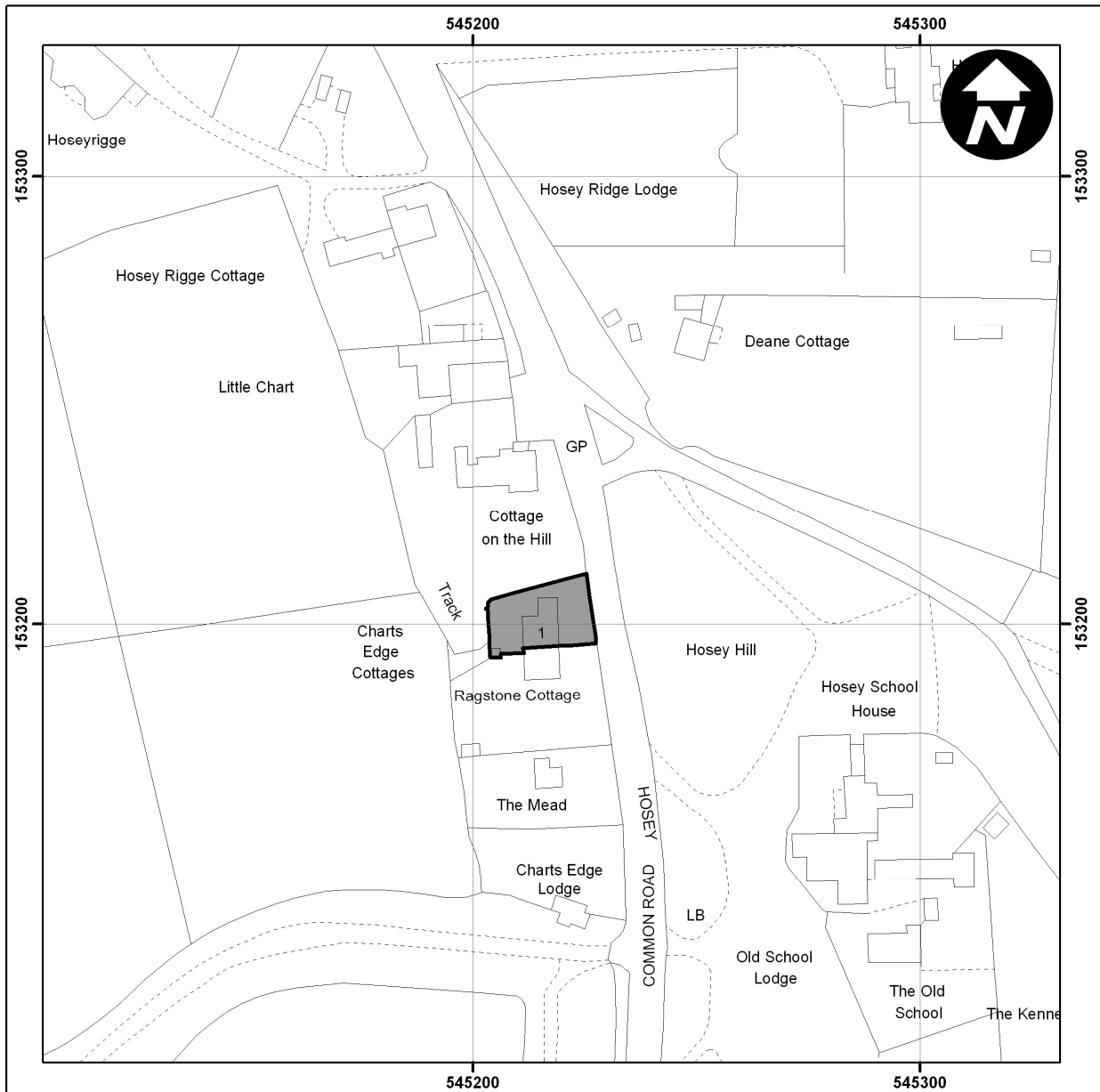
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Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LESRV4BK8V000>



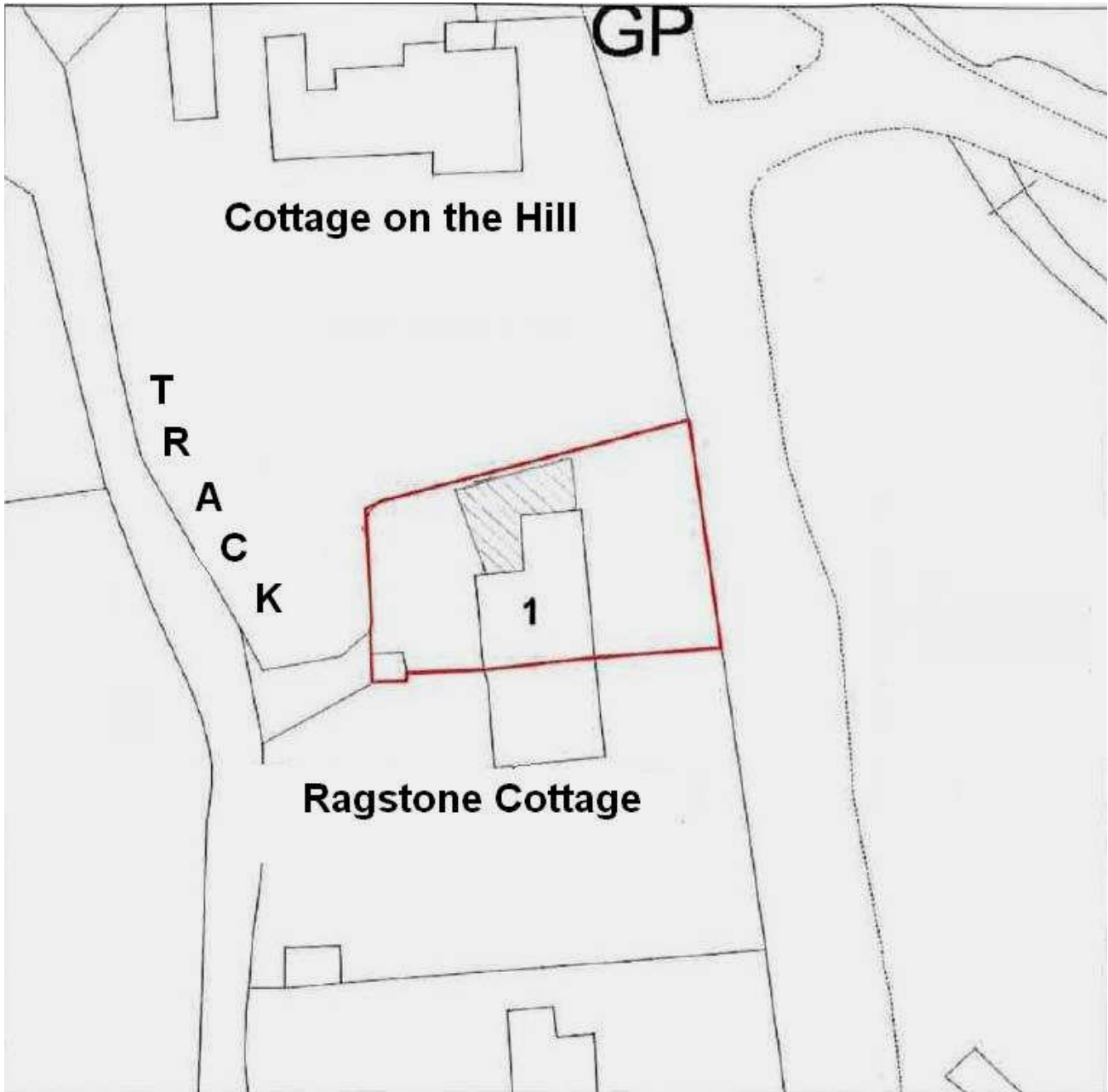
Site Plan

Scale 1:1,250

Date 23/05/11



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5.07 - SE/10/03522/FUL Date expired 1 March 2011

PROPOSAL: Demolition of existing dwelling and erection of 2 detached dwellings, car port and car port and alterations to vehicular access.

LOCATION: Chelsham , Church Road, Hartley, Longfield DA3 8DN

WARD(S): Hartley & Hodsoll Street

ITEM FOR DECISION

This item has been referred to the Development Control Committee at the request of Ward Councillors who have concerns that the scheme represents the over development of the site.

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

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 of the Sevenoaks District Local Plan.

3) No building shall be occupied until full details of soft landscape works have been submitted to and approved in writing by the Council. Those details shall include:

- planting plans (identifying existing planting, plants to be retained and new planting);
- schedule of new plants (noting species, size of stock at time of planting and proposed number/densities); and
- a programme of implementation.

Soft landscape works shall be carried out in accordance with the approved details and programme of implementation. If within a period of 5 years from the completion of the development, any of the trees or plants that form part of the approved soft landscaping, die, are removed, or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To ensure a satisfactory appearance upon completion.

4) Before the use or occupation of the development hereby permitted, the car

parking and turning areas shown on the approved plan shall be provided and shall be kept available for the parking of cars at all times.

In the interests of highways safety

5) The windows in the rear elevation of both dwellings , facing the property Virgo shall be obscure glazed and shall thereafter be permanently maintained as such.

To protect the privacy of adjacent residents in accordance with policy EN1 of the Sevenoaks District Local Plan.

6) No windows or other openings shall be inserted at any time in the walls or roof of the buildings hereby approved, despite the provision of any Development Order.

To protect the privacy of adjacent residents in accordance with the provisions of policy EN1 of the Sevenoaks District Local Plan.

7) Prior to commencement of development details shall be provided in writing to the Local Planning Authority of the proposed car port. The car port shall be constructed in accordance with the approved details .

In the interests of highways safety.

8) The development hereby permitted shall be carried out in accordance with the following approved plans: 1691/2,9D rev02/11,15,16B rev 02/1117A rev 02/1118B rev 02/1122,23,24A rev0125,27

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

9) Notwithstanding the details submitted, the velux window to the main bedroom of Dwelling B in the south east facing elevation , shall be high level with a minimum cill height of 1.7 metres above finished floor level.

To protect the privacy of the adjacent residents in accordance with the provisions of policy EN1 of the Sevenoaks District Local Plan.

10) The development shall achieve a Code for Sustainable homes minimum rating of level 3. Evidence shall be provided to the Local Authority -

i) Prior to the commencement of development, of how it is intended the development will achieve a Code for Sustainable Homes Design Certificate minimum level 3 or alternative as agreed in writing by the Local Planning Authority; and

ii) Prior to the occupation of the development, that the development has achieved a Code for Sustainable Homes post construction certificate minimum level 3 or alternative as agreed in writing by the Local Planning Authority.

In the interests of environmental sustainability and reducing the risk of climate change as supported in Planning Policy Statement 1, policies CC2 & CC4 of the South East Regional Plan & Policy SP2 of the Core Strategy

11) The development hereby approved shall not be occupied until the visibility splays shown on the approved plan have been provided and anything which obstructs visibility at any height greater than 0.6m above the surface of the adjoining highway has been removed. Thereafter visibility splays shall be maintained free from obstruction at all

times.

In the interests of highway safety.

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies H1,H3,H4,H5,T4

Sevenoaks District Local Plan - Policies EN1, VP1, H10A

Sevenoaks District Core Strategy 2011 - Policies SP1, L07,SP2,SP3,SP5,SP7

The following is a summary of the main reasons for the decision:

The traffic movements generated by the development can be accommodated without detriment to highway safety.

The development would not have an unacceptable impact on the residential amenities of nearby dwellings.

The scale, location and design of the development would respect the context of the site and protect the visual amenities of the locality.

Informatives

1) It appears that the proposal involves works that affect the highway and / or its verge. Before commencing such works, you must obtain the separate consent of the Highway Authority. Please contact Kent Highway Services, Network Operations on 01474 544068.

Description of Proposal

- 1 The demolition of the existing bungalow and the erection of two chalet bungalows, one fronting onto Gresham Avenue and one fronting onto Church Road. Ancillary parking and a car port are also proposed. The two dwellings would sit alongside each other each stepping a little forward of the adjacent dwelling 'Keston'.
- 2 The main wall of Bungalow A would lie just over 4m's from the grass verge of Gresham Avenue and just over 12m's from the pavement of Church Road. It would be a chalet bungalow with one bedroom and two bathrooms contained within the roofspace – lit by windows at each end of the dwelling and rooflights. The ridge would be the same height as shown on the approved outline application. The plan has been amended to remove an originally proposed garage and off street parking will be provided by 2 spaces located to the rear of the plot adjacent to the neighbouring drive. This dwelling would project 3m's in front of the nearest existing dwelling 'Keston'. The main garden space would lie at the front of the dwelling – screened from the adjacent highway by an existing significant sized boundary hedge. The existing vehicular access to Church Road would be blocked up.

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- 3 Dwelling B would comprise a 4 bedroom chalet bungalow lying to the east of bungalow A. It would lie 1m from the flank wall of the adjacent dwelling and would project 1.6m's in front of that dwelling. It would be sited 11m's from the rear garden boundary and just over 15m's from Church Road. It would have a ridge height of 7.3m's (0.2m lower than indicated on the outline application) and incorporate two large dormer windows - one in each flank roofspace. A new access would be opened up to provide vehicular access to a car port and turning area. The main garden would be provided to the rear of the dwelling.

Description of Site

- 4 The site comprises a corner residential plot currently occupied by a detached bungalow set within an established residential area on the corner of Gresham Avenue and Church Road. The existing bungalow is aligned broadly with the adjacent bungalow of Keston, fronting onto Church Road. The site is well landscaped with several mature trees and hedgerows on the site boundary.
- 5 The surrounding area comprises a mixture of bungalows, chalet bungalows and two storey houses of a range of sizes and designs. Whilst the entrance to Gresham Avenue is well planted on both sides, the rest of Gresham Avenue is much more open with low levels of boundary planting and this openness is reflected in the character of Dixon Close sited on the opposite side of Church Road to the application site.

Constraints

- 6 Within built confines of Hartley

Policies

South East Plan

- 7 Policies - H1,H3,H4,H5,T4,

Sevenoaks District Local Plan

- 8 Policies - EN1, VP1, H10A

Sevenoaks Core Strategy

- 9 Policies SP1, L07,SP2,SP3,SP5,SP7,

Others

- 10 National Policy: PPS1,PPS3

Planning history

- 11 SE/09/01424/OUT Demolition of existing dwelling and erection of detached chalet bungalow and detached bungalow with alteration to the vehicular access. Conditional approval
- 12 This application reserved all matters but indicated for illustrative purposes two bungalows broadly in the positions now shown with each plot having two off street

parking spaces. That scheme showed two dwellings closer to the two road frontages than now proposed but with slightly different footprints of the same general bulk and scale as now proposed. The outline scheme proposed two sets of off street parking rather than a car port and of street parking.

- 13 SE/10/02208/FUL Demolition of existing dwelling and erection of two detached chalet bungalows with detached garages, alterations to existing vehicular access and creation of new vehicular access. Refused.

Consultations

Parish/Town Council

- 14 Hartley Parish Council objects to the above application on the grounds that the proposal would constitute over development of the site, being harmful to the area, contrary to the provisions of policy EN1 of the Sevenoaks District Local Plan.

KCC Highways:

- 15 The replacement of the previously proposed garage at Plot B with a car port will improve manoeuvrability within the site but I would recommend that the distance between the supports be increased to 5.4m to ensure vehicles can turn. Subject to this revision I would recommend conditions to secure parking and also reinstatement of the existing crossover and adequate wheelwashing facilities and also informatives to cover works to the highway INH105 and cutting back of the hedge to provide and maintain visibility.

Thames Water:

- 16 Waste Comments – no objection.
- 17 Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

SDC Tree Officer:

- 18 This site is fairly void of any important trees. The trees that do exist are shown for removal to accommodate the proposals. I note from the proposed site layout that a number of trees are indicatively shown as new landscaping. A statement entitled "Notes". States that "All planting, seedling and turving shall be implemented during the first planting season following occupation of the building". I would prefer to see an acceptable landscaping scheme carried out upon completion of the building work at the latest.
- 19 I also note that a size of 2 metres for the new planting has been referred to. I would prefer to see a minimum of 10-12 cm girth trees used. This would equate to about a 3 metre high tree at planting. I would also like to see more specific details regarding the tree species.

Representations

- 20 2 letters of objection raising concerns about::
- over development,

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- movement of building line in front of that currently existing in Church Road,
- impact of car port upon streetscene – being no different to a garage,
- drainage
- privacy
- overshadowing and loss of sunlight to the garden of Virgo

Head of Development Services Appraisal

Principal Issues

- 21 The site lies within the built confines of Hartley where the principle of such development is acceptable, subject to compliance with all relevant policies within the Local Plan. The main issues therefore are the impact upon the streetscene, impact upon the highway and impact upon the neighbours amenities.

Impact upon Streetscene

- 22 This plot is relatively well planted, particularly along the Church Road frontage which is somewhat different in character to the remaining part of Gresham Avenue and indeed to Dickens Close, opposite the site. The existing substantial boundary hedge right on the corner of the site and along the Church Road frontage is to be retained, although previous boundary planting along the Gresham Avenue frontage has been partially removed.
- 23 The approved outline scheme on this site showed a bungalow with no roof accommodation set back from Gresham Ave by 3.2m's (apart from the porch). This application proposes a chalet bungalow 4.2m's from Gresham Ave (the porch being 3.2m's from the highway). The roofspace would have a single rooflight. Although the footprint of the building is 3m's longer than approved in outline it is not considered that this would be sufficient to make this scheme cramped where previously considered acceptable. .
- 24 The adjacent dwelling B has a marginally different footprint to the outline approval but has been moved back into the site by approx. 3m's compared to the outline approval – it is now less than 2m's in front of the adjacent bungalow. The dormer windows proposed are quite large but not considered so out of scale to the overall roof form as to be unacceptable. The parking spaces have been replaced by a double car port. In this particular case it will be largely screened by the existing mature hedge on the boundary with the highway. This dwelling does not depart significantly from that considered acceptable as part the outline application.
- 25 This scheme has been modified compared to the previous application that was refused by the removal of the garages and alterations to the positioning of the buildings on site and is now considered acceptable and not such a departure from the approved outline consent.

- 26 The recently refused scheme proposed two chalet bungalows – both broadly of the same footprint now proposed, but with the plot nearest the corner of the site being taller (0.7m), closer to Gresham Avenue, with two roof dormers and a detached double garage in the rear garden. The second plot proposed a double garage in the front garden and had a large clear glazed bedroom window in the rear elevation. In total this was considered to represent the over development of the site being harmful both to the streetscene, by virtue of the additional built form and height of the dwelling, and to the neighbours amenities as a result of the bedroom window in the second dwelling.

KCC Highways

- 27 No objections are raised to this scheme subject to sight lines being provided and the car port being adequately sized to accommodate two cars adequately.

Neighbours Amenities

- 28 The residents of 'Virgo' (Gresham Avenue) and 'Keston', (fronting onto Church Road) would be most affected by the position of the new chalet bungalows.
- 29 The flank garden boundary of Virgo would abut the rear garden of the two proposed dwellings. Dwelling A would lie adjacent to the driveway and side garden of Virgo and dwelling B would lie adjacent to the side garden of Virgo: being separated from the main part of the rear garden by the detached garage belonging to Virgo. Some land has moved from Virgo and now forms part of this site increasing the size of the rear garden to dwelling A.
- 30 At ground floor level both dwellings would be separated from Virgo by a close boarded fence thereby protecting the neighbours amenities. At first floor level both dwellings would have obscured glazed windows facing towards the rear of the site thereby protecting the neighbours privacy.
- 31 The dwellings would lie between 11 – 12 metres from the rear boundary (which is the side boundary of 'Virgo'). This is considered to be a sufficient distance from the neighbouring boundary to ensure that they would not have a significant impact upon the amenities of the neighbouring residents of Virgo: their main patio area appears to be directly to the rear of their bungalow and that is partially shielded from the application site by a single detached garage.
- 32 The neighbours at Keston would lie adjacent to the larger dwelling but its position within the site is not such that it is considered to be unneighbourly. Subject to a condition to prevent any new windows being installed into the roofspace, levels of overlooking could be maintained to acceptable levels.

Access Issues

- 33 Accessibility issues in respect of these dwellings would be resolved by Building Regulations.

Conclusion

- 34 The site lies within the built confines of Hartley and this corner plot is currently occupied by a single bungalow. Outline planning permission has been granted for a detached chalet bungalow and a detached bungalow with associated parking. This scheme is similar to that submission, albeit at that stage all matters were reserved. It is considered that the siting, bulk and mass of the two dwellings would be acceptable within the streetscene and that the amenities of neighbouring residents would not be unacceptably affected by the proposed scheme. It is therefore recommended that Planning Permission be GRANTED subject to conditions.

Background Papers

Site and Block Plans

Contact Officer(s): Lesley Westphal Extension: 7235

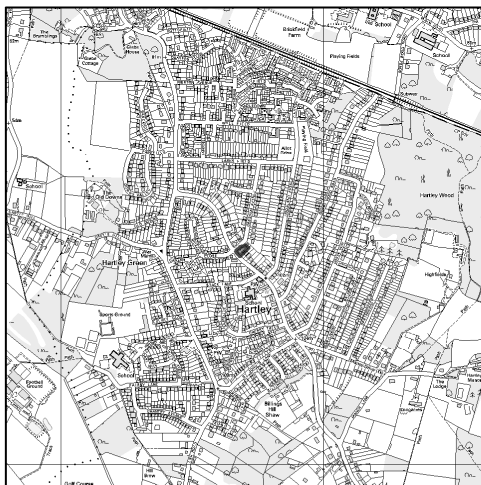
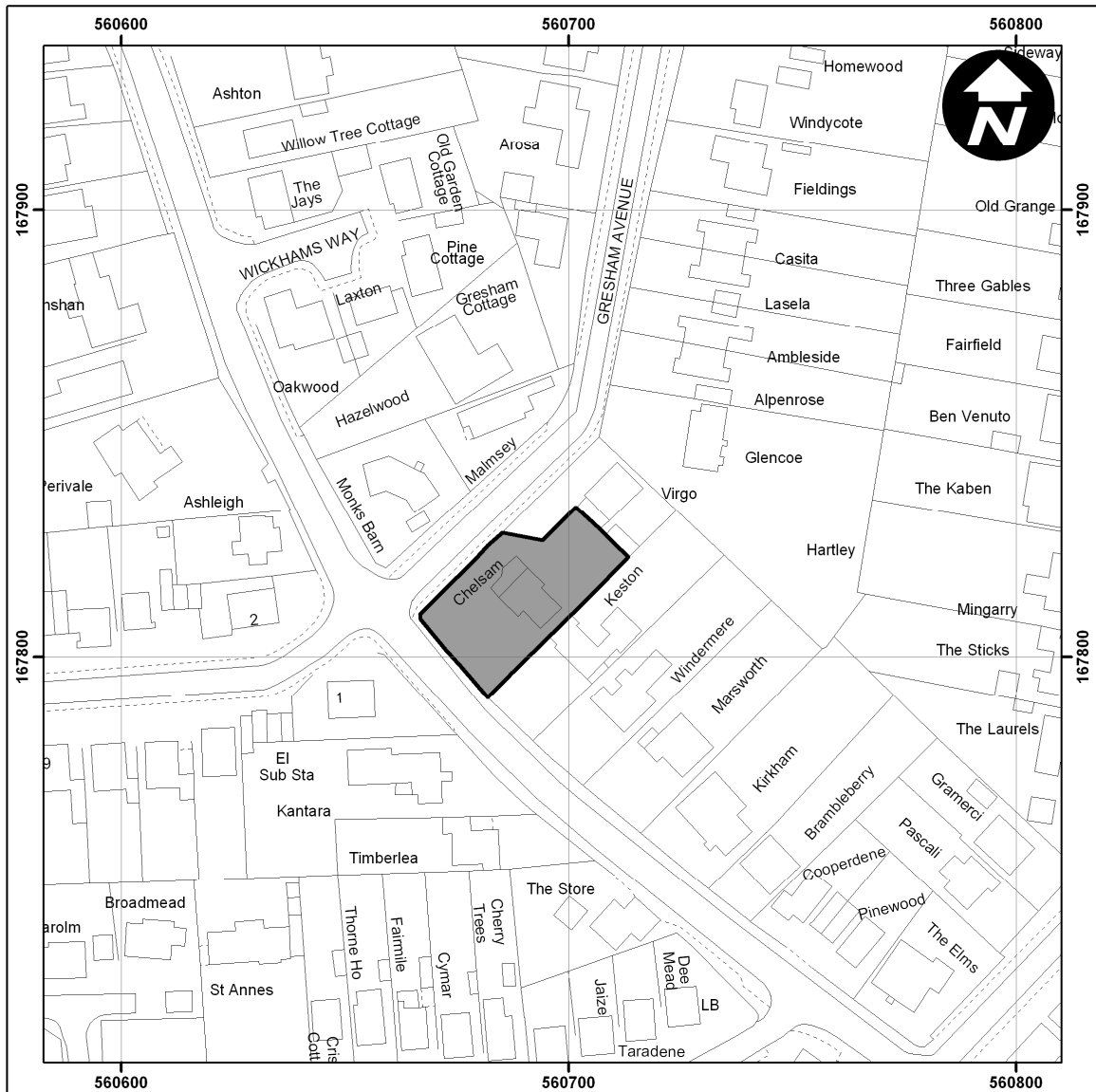
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LDVFL6BK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LDVFL6BK8V000>



Site Plan

Scale 1:1,250
Date 23/05/11



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5.08 - SE/11/00774/FUL Date expired 20 May 2011

PROPOSAL: Demolition of existing outbuilding, erection of replacement outbuilding to provide garage, and ancillary residential accommodation to Hodsoll House, associated works

LOCATION: Hodsoll House , High Street, Farningham Dartford DA4 0DH

WARD(S): Farningham, Horton Kirby & South Darent

ITEM FOR DECISION

This item is being referred to the Development Control Committee because the recommendation is contrary to the Parish Council Recommendation and Councillor McGarvey wishes Committee to consider the issues surrounding the ancillary nature of the proposed dwelling and the impact of this relationship upon the surrounding area.

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

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development is in harmony with the existing character of the Conservation Area as supported by Policy EN1 of the Sevenoaks District Local Plan.

3) No development shall be carried out on the land until full details of soft landscape works have been submitted to and approved in writing by the Council. Those details shall include:-planting plans (identifying existing planting, plants to be retained and new planting);-a schedule of new plants (noting species, size of stock at time of planting and proposed number/densities); and-a programme of implementation.

To protect the visual appearance of the area as supported by EN1 of the Sevenoaks District Local Plan.

4) If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To preserve the appearance and character of the surrounding Conservation Area in

accordance with policy EN1 of the Sevenoaks District Local Plan.

5) The approved garage shall be provided prior to the first occupation of the building and shall be permanently retained for the parking of a motor vehicle.

To ensure a permanent retention of vehicle parking for the property.

6) No window(s) or other opening(s) shall be inserted at any time in the south elevation(s) of the garage or building hereby approved, despite the provisions of any Development Order.

To protect the privacy of the adjoining occupiers in accordance with the provisions of policy EN1 of the Sevenoaks District Local Plan.

7) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Hodsoll House.

So that any other proposal for the use of the building is the subject of a separate application to be determined on its merits having regard to the character and appearance of the surrounding Conservation Area and the character and setting of the adjacent Listed Building.

8) The development hereby permitted shall be carried out in accordance with the following approved plans: HODSOLL-PL01,PL02

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

9) The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow him/her to observe the excavations and record items of interest and finds. The developer shall inform the County Archaeologist of the start date of construction works on site not less than two weeks before the commencement of such works.

To ensure that features of archaeological interest are properly examined and recorded.

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies SP5,CC1,CC4,H4,H5,T4,C3,BE6

Sevenoaks District Local Plan - Policies EN1,EN23,VP1,H6B

Sevenoaks District Core Strategy 2011 - Policies SP1,L07

The following is a summary of the main reasons for the decision:

The development would not have an unacceptable impact on the residential amenities of nearby dwellings.

The development would preserve the special character and appearance of the Conservation Area.

Description of Proposal

- 1 This scheme proposes the demolition of an existing garage and its replacement with a single storey building comprising a single garage and a one bedroom self contained unit.
- 2 The existing garage is a single garage with store so is the actual size of a double garage, albeit with only one set of doors to provide access for a car. It is a brick construction with a pitched tiled roof and lies immediately adjacent to the boundary wall to the south east of the access drive.
- 3 The proposed replacement would comprise an 'L' shaped building with the frontage the same width as the existing garage and with the same general design, ie pitched tiled roof with double doors providing access to the garage. The main bulk of the increased building size would lie behind this and incorporate a kitchen, bathroom living room and bedroom. The building would be constructed using brickwork elevations and a pitched tiled roof. It would share the same curtilage as Hodsoll House itself.

Description of Site

- 4 The majority of the site lies within the built confines of the village: part of the rear garden lying within the green belt. It comprises a Grade II listed house and lies within a part of the village with a heavy concentration of listed properties: both adjoining and facing houses are listed. The house itself is 18th century and 2 storeys in height and clad in white weatherboarding. It has a tiled roof and parapet. A single storey weatherboarded extension lies to the left hand side. The front boundary comprises railings which is also mentioned in the CA Appraisal.
- 5 It occupies a plot of substantial width within the High Street and the house itself is situated towards the front of the site. The Conservation Area Appraisal advises that *Some of the larger and more important listed buildings in the village, (including) Hodsoll House contribute greatly to the overall character by their prominent settings.*
- 6 The garage lies adjacent to the south eastern boundary wall and is set back behind the level of the house some 22m's from the High Street. It is a simple design with brick elevations, a tile pitched roof and a set of double doors in the front and rear elevations. It lies directly against an existing boundary wall to the driveway. It is noted in the Conservation Area Appraisal as being a building that contributes to the character of the Conservation Area – along with those buildings around it.

Constraints

- 7 Part of the Garden lies within the MGB, the property itself and garage within the built confines of the village, Conservation Area, AONB.

Policies

South East Plan

- 8 Policies - SP5, CC1, CC4, H4, H5, T4, C3, BE6.

Sevenoaks District Local Plan

- 9 Policies – EN1, EN23, VP1, H6B.

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Core Strategy:

10 Policies - SP1, L07.

National Guidance:

11 Policies - PPS1, PPG2, PPS3, PPS5.

Relevant Planning History

12 None

Consultations

SDC Conservation Officer

13 This outbuilding is curtilage listed with Hodsoll House and is identified as 'contributing to character' in the Conservation Area Appraisal. However it is clear from a site inspection and the comments of the applicant's Building Surveyor that extensive work would be needed to render the structure secure and useable such that very little of the existing structure would remain. I therefore agree that its replacement is acceptable in principle. The gap between Hodsoll House and its garage, with views of trees and other vegetation beyond, is contributory to the character of the CA. The size of the new building has been reduced from the initial proposal and is now better proportioned in relation to the size of the house and positioned such that there would be only minimal reduction in the gap between the house and the outbuilding. The new structure appears to have all the accommodation necessary to a separate dwelling rather than an annexe, but this is a matter for general planning consideration, not conservation, provided this does not generate a requirement for more on site parking, hard surfacing etc. I therefore have no objections subject to conditions relating to the submission of samples of materials (I do not consider that yellow stock bricks would be suitable in this location) and a requirement that the boundary wall be repaired/reinstated to LPA satisfaction.

SDC Tree Officer

14 I have attempted to resist the loss of the mature Ash tree located to the rear of the proposal. Given the information provided within the consultants report however I do not object to the loss of trees as described. I do recommend that additional planting is agreed and carried out as part of any consent provided.

KCC Archaeology

15 The site lies within an Area of Archaeological Potential relating to Iron Age, Roman and Medieval activity. A Roman enclosure has been recorded c.70m to the west and a Roman ditch was found close to the proposed development during an archaeological evaluation in 1995.

16 As archaeological remains could be encountered during the proposed works, I advise that the following condition be applied to any forthcoming consent:

17 AR3 The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow him/her to observe the excavations and record items of interest and finds. The developer

shall inform the County Archaeologist of the start date of construction works on site not less than two weeks before the commencement of such works.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Thames Water

18 No objection

Parish / Town Council

19 The Parish Council objects to this planning application for the following reasons:

- This is a separate dwelling, and not an extension of the main building.
- In a Conservation Area.
- Out of character with main and nearby buildings.
- Excessive increase in size over the original garage.

Representations

20 Three letters of support, raising the following issues:

- the new building could only be an improvement compared to the existing
- the loss of the ash tree would be acceptable providing replacement are planted – it interferes with neighbours trees
- It is comforting to know that the new building would only be used by family

Head Of Development Services Appraisal

Principal Issues

21 The main issues concern the impact upon the adjacent Green belt, principle of new dwelling, design and impact upon the surrounding conservation area, impact upon adjacent listed building, neighbour amenities and impact upon trees.

Green Belt

22 At present the green belt boundary lies just over 11m's from the rear of the garage. The proposed unit would lie some 3.5m's from the green belt boundary. It is not considered that the bulk and scale of the building would be so significant as to be harmful to the character of the adjacent green belt and no objection is raised on that matter.

Principle of New Dwelling

23 Concern has been expressed by the PC about the creation of a new dwelling on this site and the potential for this to become a completely separate dwelling from Hodsoll House. The applicants advise that this is intended as accommodation for

elderly parents and that it is intended that it should remain only as ancillary accommodation to the main house. Theoretically it would be possible to separate out this unit from the main house and create a curtilage around it although consent would be required to undertake any alterations to provide a new vehicular access and drive to Hodsoll House.

- 24 The occupation of such 'annexes' are however usually tied to the main house by means of a condition and that is what is proposed here.

Design/Impact upon Conservation Area

- 25 Views of this building from a public viewpoint within the Conservation Area are limited to those of the very top of the flank wall and the roof, viewed above the adjacent boundary wall and those available when standing in front of the driveway of Hodsoll House. Nevertheless the garage does contribute to an attractive grouping of buildings within this part of the Conservation Area.
- 26 The submitted surveyors report is clear that the existing garage has a number of significant cracks, a series of inadequate rafters, a variety of roof tiles and poorly laid floor. Any work to improve the existing structure for retention would involve at least replacement of the roof structure, gables and floor. Potentially there are also issues regarding the foundation stability.
- 27 The report suggests that in such circumstances very little of the original fabric of this building would remain. In those circumstances it is officers view that the demolition of the garage is in principle acceptable.
- 28 In footprint and therefore mass, the replacement building is significantly larger than the building it would replace. The height of the replacement would however be the same as the existing garage and the front part of the replacement building has been designed to replicate the design of the garage with the same roof profile, same width of front wall, materials and double garage doors. The major difference when viewed from the highway would be the 'L' shape projecting by just over 1m to the side. Obviously when viewed from an oblique angle the greater depth of the replacement building would be obvious. However, in view of the very slight reduction in gap between Hodsoll House and the new building and the screening effects of Hodsoll House and the adjacent boundary wall it is not considered that the views available of the replacement structure would be so significant as to harm the sense of space around the site.
- 29 Overall it is considered that the design and scale of the building would accord with those policies designed to protect the character and setting of this conservation area.

Impact upon listed Building

- 30 The existing garage is clearly of much smaller scale and of a much simpler design such that it is clearly an ancillary building to Hodsoll House. A gap of some 11.5 m's separates the two buildings.
- 31 As part of the proposed scheme the replacement building would move closer to Hodsoll House and the gap would reduce by just over 0.5m. However this is as a result of moving the whole structure away from the boundary wall rather than

because of the increase in size of the new building. That gap has been maintained at the minimum practical to allow construction of the new build and ongoing maintenance to that building and indeed to the existing wall which is not possible at present. The wall forms an attractive boundary between this site and the adjacent listed Farningham House.

- 32 The main bulk of the new building would lie to the rear of the position of the existing garage and as a result of its distance from the house, its height and general design it is not considered that this would create a building of such bulk as to harm the setting of Hodsoll House.

Neighbours amenities

- 33 It is clear from the letter of support from the adjoining neighbour that they see advantages to this proposal ie removal of an existing tree that interferes with their side of the boundary, removal of an unattractive structure visible from their home. Whilst that is a very personal view of the benefits of the replacement, the proposed larger structure would not be considered harmful to their amenities: being largely screened behind the boundary wall with only the upper part of the flank wall and the roofline visible to them. This part of the site is already utilised as a driveway and that would not change as a result of this scheme.

Trees

- 34 Existing mature trees lying at the rear of the existing garage would be lost as a result of this proposal. The Ash tree to the rear of the proposed building would be the most significant of these. This tree is visible within the streetscene and makes a positive, if limited, contribution towards the character of the conservation area and streetscene. However, the proposed new building would lie within 2m of the trunk of this tree and it is proposed on the basis of this proximity to remove the tree. Further planting we are advised is proposed to the north of the proposed building which would in time compensate to a certain degree for the loss of this Ash.
- 35 It is not considered that the amenity value of the tree is so high as to be able to justify the refusal of this application for that reason alone. A condition is proposed to ensure new tree planting.

Other Issues

Access Issues

- 36 The building would have to comply with the relevant Building Regulations which would ensure current standards of accessibility.

Conclusion

- 37 This scheme proposed the loss of an existing garage and store and its replacement with a larger building to provide a single garage and a self contained one bedroom unit of accommodation.
- 38 The structure of the existing garage is poor and its loss is accepted in principle. As detailed above it is not considered that the principle of replacement is unacceptable and the design, bulk and mass of the proposed new building is considered acceptable both in terms of its impact upon the character and

Agenda Item 5.8

Development Control Committee: 9 June 2011

SE/11/00774/FUL

appearance of the surrounding conservation area and in terms of its impact upon the setting of the listed building Hodsoil House.

Background Papers

Site and Block Plans

Contact Officer(s): Lesley Westphal Extension: 7235

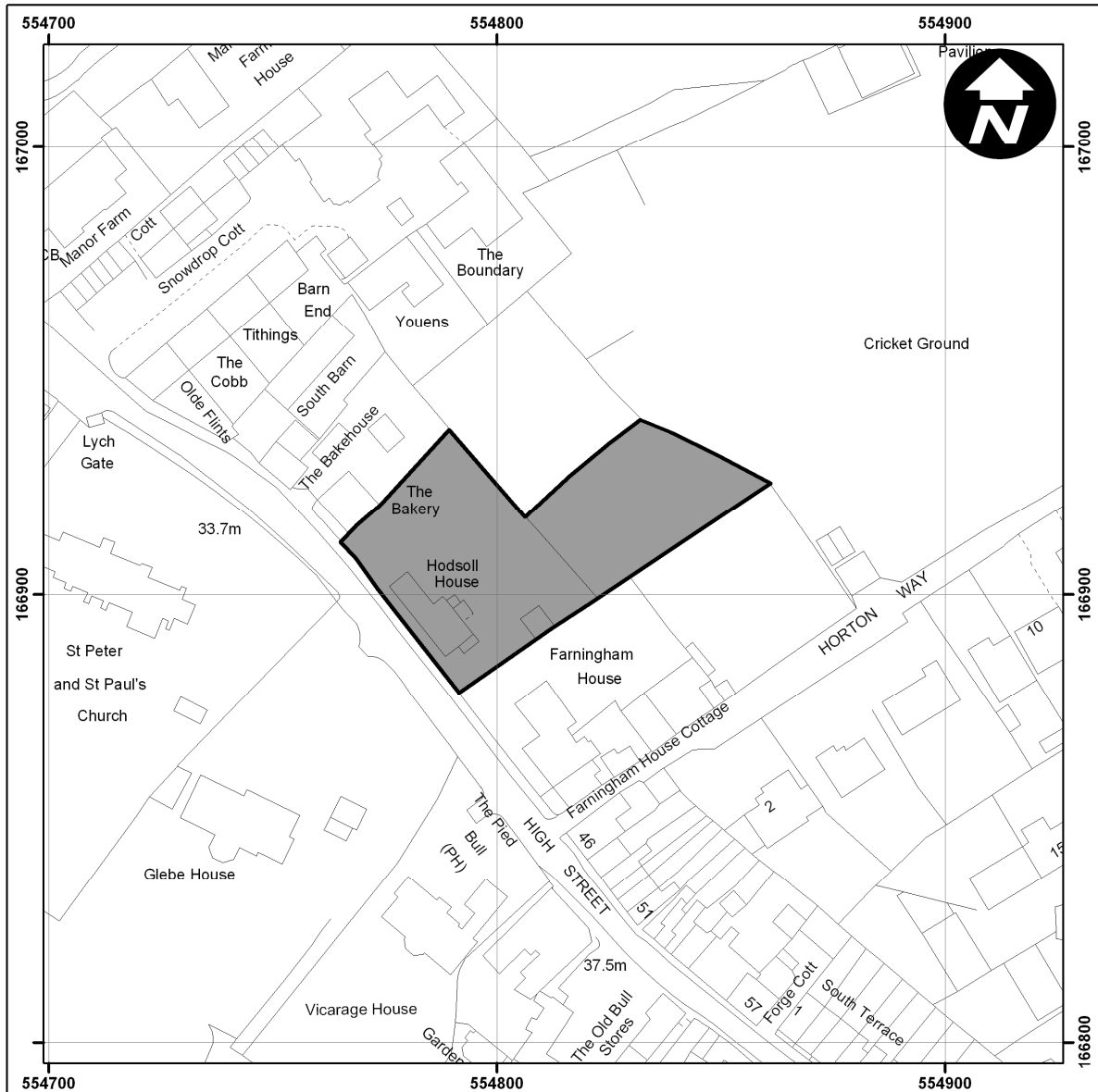
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LIRH26BKOCR00>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LIRH26BKOCR00>



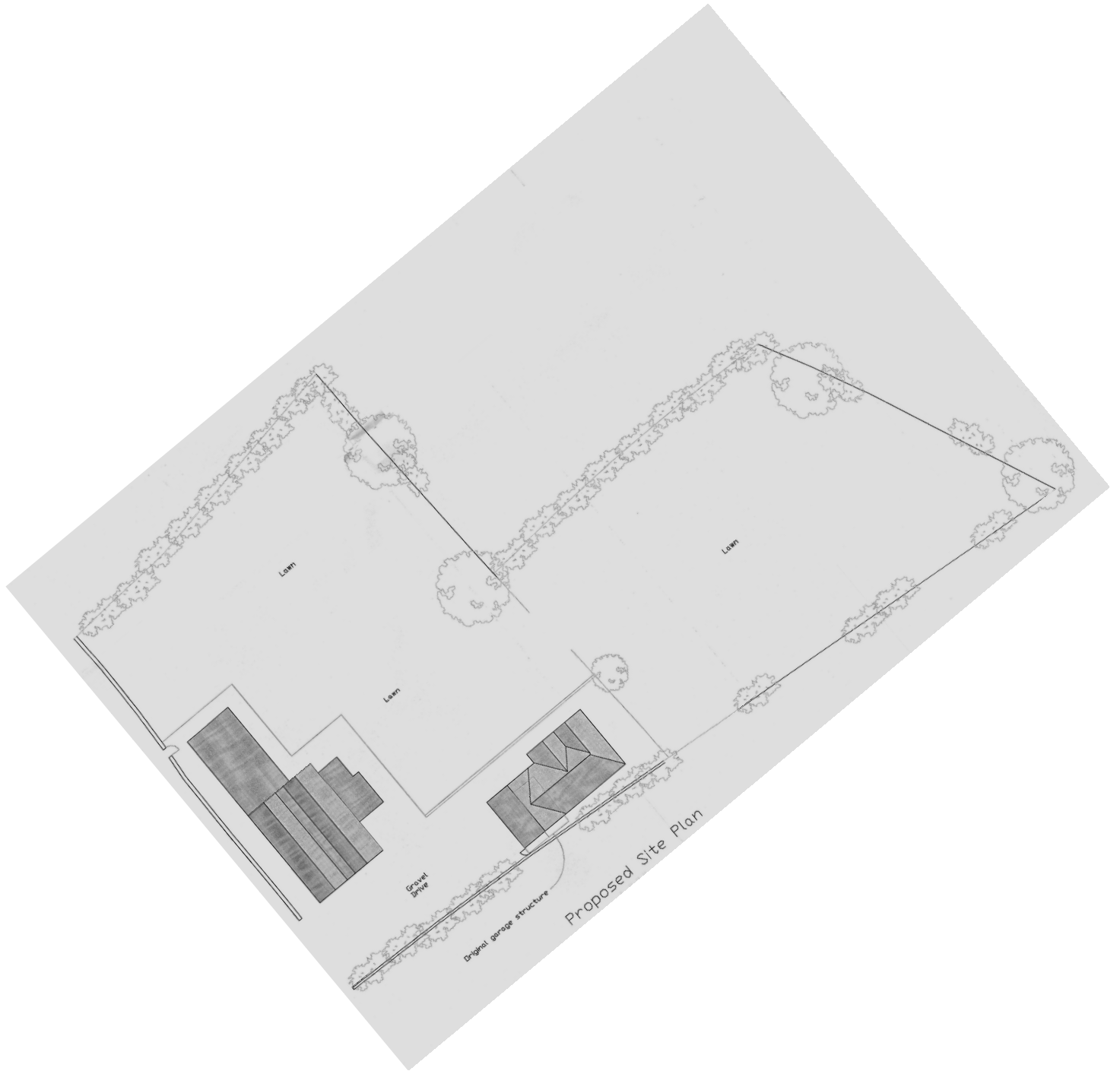
Site Plan

Scale 1:1,250

Date 23/05/11



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5.08 - SE/11/00774/FUL Date expired 20 May 2011

PROPOSAL: Demolition of existing outbuilding, erection of replacement outbuilding to provide garage, and ancillary residential accommodation to Hodsoll House, associated works

LOCATION: Hodsoll House , High Street, Farningham Dartford DA4 0DH

WARD(S): Farningham, Horton Kirby & South Darent

ITEM FOR DECISION

This item is being referred to the Development Control Committee because the recommendation is contrary to the Parish Council Recommendation and Councillor McGarvey wishes Committee to consider the issues surrounding the ancillary nature of the proposed dwelling and the impact of this relationship upon the surrounding area.

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

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development is in harmony with the existing character of the Conservation Area as supported by Policy EN1 of the Sevenoaks District Local Plan.

3) No development shall be carried out on the land until full details of soft landscape works have been submitted to and approved in writing by the Council. Those details shall include:-planting plans (identifying existing planting, plants to be retained and new planting);-a schedule of new plants (noting species, size of stock at time of planting and proposed number/densities); and-a programme of implementation.

To protect the visual appearance of the area as supported by EN1 of the Sevenoaks District Local Plan.

4) If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To preserve the appearance and character of the surrounding Conservation Area in

accordance with policy EN1 of the Sevenoaks District Local Plan.

5) The approved garage shall be provided prior to the first occupation of the building and shall be permanently retained for the parking of a motor vehicle.

To ensure a permanent retention of vehicle parking for the property.

6) No window(s) or other opening(s) shall be inserted at any time in the south elevation(s) of the garage or building hereby approved, despite the provisions of any Development Order.

To protect the privacy of the adjoining occupiers in accordance with the provisions of policy EN1 of the Sevenoaks District Local Plan.

7) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Hodsoll House.

So that any other proposal for the use of the building is the subject of a separate application to be determined on its merits having regard to the character and appearance of the surrounding Conservation Area and the character and setting of the adjacent Listed Building.

8) The development hereby permitted shall be carried out in accordance with the following approved plans: HODSOLL-PL01,PL02

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

9) The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow him/her to observe the excavations and record items of interest and finds. The developer shall inform the County Archaeologist of the start date of construction works on site not less than two weeks before the commencement of such works.

To ensure that features of archaeological interest are properly examined and recorded.

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies SP5,CC1,CC4,H4,H5,T4,C3,BE6

Sevenoaks District Local Plan - Policies EN1,EN23,VP1,H6B

Sevenoaks District Core Strategy 2011 - Policies SP1,L07

The following is a summary of the main reasons for the decision:

The development would not have an unacceptable impact on the residential amenities of nearby dwellings.

The development would preserve the special character and appearance of the Conservation Area.

Description of Proposal

- 1 This scheme proposes the demolition of an existing garage and its replacement with a single storey building comprising a single garage and a one bedroom self contained unit.
- 2 The existing garage is a single garage with store so is the actual size of a double garage, albeit with only one set of doors to provide access for a car. It is a brick construction with a pitched tiled roof and lies immediately adjacent to the boundary wall to the south east of the access drive.
- 3 The proposed replacement would comprise an 'L' shaped building with the frontage the same width as the existing garage and with the same general design, ie pitched tiled roof with double doors providing access to the garage. The main bulk of the increased building size would lie behind this and incorporate a kitchen, bathroom living room and bedroom. The building would be constructed using brickwork elevations and a pitched tiled roof. It would share the same curtilage as Hodsoll House itself.

Description of Site

- 4 The majority of the site lies within the built confines of the village: part of the rear garden lying within the green belt. It comprises a Grade II listed house and lies within a part of the village with a heavy concentration of listed properties: both adjoining and facing houses are listed. The house itself is 18th century and 2 storeys in height and clad in white weatherboarding. It has a tiled roof and parapet. A single storey weatherboarded extension lies to the left hand side. The front boundary comprises railings which is also mentioned in the CA Appraisal.
- 5 It occupies a plot of substantial width within the High Street and the house itself is situated towards the front of the site. The Conservation Area Appraisal advises that *Some of the larger and more important listed buildings in the village, (including) Hodsoll House contribute greatly to the overall character by their prominent settings.*
- 6 The garage lies adjacent to the south eastern boundary wall and is set back behind the level of the house some 22m's from the High Street. It is a simple design with brick elevations, a tile pitched roof and a set of double doors in the front and rear elevations. It lies directly against an existing boundary wall to the driveway. It is noted in the Conservation Area Appraisal as being a building that contributes to the character of the Conservation Area – along with those buildings around it.

Constraints

- 7 Part of the Garden lies within the MGB, the property itself and garage within the built confines of the village, Conservation Area, AONB.

Policies

South East Plan

- 8 Policies - SP5, CC1, CC4, H4, H5, T4, C3, BE6.

Sevenoaks District Local Plan

- 9 Policies – EN1, EN23, VP1, H6B.

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Core Strategy:

10 Policies - SP1, L07.

National Guidance:

11 Policies - PPS1, PPG2, PPS3, PPS5.

Relevant Planning History

12 None

Consultations

SDC Conservation Officer

13 This outbuilding is curtilage listed with Hodsoll House and is identified as 'contributing to character' in the Conservation Area Appraisal. However it is clear from a site inspection and the comments of the applicant's Building Surveyor that extensive work would be needed to render the structure secure and useable such that very little of the existing structure would remain. I therefore agree that its replacement is acceptable in principle. The gap between Hodsoll House and its garage, with views of trees and other vegetation beyond, is contributory to the character of the CA. The size of the new building has been reduced from the initial proposal and is now better proportioned in relation to the size of the house and positioned such that there would be only minimal reduction in the gap between the house and the outbuilding. The new structure appears to have all the accommodation necessary to a separate dwelling rather than an annexe, but this is a matter for general planning consideration, not conservation, provided this does not generate a requirement for more on site parking, hard surfacing etc. I therefore have no objections subject to conditions relating to the submission of samples of materials (I do not consider that yellow stock bricks would be suitable in this location) and a requirement that the boundary wall be repaired/reinstated to LPA satisfaction.

SDC Tree Officer

14 I have attempted to resist the loss of the mature Ash tree located to the rear of the proposal. Given the information provided within the consultants report however I do not object to the loss of trees as described. I do recommend that additional planting is agreed and carried out as part of any consent provided.

KCC Archaeology

15 The site lies within an Area of Archaeological Potential relating to Iron Age, Roman and Medieval activity. A Roman enclosure has been recorded c.70m to the west and a Roman ditch was found close to the proposed development during an archaeological evaluation in 1995.

16 As archaeological remains could be encountered during the proposed works, I advise that the following condition be applied to any forthcoming consent:

17 AR3 The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority and shall allow him/her to observe the excavations and record items of interest and finds. The developer

shall inform the County Archaeologist of the start date of construction works on site not less than two weeks before the commencement of such works.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Thames Water

18 No objection

Parish / Town Council

19 The Parish Council objects to this planning application for the following reasons:

- This is a separate dwelling, and not an extension of the main building.
- In a Conservation Area.
- Out of character with main and nearby buildings.
- Excessive increase in size over the original garage.

Representations

20 Three letters of support, raising the following issues:

- the new building could only be an improvement compared to the existing
- the loss of the ash tree would be acceptable providing replacement are planted – it interferes with neighbours trees
- It is comforting to know that the new building would only be used by family

Head Of Development Services Appraisal

Principal Issues

21 The main issues concern the impact upon the adjacent Green belt, principle of new dwelling, design and impact upon the surrounding conservation area, impact upon adjacent listed building, neighbour amenities and impact upon trees.

Green Belt

22 At present the green belt boundary lies just over 11m's from the rear of the garage. The proposed unit would lie some 3.5m's from the green belt boundary. It is not considered that the bulk and scale of the building would be so significant as to be harmful to the character of the adjacent green belt and no objection is raised on that matter.

Principle of New Dwelling

23 Concern has been expressed by the PC about the creation of a new dwelling on this site and the potential for this to become a completely separate dwelling from Hodsoll House. The applicants advise that this is intended as accommodation for

elderly parents and that it is intended that it should remain only as ancillary accommodation to the main house. Theoretically it would be possible to separate out this unit from the main house and create a curtilage around it although consent would be required to undertake any alterations to provide a new vehicular access and drive to Hodsoll House.

- 24 The occupation of such 'annexes' are however usually tied to the main house by means of a condition and that is what is proposed here.

Design/Impact upon Conservation Area

- 25 Views of this building from a public viewpoint within the Conservation Area are limited to those of the very top of the flank wall and the roof, viewed above the adjacent boundary wall and those available when standing in front of the driveway of Hodsoll House. Nevertheless the garage does contribute to an attractive grouping of buildings within this part of the Conservation Area.
- 26 The submitted surveyors report is clear that the existing garage has a number of significant cracks, a series of inadequate rafters, a variety of roof tiles and poorly laid floor. Any work to improve the existing structure for retention would involve at least replacement of the roof structure, gables and floor. Potentially there are also issues regarding the foundation stability.
- 27 The report suggests that in such circumstances very little of the original fabric of this building would remain. In those circumstances it is officers view that the demolition of the garage is in principle acceptable.
- 28 In footprint and therefore mass, the replacement building is significantly larger than the building it would replace. The height of the replacement would however be the same as the existing garage and the front part of the replacement building has been designed to replicate the design of the garage with the same roof profile, same width of front wall, materials and double garage doors. The major difference when viewed from the highway would be the 'L' shape projecting by just over 1m to the side. Obviously when viewed from an oblique angle the greater depth of the replacement building would be obvious. However, in view of the very slight reduction in gap between Hodsoll House and the new building and the screening effects of Hodsoll House and the adjacent boundary wall it is not considered that the views available of the replacement structure would be so significant as to harm the sense of space around the site.
- 29 Overall it is considered that the design and scale of the building would accord with those policies designed to protect the character and setting of this conservation area.

Impact upon listed Building

- 30 The existing garage is clearly of much smaller scale and of a much simpler design such that it is clearly an ancillary building to Hodsoll House. A gap of some 11.5 m's separates the two buildings.
- 31 As part of the proposed scheme the replacement building would move closer to Hodsoll House and the gap would reduce by just over 0.5m. However this is as a result of moving the whole structure away from the boundary wall rather than

because of the increase in size of the new building. That gap has been maintained at the minimum practical to allow construction of the new build and ongoing maintenance to that building and indeed to the existing wall which is not possible at present. The wall forms an attractive boundary between this site and the adjacent listed Farningham House.

- 32 The main bulk of the new building would lie to the rear of the position of the existing garage and as a result of its distance from the house, its height and general design it is not considered that this would create a building of such bulk as to harm the setting of Hodsoll House.

Neighbours amenities

- 33 It is clear from the letter of support from the adjoining neighbour that they see advantages to this proposal ie removal of an existing tree that interferes with their side of the boundary, removal of an unattractive structure visible from their home. Whilst that is a very personal view of the benefits of the replacement, the proposed larger structure would not be considered harmful to their amenities: being largely screened behind the boundary wall with only the upper part of the flank wall and the roofline visible to them. This part of the site is already utilised as a driveway and that would not change as a result of this scheme.

Trees

- 34 Existing mature trees lying at the rear of the existing garage would be lost as a result of this proposal. The Ash tree to the rear of the proposed building would be the most significant of these. This tree is visible within the streetscene and makes a positive, if limited, contribution towards the character of the conservation area and streetscene. However, the proposed new building would lie within 2m of the trunk of this tree and it is proposed on the basis of this proximity to remove the tree. Further planting we are advised is proposed to the north of the proposed building which would in time compensate to a certain degree for the loss of this Ash.
- 35 It is not considered that the amenity value of the tree is so high as to be able to justify the refusal of this application for that reason alone. A condition is proposed to ensure new tree planting.

Other Issues

Access Issues

- 36 The building would have to comply with the relevant Building Regulations which would ensure current standards of accessibility.

Conclusion

- 37 This scheme proposed the loss of an existing garage and store and its replacement with a larger building to provide a single garage and a self contained one bedroom unit of accommodation.
- 38 The structure of the existing garage is poor and its loss is accepted in principle. As detailed above it is not considered that the principle of replacement is unacceptable and the design, bulk and mass of the proposed new building is considered acceptable both in terms of its impact upon the character and

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Development Control Committee: 9 June 2011

SE/11/00774/FUL

appearance of the surrounding conservation area and in terms of its impact upon the setting of the listed building Hodsoil House.

Background Papers

Site and Block Plans

Contact Officer(s): Lesley Westphal Extension: 7235

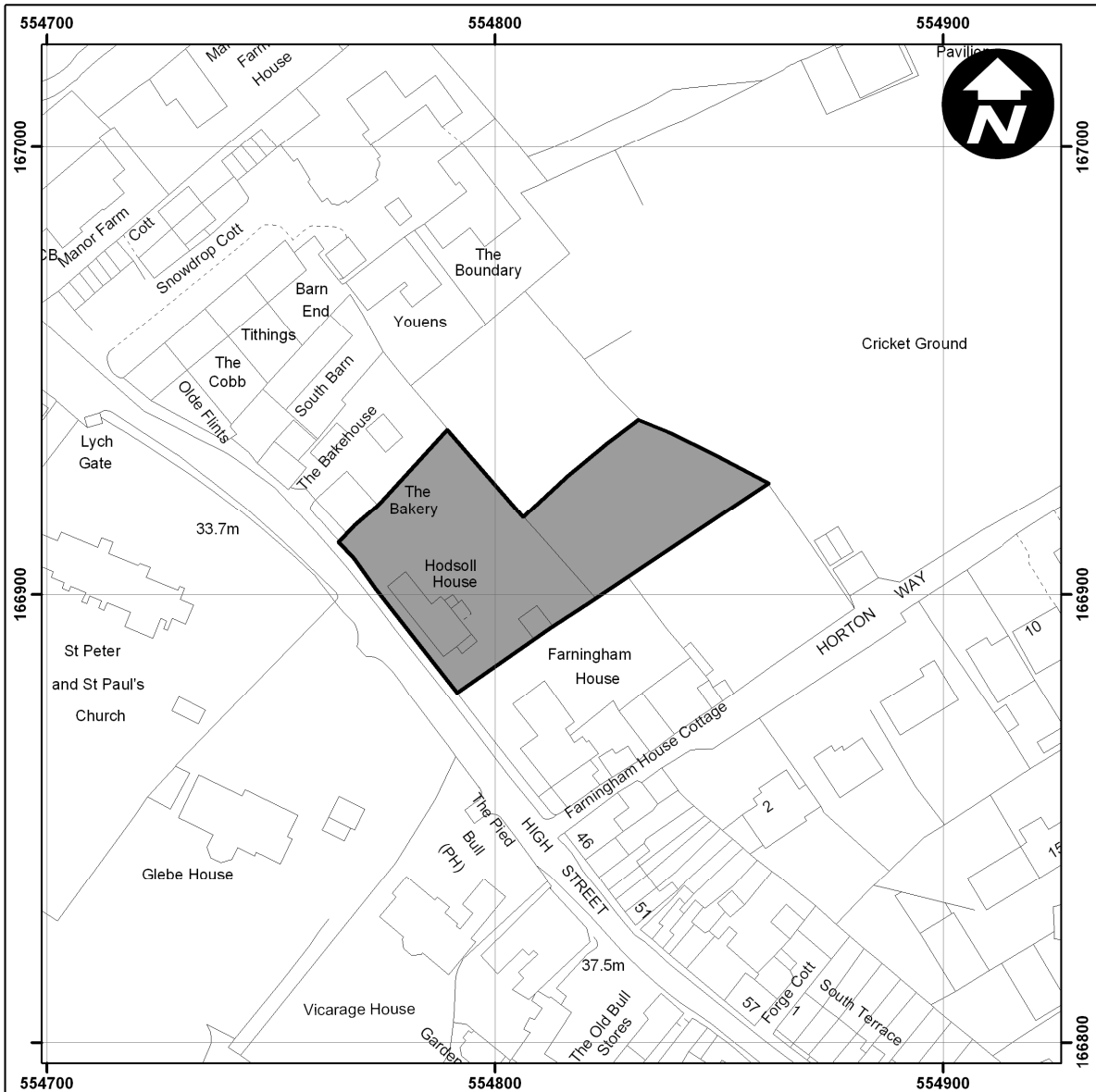
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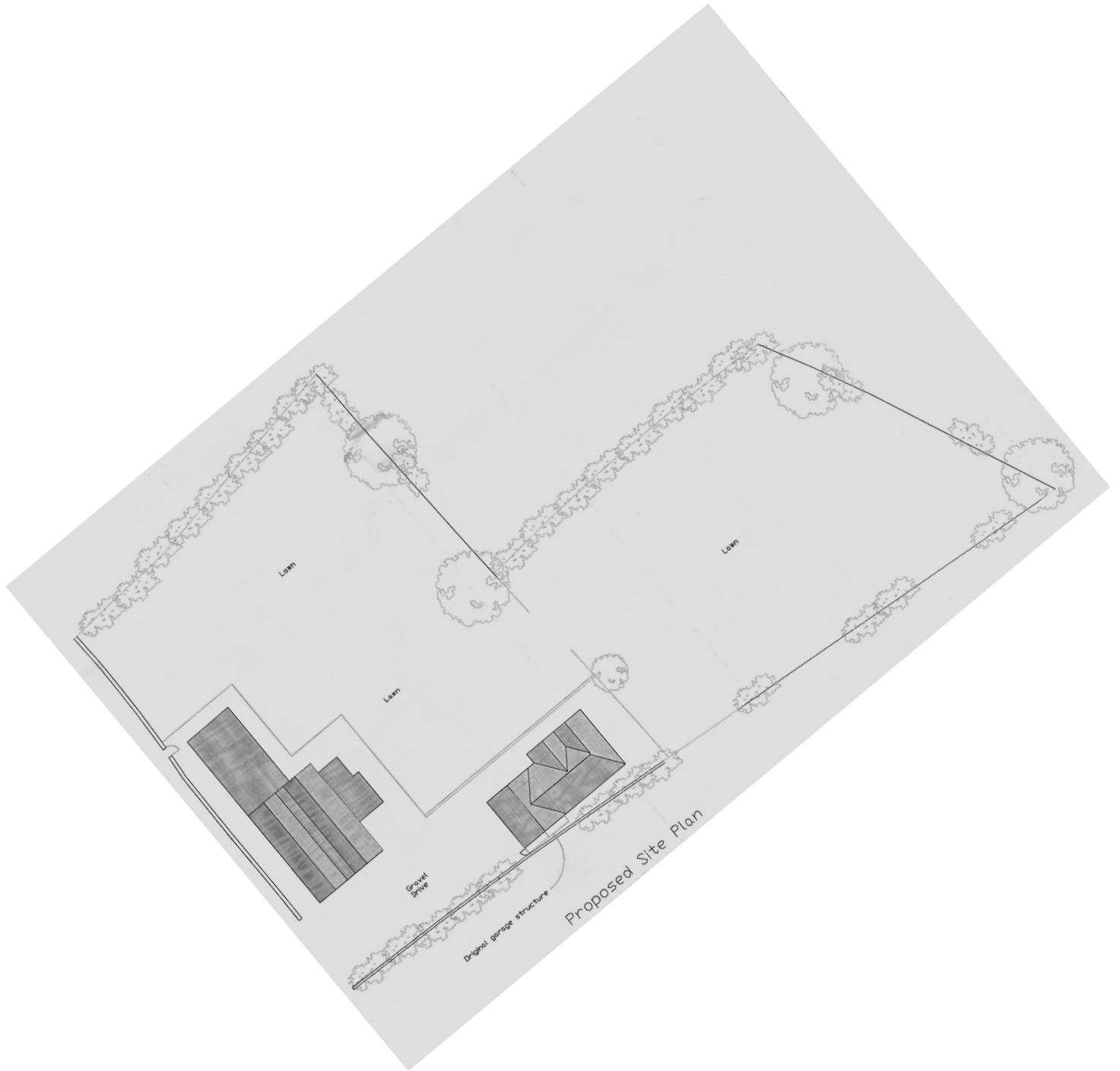
Site Plan

Scale 1:1,250

Date 23/05/11



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5.10 - SE/10/03498/FUL Date expired 31 May 2011

PROPOSAL: Change of use of existing shop and open amenity land to mixed A1 (coffee shop) / A3 (Cafe and outside seating area) use.

LOCATION: 81 High Street And The Shambles, Sevenoaks

WARD(S): Sevenoaks Town & St Johns

ITEM FOR DECISION

This application has been referred to the Development Control Committee since the Shambles falls within the ownership of the Council.

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

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2) The use of the unit and land to the rear hereby permitted is for use as a coffee shop/cafe only and for no other purpose, including any purpose within Class A3 of the Town and Country Planning (Use Classes Order) 1987 (as amended).

To safeguard the amenity of the locality as supported by Policy EN1 of the Sevenoaks District Local Plan.

3) The use hereby permitted shall only occur between 7am and 6pm Monday to Friday, between 7am and 7pm Saturday and between 8am and 5pm Sundays and Bank Holidays.

To safeguard the amenity of the locality as supported by Policy EN1 of the Sevenoaks District Local Plan.

4) Bins shall be provided for the use by customers whilst the outdoor seating area is in operation.

To safeguard the amenity of the locality as supported by Policy EN1 of the Sevenoaks District Local Plan.

5) The tables, chairs and umbrellas that make up the outside seating area shall be removed from the Shambles at the end of each day.

To ensure that the development preserves the character and appearance of the area as supported by policies EN1 and EN23 of the Sevenoaks District Local Plan.

6) The development hereby permitted shall be carried out in accordance with the

following approved plans: SB/2010/1/site plan revised and 2/block plan revised.

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

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies CC6, BE4 and BE6

Sevenoaks District Local Plan - Policies EN1 and EN23

Sevenoaks District Core Strategy 2011 - Policies LO3 and SP1.

The following is a summary of the main reasons for the decision:

The site is within the built confines of the settlement where there is no objection to the principle of the proposed development.

The development would make a positive contribution to special character of the Conservation Area.

The development would not have an adverse impact on the amenities of the locality.

Description of Proposal

- 1 The application seeks the approval of the change of use of 81 High Street and an area of the Shambles to the rear of the building. 81 High Street has a retail use and the Shambles has an open amenity land use. The proposal would see the use of both 81 High Street and an area of the Shambles become a mixed use comprising both A1 (coffee shop) and A3 (café and outside seating area).
- 2 Access would be retained around the proposed outdoor seating area in the Shambles to allow both the public and occupants of units that back onto the Shamble to pass safely around the seating area. Arrangements between the applicant and the occupiers of adjoining units to the Shambles are also in place to allow deliveries to occur when needed.
- 3 The application is partly retrospective with the coffee shop use commencing within 81 High Street.

Description of Site

- 4 The application site comprises a shop unit that fronts on to the old market place on the High Street and the Shambles, an area of open amenity land to the rear of the shop. Several other units also back onto the Shambles from both the High Street and London Road.

Constraints

- 5 The site lies within the built confines of Sevenoaks, the Sevenoaks High Street Conservation Area, an Area of Archaeological Potential and access around the northern and eastern edges of the Shambles forms a Public Right of Way.

Policies

South East Plan

- 6 Policies – CC6, BE4 and BE6

Sevenoaks District Local Plan

- 7 Policies – EN1 and EN23

Sevenoaks District Core Strategy

- 8 Policies – LO3 and SP1

Others

- 9 Planning Policy Statement 1: Delivering Sustainable Development (PPS1)
10 Planning Policy Statement 5: Planning for the Historic Environment (PPS5)
11 Planning Policy Guidance 24: Planning and Noise (PPG24)
12 Sevenoaks High Street Conservation Area Appraisal and Management Plan

Planning History

- 13 None relating to this application.

Consultations

Parish / Town Council

- 14 Sevenoaks Town Council recommended approval subject to the retention of the bench for use of general public who are not visiting the café, and public access routes not being blocked by tables and chairs.

Environmental Health Officer

- 15 No objection.

KCC Public Rights of Way Officer

- 16 Awaiting consultation response.

Representations

- 17 One letter of representation has been received highlighting a concern regarding the smell emanating from the coffee shop and from the outdoor seating area.

Head Of Development Services Appraisal

Principal Issues

- 18 The principal issues in this case are the principle of the change of use, the impact on the Conservation Area and the impact on the amenities of the locality. Other issues include the impact of the proposal on the Area of Archaeological Potential and on the Public Right of Way.

Principle of the change of use

- 19 Policy ST1A of the Local Plan states that proposals that will improve the range, quality and diversity of shops and services and provide for business, leisure and community needs will be permitted.
- 20 It is acknowledged that a number of cafés and coffee shops already exist in the town centre. However, the addition of another coffee shop and outdoor seating area would add to the existing selection providing members of the public with a greater selection. This also has the potential to bring more visitors to the town centre which would benefit all businesses in Sevenoaks.
- 21 In addition, the proposal would encourage interest in an area of the town which is possibly lesser known by visitors to Sevenoaks, which again would only benefit the town.
- 22 The unit does not form part of the primary retail frontage of the town centre and so the proposal does not need to comply with policy ST2, which requires that solely A1 uses are retained.
- 23 It is therefore considered that the proposed change of use is deemed acceptable in principle provided it complies with all other relevant policies.

Impact on the Conservation Area

- 24 Policy EN23 of the Sevenoaks District Local Plan states that development 'should be of positive architectural benefit by paying special attention to the desirability of preserving or enhancing the character or appearance of the area and of its setting. The design of new buildings and alterations to existing buildings should respect local character'.
- 25 External alterations to 81 High Street have been minimal with the colour of the shop frontage having been changed and new signage having been erected. These alterations are wholly acceptable in the Conservation Area given the location of the unit in the town centre.
- 26 The creation of the outdoor seating area would be temporary in that the seating area would be set up and taken down each day, with none the furniture proposed to make up the seating area being fixed to the ground. This furniture includes tables, chairs, large umbrellas, planters and banners. As stated above this proposed use would bring interest to a historic part of the town which would only be of benefit.

- 27 It is therefore considered that the proposed change of use would make a positive contribution to the character of the Conservation Area.

Impact on the amenities of the locality

- 28 Policy EN1 of the Sevenoaks District Local Plan requires that any proposed development should not have an adverse impact on the amenities of the locality.
- 29 The proposed change of use involves an existing retail unit and area of open amenity land. The coffee shop/café use of the unit would result a mixed A1/A3 use. This is an appropriate use in a town centre location since many cafés and restaurants operate in the town where a mix of both commercial and residential uses is expected to coexist. This mix also provides for a more vibrant and active town centre, drawing members of the public to it.
- 30 The letter of representation has raised a concern regarding smells emanating from the unit and the outdoor seating area. Without the proposed outdoor seating area in the Shambles the use of the unit as a coffee shop would be permitted development and so the proposed use is deemed to be appropriate.
- 31 It is acknowledged that the change of use of the open amenity land would intensify the use of the Shambles. However, since this is open amenity land there is no control over the number of people who would wish to congregate here and freely chat, drink coffee and smoke. It is therefore considered that the proposed outdoor seating area would have no greater harm than the potential current use of this area.
- 32 Access provided to the public and the businesses that occupy the adjacent units around the seating area would be retained, including access to the two benches that are located on the western side of the Shambles. It is therefore considered that the use of the open amenity land as an outdoor seating area would have no greater impact on the amenities of the locality than the existing use could potentially bring.
- 33 The Council's Environmental Health Officer has requested that bins be placed in the area to serve take-away trade. Two bins owned by the Council exist in the Shambles but it is possible to condition any approval of consent requiring additional bins to be provided.
- 34 In addition to this it is possible to control the use of the unit and Shambles area and also the times of the proposed use by way of condition.
- 35 Given the above it is therefore considered that the proposal would preserve the amenities of the locality.

Other Issues

Impact of the proposal on the Area of Archaeological Potential

Since none of the proposed furniture would be fixed to the ground, and therefore no ground works would be necessary, it is not considered that the proposal would have any impact on the Area of Archaeological Potential.

Impact on the Public Right of Way

The public right of way runs along the northern and eastern edges of the Shambles. The proposed outdoor seating area would be located to the south-west corner of the area and would therefore leave the public right of way unrestricted for members of the public to continue to pass through the Shambles.

Access Issues

Policy EN1 of the Sevenoaks District Local Plan requires that proposed development provides appropriate facilities for those with disabilities. 81 High Street has a level access to its front entrance and the footpath through to the Shambles is also level meaning that those with a disability have a level access into and out of the coffee shop and round to the proposed outdoor seating area.

Conclusion

It is considered that the proposed change of use would make a positive contribution to the character of the Conservation Area and not have an adverse impact on the amenities of the locality. Consequently the proposal is in accordance with the development plan and therefore the Officer's recommendation is to approve.

Background Papers

Site and Block Plans

Contact Officer(s): Mr M Holmes Extension: 7406

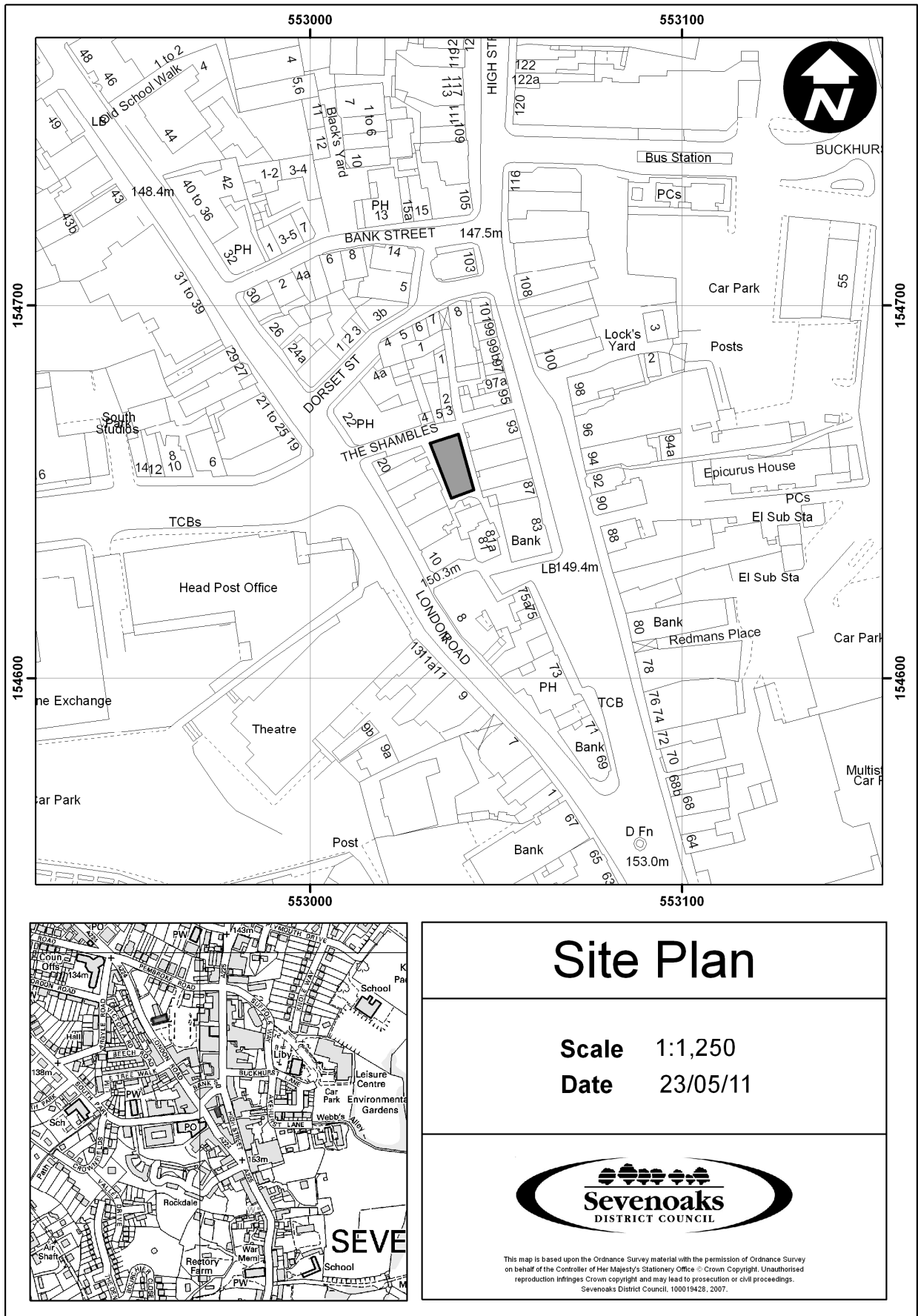
Kristen Paterson
Community and Planning Services Director

Link to application details:

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Site Plan

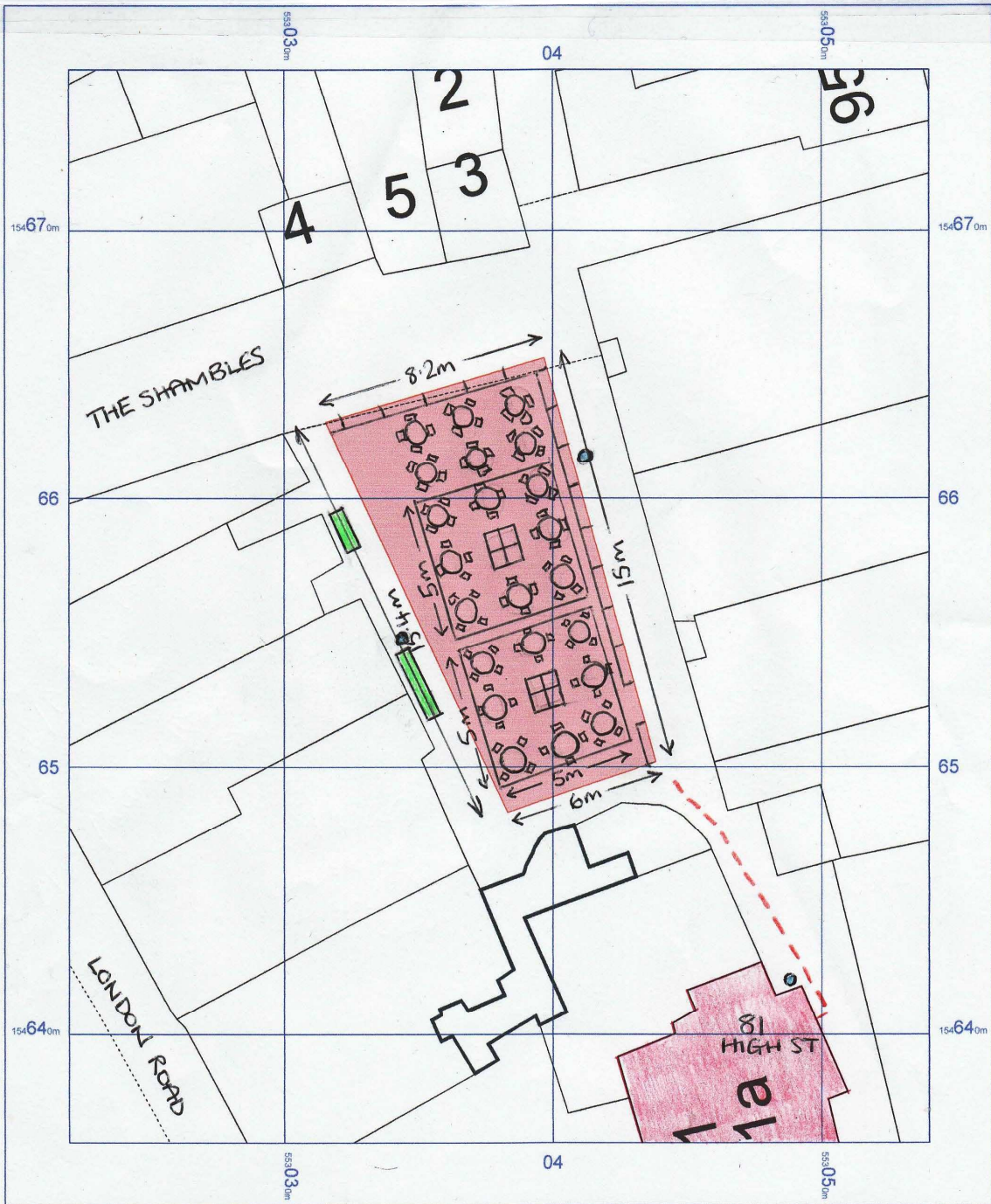
Scale 1:1,250

Date 23/05/11






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Shambles square outside seating application – revised block plan (SB/2010/2/block plan revised)



Map shows planned site of outside seating area for Malabar Coffee House

-  Bench
-  Bin
-  Access route from 81 High St



5.11 - SE/11/00102/FUL Date expired 6 May 2011

PROPOSAL: Replacement of defective septic tank with new treatment plant, all in accordance with the environment permitting Reg 2010 - registering an exempt water discharge activity granted 30th December 2010 to serve no's 1 & 2 Shacklands Cottages

LOCATION: Land Adjacent To, 1 & 2 Shacklands Cottages, Shacklands Road, Shoreham, Sevenoaks

WARD(S): Halstead, Knockholt & Badgers Mount

ITEM FOR DECISION

This application has been referred to the Development Control Committee as the application has been made by Sevenoaks District Council.

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

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2) Prior to the development commencing, the Arboricultural Officer is to be contacted to agree which trees are to be removed. After this, a detailed plan showing the trees to be felled shall be submitted and approved in writing to the local planning authority. The development shall take place in accordance with the approved details.

To ensure that the proposal does not detract from the character and appearance of the area; as supported by Policy EN1 of the Sevenoaks District Local Plan and LO8 of the Core Strategy.

3) No development shall be carried out until a scheme of soft landscaping, including type and size of species has been submitted to the Council for approval in writing. The scheme shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection during the course of the development. The soft landscape works shall be carried out before the first dwelling is occupied or in accordance with a programme of implementation agreed in writing with the Council. The landscape works shall be carried out in accordance with the approved details.

To ensure that the proposal does not detract from the character and appearance of the area; as supported by Policy EN1 of the Sevenoaks District Local Plan and LO8 of the Core Strategy.

4) If within a period of five years from the completion of the development, any of the

trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To ensure that the proposal does not detract from the character and appearance of the area; as supported by Policy EN1 of the Sevenoaks District Local Plan and LO8 of the Core Strategy.

5) The development hereby permitted shall be carried out in accordance with the following approved plans PS001/4, ENTEX Biotec package sewage treatment plants, PS001/2, PS001/6.

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

6) No development shall commence until a works plan has been submitted and approved in writing by the Local Planning Authority. It should cover the following (although it may include other things): the timings of the works, methodology to minimise impacts on tree roots, location of the construction compound and details of the post development works restoration. The development shall be carried out in accordance with the approved details.

In the interest of protecting existing wildlife in accordance with PPS9.;

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies NRM5, SP5, CC6, C3, C4.

Sevenoaks District Local Plan - Policies EN1, EN6.

Sevenoaks District Core Strategy 2011 - Policies LO8, SP1.

The following is a summary of the main reasons for the decision:

The development would respect the context of the site and would not have an unacceptable impact on the street scene.

The development is considered to be appropriate development within the Metropolitan Green Belt.

The scale, location and design of the development would preserve/enhance the landscape character of the locality.

Description of Proposal

- 1 This application seeks permission to replace a defective septic tank with a new treatment plant to serve no's 1 & 2 Shacklands Cottages. It is proposed that the septic tank will be located adjacent to the existing tank that currently exists on the site. The replacement works are necessary in order to comply with a notice served under the Building Act 1984.

- 2 The design and access statement states, that the proposed tank will be designed in accordance with the BS 6297:1983 Environmental Permitting (England and Wales) Regulations 2010.
- 3 This application has been made by Sevenoaks District as we are responsible for the maintenance of the treatment plant. The existing plant serves 1 and 2 Shacklands Cottages, both in private ownership and the SDC forestry depot workshop. The responsibility for the plant passed to the Council as part of the transfer from the Forestry Commission and such we as a Council are bound to honour this responsibility by virtue of the deeds. The owners of 1 & 2 Shacklands Cottages responsibility is only to contribute to the cost of repair, renewal and maintenance.
- 4 Other than the 2 cottages gardens all the surrounding land is owned by the Council as part of Shoreham Woods. Neither private owner is prepared to allow a shared facility such as this to be constructed in their gardens. Any other location would still be in the woods but would involve additional extensive excavation to re-route the supply and discharge pipes leading to further ground disturbance.
- 5 The excavation for the current plant is too small, both in area and depth for a modern sealed plant as proposed.

Description of Site

- 6 The application site specifically relates to a section of ancient woodland located immediately to the north of properties 1 and 2 Shacklands Cottages located on the outskirts of Shoreham. The site area is approximately 0.0851 hectares in size. Within this woodland area there is an existing septic tank that is defective.
- 7 The site is located in the Metropolitan Green Belt, Area of Outstanding Natural Beauty and is located in a Site of Nature Conservation Interest.

Constraints

- 8 The application site is within an Area of Outstanding Natural Beauty, the Metropolitan Green Belt, MOD Safeguarding 1992, Site of Natural Conservation Interest and Area of Special Control of Adverts.

Policies

South East Plan

- 9 Policies - NRM5, SP5, CC6, C3, C4

Sevenoaks District Local Plan

- 10 Policies – EN1, EN6

Sevenoaks District Core Strategy

- 11 Policies - L08, SP1

Other

- 12 Planning Policy Statement 1, Planning Policy Statement 9 and guidance in Circular 06/2005.

Planning History

- 13 03/00531/FUL Land to rear of 1 Shacklands Cottages, proposed stables. Refused 24.04.2003.
- 14 03/01716/FUL Proposed stables to rear of property. Refused 09.12.2003.
- 15 05/02271/FUL Conservatory Granted 04.10.2005.

Consultations

Shoreham Parish Council

- 16 The Parish Council recommends approval.

Natural England

- 17 Natural England have advised the following:

Natural England has no comments to make on this planning proposal. However we would like to stress that the absence of comments or direct involvement on individual plans or proposal is simply an expression of our priorities. It should not be taken as implying a lack of interest or indicating either support for, or objection to, any proposal.

However, we would expect the Local Planning Authority to assess and consider the possible impacts resulting from this proposal on the following when determining this application:

Area of Outstanding Natural Beauty: If the proposal site is within an Area of Outstanding Natural Beauty (AONB) we recommend that you contact the relevant AONB Unit, to ensure that planning issues regarding this proposal take into account any issues that may arise from this development as a result of this designation.

Local Wildlife Sites: If the proposal site is on or adjacent to local wildlife site, e.g. Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the county ecologist and/or local Wildlife Trust should be contacted.

Protected Species: If representations from other parties highlight the possible presence, or the Council is aware of a protected or Biodiversity Action Plan (BAP) species on the site, the Council should request survey information from the applicant before determining the application. Paragraph 98 and 99 of ODPM Circular 06/2005 and Paragraph 16 of PPS9 provide information on BAP and protected species and their consideration in the planning system.

KCC Ecology Officer

18 The KCC Ecology Officer has advised the following:-

Under the Natural Environment and Rural Communities Act (2006), “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”. In order to comply with this ‘Biodiversity Duty’, planning decisions must ensure that they adequately consider the potential impacts of a proposed development on protected species.

Natural England has published Standing Advice on Ancient Woodland. When determining an application for development that is covered by Standing Advice, in accordance with Government guidance in Circular 06/2005, Local Planning Authorities must take into account the Standing Advice. The Standing Advice is a material consideration in the determination of applications in the same way as a letter received from Natural England following consultation.

The proposed works will directly impact on Ancient Woodland – however as the area to impacted is very small and works will only be temporary we feel that this development will have a very minor impact.

A works plan should be a condition of planning permission - it should cover the following (although it may include other things): the timings of the works, methodology to minimise impacts on tree roots, location of the construction compound and details of the post development works restoration.

Kent Wildlife Trust

19 No comments have been received from the Kent Wildlife Trust.

Environment Agency

20 The Environment Agency’s comments have not yet been received at the time of writing this report. Any comments received will however be reported to the Planning Committee.

Representations

21 No letters of objection have been received in connection with this application.

Head Of Development Services Appraisal

Principal Issues

22 The principal issues are:

- the impact on the Metropolitan Green Belt
- the impact on the adjacent trees

- the impact on wildlife
- and the impact on the neighbouring amenity.

Impact on Green Belt

- 23 National planning policy guidance relating to Green Belt is set out in Planning Guidance Note 2 – Green Belts (PPG2). This document states that the primary purpose of the Green Belt is to keep land open to prevent urban sprawl and to safeguard the countryside. The document states that there is a general presumption against inappropriate development, where the openness of the countryside/landscape would be adversely affected.

Whether the proposal is inappropriate in the Green Belt

- 24 Planning policy Guidance Note 2, states that the statutory definition of development, includes engineering and other operations, and the making of any material change in the use of land. More importantly it states that “the carrying out of such operations and the making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt”.
- 25 Diagrams of the septic tank have been submitted with the application. The plans show that the tanks would be located predominantly below the ground at a depth of 2.5 metres. The only section that would be exposed would be the GRP cover to the septic tank and the blower detail. It is proposed that these specific elements of the tank will only project approximately 0.275 metres above the ground.
- 26 In view of the limited height the septic tank would extend above ground level, I do not consider that the proposal would harm the openness of the Green Belt to warrant an objection on planning grounds. In this respect I consider the proposal to be appropriate development in the Green Belt that would not harm visual amenities of the area.

Impact on the adjacent woodland

- 27 The advice and guidance on Ancient woodland is contained within PSS9. This document states that ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated. PPS9 states that planning authorities should not grant planning permission for any development that would result in its loss or deterioration unless the need for, and benefits of, the development in that location outweigh the loss of the woodland habitat.
- 28 The applicants have confirmed that it is not intended to fell any mature trees, and that the working area as shown in the application is the limit of the land over which contractors vehicles and plant will be allowed to operate and all vehicle movements will be supervised by the Council's Countryside Ranger.
- 29 As the Tree Officer has raised no objection to the proposal, I consider the proposed works to be acceptable, with appropriate conditions.

Impact on the landscape character of area and AONB

- 30 The application site is also located in a highly sensitive area within AONB. As stated in Planning Policy Statement 7, the primary purpose of this designation is to conserve and enhance the natural beauty of the landscape. The proposal also needs to be carefully considered against policies and EN1, EN6 from the Sevenoaks District Local Plan.
- 31 As stated above the only section of the septic tank that will be seen will be the cover. It therefore consider that the tank will have no adverse impact on the character and amenity of the area. With appropriate landscaping conditions it is considered that the visual impact from the felling of the trees would be mitigated.

Impact on wildlife

- 32 PPS9 and circular 06/2005 are relevant in assessing an application of this nature. The documents relate specifically to the importance of protecting wildlife. The guidance states “that the presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat”.
- 33 Circular 06/2005 specifically states that “*it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted.*”
- 34 Policy NRM5 of the South East Plan 2009. This policy specifically states that the Local Planning Authority will “ensure that site evaluation is undertaken to establish the nature conservation value of proposed development sites”
- 35 As the Ecology Officer has raised no objection to the proposal, I consider that there are no ecology issues that would warrant an objection.

Impact on neighbouring amenity

- 36 Policy EN1 from the Sevenoaks District Local Plan states that the proposed development including any changes of use should not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements.
- 37 The proposal is considered to have no adverse impact on the amenities of adjacent properties to warrant an objection on planning grounds.

Conclusion

- 38 The proposal is considered to be appropriate development in the Green Belt. With appropriate conditions the proposal is considered to have no adverse impact on the character and amenity of the area or the ancient woodland.

Agenda Item 5.11

Development Control Committee: 9 June 2011

SE/11/00102/FUL

Background Papers

Site and Block Plans

Contact Officer(s): Vicky Swift Extension: 7448

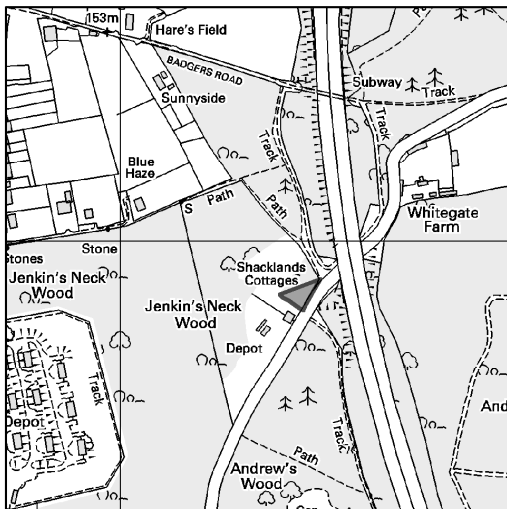
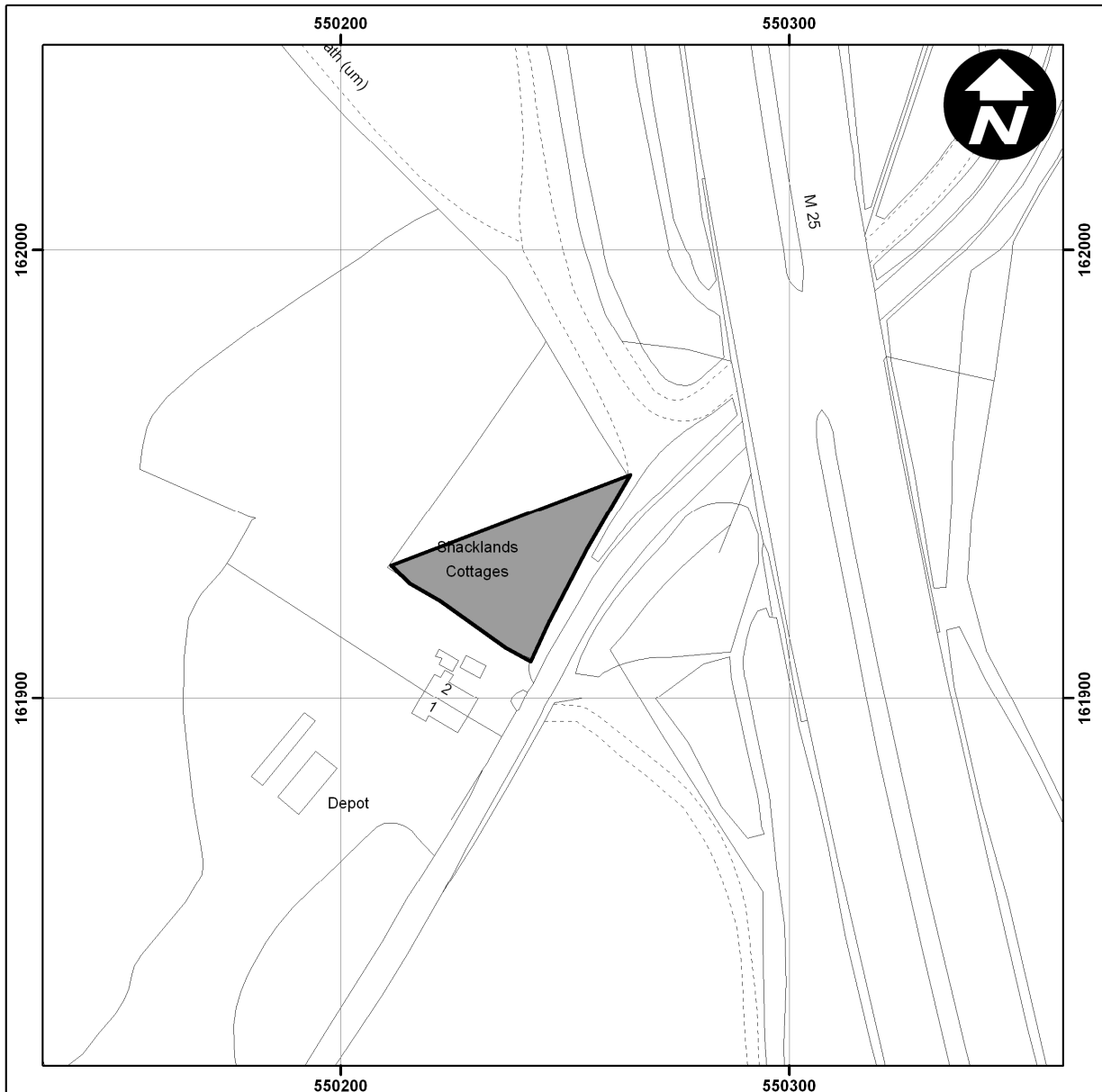
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LF7Q2ABKOCR00>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LF7Q2ABKOCR00>



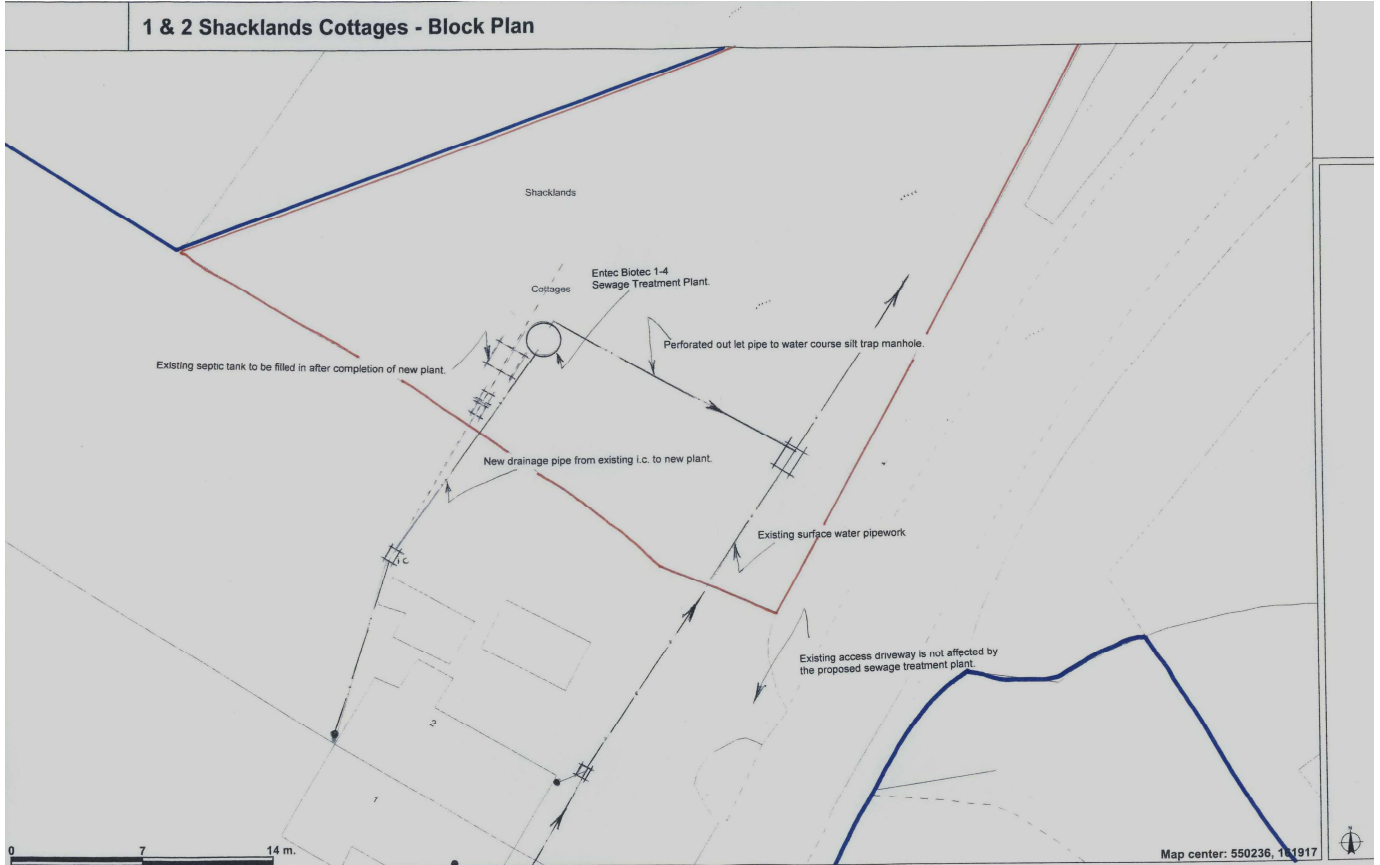
Site Plan

Scale 1:1,250

Date 23/05/11



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5.12 – SE/11/00765/FUL Date expired 20 May 2011

PROPOSAL: Change of use of retail unit A1 to A3 restaurants and cafes, on the ground floor.

LOCATION: 66 London Road, Sevenoaks, TN13 1AT

WARD(S): Sevenoaks Town & St Johns

ITEM FOR DECISION

This application has been called to Development Control Committee at the discretion of the Director of Community and Planning Services as the Council has an interest in the land.

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

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2) Before the development / use hereby permitted commences, a suitable scheme for the mechanical ventilation of the kitchen area, including filtration to remove grease and cooking odours shall be submitted to and be approved in writing by the Local Planning Authority. The submission shall include a detailed and scaled plan of the scheme proposed, together with manufacturers' noise data on the fan unit and silencer(s) and details of maximum noise levels to emanate through the ducting and from the flue terminal (including details of background noise where necessary). The approved system shall be installed and operational before the premises are first brought into use and permanently maintained in full and effective working order at all times. The system shall be used when cooking is being carried out.

To safeguard the visual amenity of the area and the amenities of the occupiers of properties nearby to the site as supported by Policy EN1 of the Sevenoaks District Local Plan.

3) The development hereby permitted shall be carried out in accordance with the following approved plans: SP1244/10 and 11.

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

In determining this application, the Local Planning Authority has had regard to the following Development Plan Policies:

South East Plan 2009 - Policies CC6, LF1.

Sevenoaks District Local Plan - Policies EN1, ST1A

Sevenoaks District Core Strategy 2011 - Policies SP1, L03

The following is a summary of the main reasons for the decision:

Any potentially significant impacts on the amenities of nearby dwellings can be satisfactorily mitigated by way of the conditions imposed.

Description of Proposal

- 1 Planning permission is sought for a change of use only of the ground floor of 66 London Road from A1 (retail) to A3 (restaurants and cafes) with no external alterations.

Description of Site

- 2 The application site consists of one detached predominantly three storey building with single storey rear projection. The building is occupied at ground floor as a retail unit with offices above. The single storey rear extension is occupied as a dance studio.
- 3 The building is located on a higher land level adjacent to London Road and surrounded by the car park serving the adjacent Blighs Meadow development of shops, restaurants and offices within the town centre area of Sevenoaks.

Constraints

- 4 The application site is located within the town centre area of Sevenoaks and not within or adjacent to any conservation areas or any other areas of special environmental designation. The building is not listed.

Policies

South East Plan

- 5 Policies – LF1, CC6

Sevenoaks District Local Plan

- 6 Policies – EN1, ST1A

Sevenoaks Core Strategy

- 7 Policies – SP1, L03

Other

- 8 Draft Blighs Meadow Supplementary Planning Document

Planning History

I refer only to the most relevant planning history:

- 9 07/01037/FUL - Application to provide a fenced off enclosure for market stall storage – Granted 02.05.07.
- 10 05/01147/FUL - Change of use to Class A1 or A2 or A3 or mix thereof, of existing lounge bar and snooker room. – Granted 22.07.05.

Consultations

SDC Environmental Health

- 11 Environmental Health Officer (verbal comments) – No objections. Subject to an appropriately worded condition to request details of extraction and filtration (to include details of noise from the extraction unit).

Representations

- 12 None received.

Head Of Development Services Appraisal

- 13 With regards to the relevant policies of the Development Plan, the main considerations in this case are the acceptability of the use in this position within the Town Centre area and the impact of any cooking odours / fumes upon nearby residents and general air quality.
- 14 I note that planning permission SE/05/01147/FUL gave permission for the use of the ground floor area for A1, A2 or A3 purposes or a mix thereof. The ground floor was previously in use as a social club. There is some question therefore as to whether this permission has effectively allowed for the further change of use of this part of the building from its current use to the A3 use now sought.
- 15 In any case, I note that the building is located within the Town Centre area, but not within a prime frontage for the purposes of the Local Plan and the Core Strategy. The Core Strategy indicates under policy L03 that a mix of uses (including retail, cultural and leisure) uses will be retained and enhanced within the Town Centre area. Similarly, Local Plan Policy ST1A indicates that proposals will be permitted where they improve the range, quality and diversity of shops and services and provide for business, leisure and community needs. There is no presumption towards the retention of A1 retail within this area and it is my view that a café or restaurant use could in itself enhance the town centre offering.
- 16 The building is entirely within commercial use and the nearby buildings are predominantly commercial in their occupation with some flats above within the Blighs Meadow development and on London Road. Given the higher land level of the building above London Road and the distance between the building and other surrounding properties, it is unlikely that the restaurant use would cause a significant disturbance in terms of noise or smells provided appropriate extraction

is provided. A condition requiring details of extraction before any A3 use was commenced was applied to SE/05/01147/FUL and the Council's Environmental Health Officer has again recommended that a similar condition be imposed.

- 17 The unit is surrounded on most sides by the Blighs Meadow public car park and is located in a sustainable position within the town centre area. It is unlikely that an A3 use would generate an additional amount of parking demand and it is likely that a restaurant use would create a different pattern of demand with a greater need in the evening where parking is less constrained.
- 18 The area is located within the area covered by the draft Blighs Meadow Supplementary Planning Document and it is likely that the area will soon be redeveloped in its entirety. The proposal does not prejudice the redevelopment.
- 19 The proposal does not alter the access to the building.
- 20 Notice has been served on SDC as the Head Leaseholders on the building. The Council does not own the freehold of the building and has sub-leased the ground floor to the Applicant. The application is not made by the Council, however given the Council's interest in the land and the ongoing plans for redevelopment of this area, this application has been directed to DC Committee for determination.

Conclusion

- 21 For the reasons stated above, the proposal is in accordance with the Development Plan and I therefore recommend approval of the application subject to the appropriate conditions.

Background Papers

Site and Block Plan

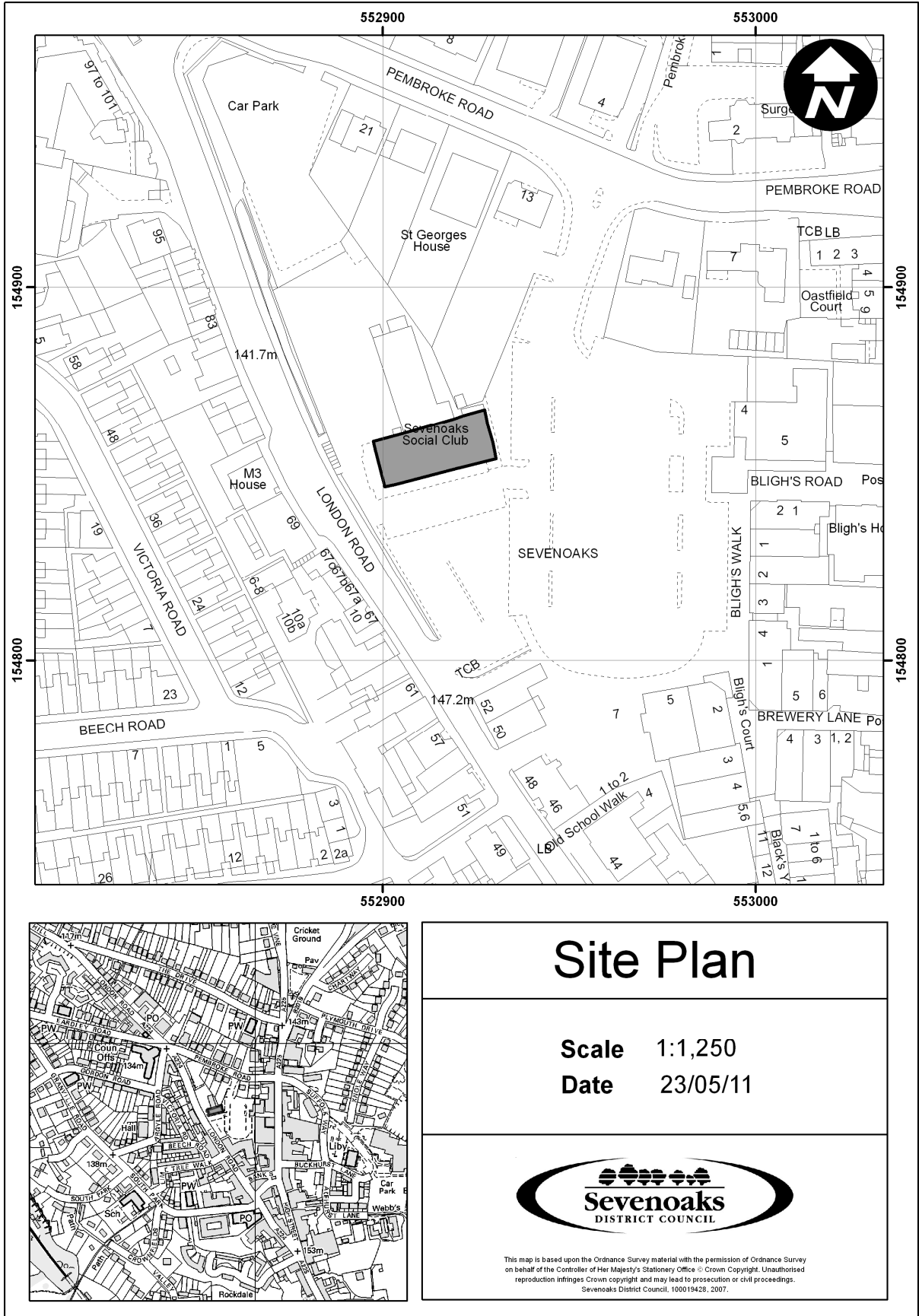
Contact Officer(s): Patrick Reedman Extension: 7451

Kristen Paterson
Community and Planning Services Director

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LIM8A8BKOCR00>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LIM8A8BKOCR00>

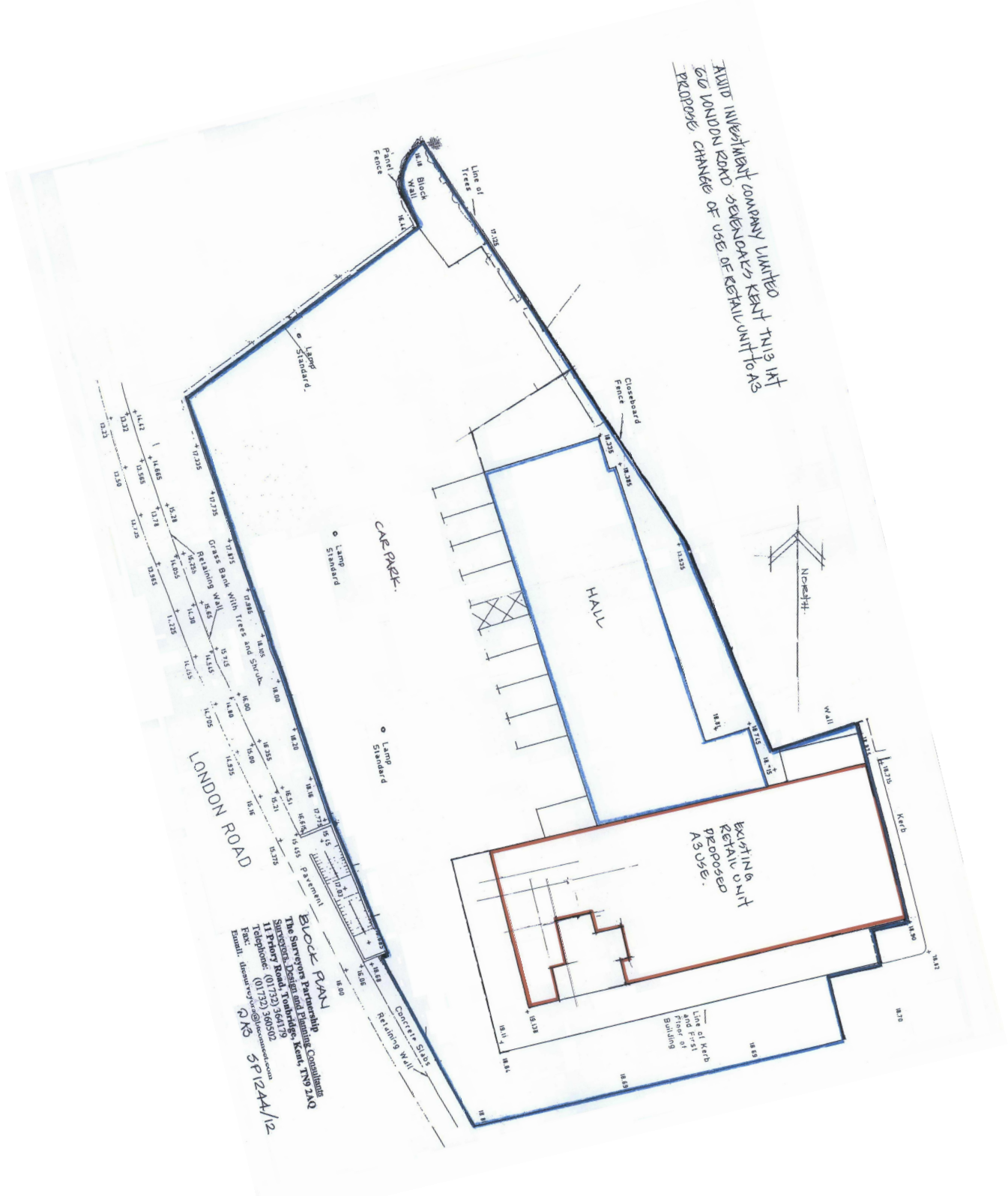


Site Plan

Scale 1:1,250
 Date 23/05/11



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 Sevenoaks District Council, 100019428, 2007.



5.13 SE/11/01024/TELNOT Date expired 19 June 2011

PROPOSAL: 11.8 metre high street furniture style shared telecommunications installation with associated equipment housing and ancillary development thereto.

LOCATION: Proposed Telecommunications Mast North Of Junction With London Road, Shurlock Avenue, Swanley

WARD(S): Swanley White Oak

ITEM FOR DECISION

This application has been referred to Development Control Committee by Councillor Sargent on the following grounds - the impact of the mast on the character and appearance of the area and its design.

RECOMMENDATION: That Prior Approval is required.

The proposed design of the street pole would by virtue of its top heavy appearance and design, appear out of keeping within the streetscene and would appear as an alien feature. The proposal would therefore conflict with policy EN1 of the Sevenoaks District Local Plan and policy SP1 of the Core Strategy.

Description of Proposal

- 1 This application seeks the approval of prior notification for the erection of an 11.8 metre high 220mm Phosco MK3 streetpole (with a 480mm shroud). It is proposed that this would be a shared telecommunications installation between Vodafone and O2. In addition to the streetpole, it is also proposed for ancillary equipment to be located on the site, which includes a slimline metre cabinet at a height of 0.8 metres and a harrier equipment cabinet at a height of 1.8 metres in height and a width of 1.5 metres.
- 2 The proposed equipment would be located on the highway verge, adjacent to the junction with London Road and Shurlock Avenue.
- 3 The mast would have a slim line appearance with a slightly bulbous top end containing antenna for both O2 and Vodafone.

Description of Site

- 4 The proposed equipment would be located on the highway verge, adjacent to the junction with London Road and Shurlock Avenue.

Constraints

- 5 Airfield safeguarding zone.

Policies

South East Plan

- 6 Policies - CC6, BE4 and LF1

Sevenoaks District Local Plan

- 7 Policy EN1

Sevenoaks Core Strategy

- 8 Policies - LO2 and SP1

Other

- 9 Planning Policy Statement 1: Delivering Sustainable Development

- 10 Planning Policy Guidance Note 8: Telecommunications.

Planning History

- 11 There is no planning history relating to this application.

Consultations

Swanley Parish Council

- 12 No comments have been received as of yet from the Parish Council. The comments will however be reported to the Development Control Committee, once they have been received.

SDC Tree Officer

- 13 The Tree Officer has made the following comments:

This project is shown to be located within an open grassed verge away from the boundary trees adjacent to the Elm Drive properties. I do not see this proposal affecting any of the adjacent trees as there is a clear margin between them and the proposal.

KCC Highways

- 14 Comments from Highway Officer will be reported to the Development Control Committee.

Representations

- 15 At the time of writing this report 2 letters of objection have been received. The main issues include the following:-

There is no perceived need for the mast
The impact of its visual appearance
The health issues associated with a structure of this nature
Impact on adjacent trees
Impact on the Green open space
Impact of the proposal in relation to neighbouring properties.
Alternative sites have not been explored

Head Of Development Services Appraisal

Principal Issues

- 16 This application is made on behalf of Vodafone and O2 to ascertain whether prior approval for the siting and appearance of a mast and associated equipment is required.
- 17 It is important to highlight that this is not a planning application, as under the Town and Country (General Permitted Development) Order 1995 (as amended), the proposal is considered to fall within the permitted development limits of Part 24.
- 18 As stated above, before installing certain telecommunications apparatus (such as this), within the permitted development legislation, the code system operator must apply to the planning authority for a determination as to whether their approval of the siting and appearance of the development is required. This application has been submitted to fulfil this requirement.
- 19 The principle issues include the following:-

Whether there is a need for the mast

- 20 Under the Telecommunications Act 1984, a licence was granted to Vodafone and O2 to provide a wireless mobile phone service part of their operator's licence, issued by the Government.
- 21 The Vodafone and O2 2G digital networks were development in the early 1990's. The digital technology is referred to as GSM (Global System for Mobile Communications) which is the common European operating standard enabling phones to inter-connect to other networks.
- 22 In April 2000, Vodafone and O2 were successful in their bids for two of the five licences to provide a 'Third Generation' mobile telecommunications service known as 3G. In addition to voice service this technology enables Vodafone and O2 to offer high resolution and multi media applications. Among other things it enables virtual banking, e-retailing, video conferencing and high quality broadband for people on the move.
- 23 A number of maps have been provided with the application, that show the existing and proposed 3G coverage for O2 and Vodafone. The maps show that there is

limited 3G coverage in the area. The proposed maps show that with the mast there would be a vast improvement to the 3G coverage cell.

Siting and Appearance of the mast and equipment

- 24 PPG8 states that factors to be considered concerning the appearance of the mast and ancillary apparatus include materials, colour and design. This guidance specifically states that:-
- 25 *The use of appropriate materials and colouration may allow a mast to blend more easily into its surroundings. Features of design which an authority may wish to consider include dimensions; overall shape; and whether the construction is solid or forms an open framework. They should also consider with the developer the availability of alternative designs which might be more suited to the local environment.*
- 26 Factors concerning siting may involve:-
- the height of the site in relation to surrounding land;
 - the existence of topographical features and natural vegetation;
 - the effect on the skyline or horizon;
 - the site when observed from any side, including from outside the authority's own area;
 - the site in relation to areas designated for their scenic or conservation value;
 - the site in relation to existing masts, structures or buildings, including buildings of a historical or traditional character;
 - the site in relation to residential property;
- 27 The application site is located on a highway verge, in the urban area of Swanley. The site is located on London Road, (which is a main thoroughfare into the town centre) and on the corner of Shurlock Avenue.
- 28 The land to the north east, slopes sharply down from London Road to Shurlock Avenue. In view of this terrain, the properties in Shurlock Avenue are located at a significantly lower level than London Road. There is however a mature tree belt between the verge and the 1960's style dwellings that exist in Shurlock Avenue. There is also screening along the other section of London Road.
- 29 It is accepted that there is a lot of street furniture in existence along this section of London Road, which includes a number of lamp posts at a height of approximately 10 metres. The nearest lamp post is located approximately 20 metres in distance, to the north west of the application site. In principle, in view of the existing street furniture, a mast in this location is considered to be visually acceptable, and is not considered to appear dominant on the skyline or out of place within the urban confines of this site.

- 30 In addition to this given the existing vegetation which includes a tree belt to the north and south of the road, the proposed streetpole is not considered to be overly dominant or overbearing when viewed from any neighbouring properties to warrant an objection on planning grounds.
- 31 What is however of concern is the design and appearance of the 11.8 metre high 220mm Phosco MK3 streetpole (with a 480mm shroud). As has already been stated, there are a number of existing lamp posts along this section of London Road. Although these are approximately 10 metres in height, they are all of a streamline nature.
- 32 As stated above the mast would have a slim line appearance, with the exception of its top section. The top of this streetpole would in my view appear unduly bulbous, which would make the mast appear top heavy and out of character with the existing street furniture within the vicinity of the site. It is therefore considered in view of this design approach, that the proposal is not appropriate within the context of the site and is therefore unacceptable.
- 33 No objection is raised to the visual appearance of the cabinets in view of their height and scale.
- 34 In view of the design of the proposed streetpole, it is considered that the proposal would be out of character within the context of the site, and conflict with policies EN1 of the Sevenoaks District Council and policy SP1 of the Core Strategy.

Health Considerations

- 35 PPG8 states, that it is the Governments firm view that the planning system is not the place for determining health safeguards. This guidance states it is central Governments responsibility to decide what measures are necessary to protect public health. It then states that in the Governments view, if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them.
- 36 The operators have submitted a declaration of conformity with the ICNIRP public exposure guidelines. Following the advice offered in PPG8, as the equipment meets the ICNIRP guidelines for public exposure, it is considered that this is sufficient to allow the Local Planning Authority to assess the affects of the application upon resident's health.
- 37 As the proposal meets these requirements, there is no objection to the proposal upon these grounds.

Property values

- 38 PPG8 also clearly states that authorities may receive representations about the alleged impact of proposed telecommunications development on property values. It clearly states that issues of this nature should not be taken into consideration as PPS 1, states that it is not for the planning system to protect the private interests of one person against the activities of another.

Agenda Item 5.13

Development Control Committee: 9 June 2011

SE/11/01024/TELNOT

- 39 In view of the advice and guidance within PPG8 and PPS1, no objection is raised to this particular ground.

Highway Issues

- 40 As no comments have been received by the Highway Officer at the time of writing this report, these will be presented at the planning committee.

Impact of the development upon the adjacent trees

- 41 As stated above the proposal is shown to be located within an open grassed verge away from the boundary trees adjacent to the Elm Drive properties. As the tree officer has raised no objection to the proposal, the scheme is considered to have no adverse impact on the adjacent trees.

Other locations

- 42 Another mast is proposed at land south of service station (planning reference number 11/01076/TELNOT refers). This mast is approximately 345 m from the mast that forms the basis of this application. Although the two masts are in relatively close proximity both masts are needed to facilitate the 3G service (given the coverage cells required for this service).

Other Issues

- 43 All other issues raised by third party objectors are considered to have been adequately addressed in the report.

Conclusion

- 44 Although this application is recommended for refusal, the proposal is only recommended for refusal on design grounds not on the siting of the mast.

Background Papers

Site and Block Plans

Contact Officer(s): Vicky Swift Extension: 7448

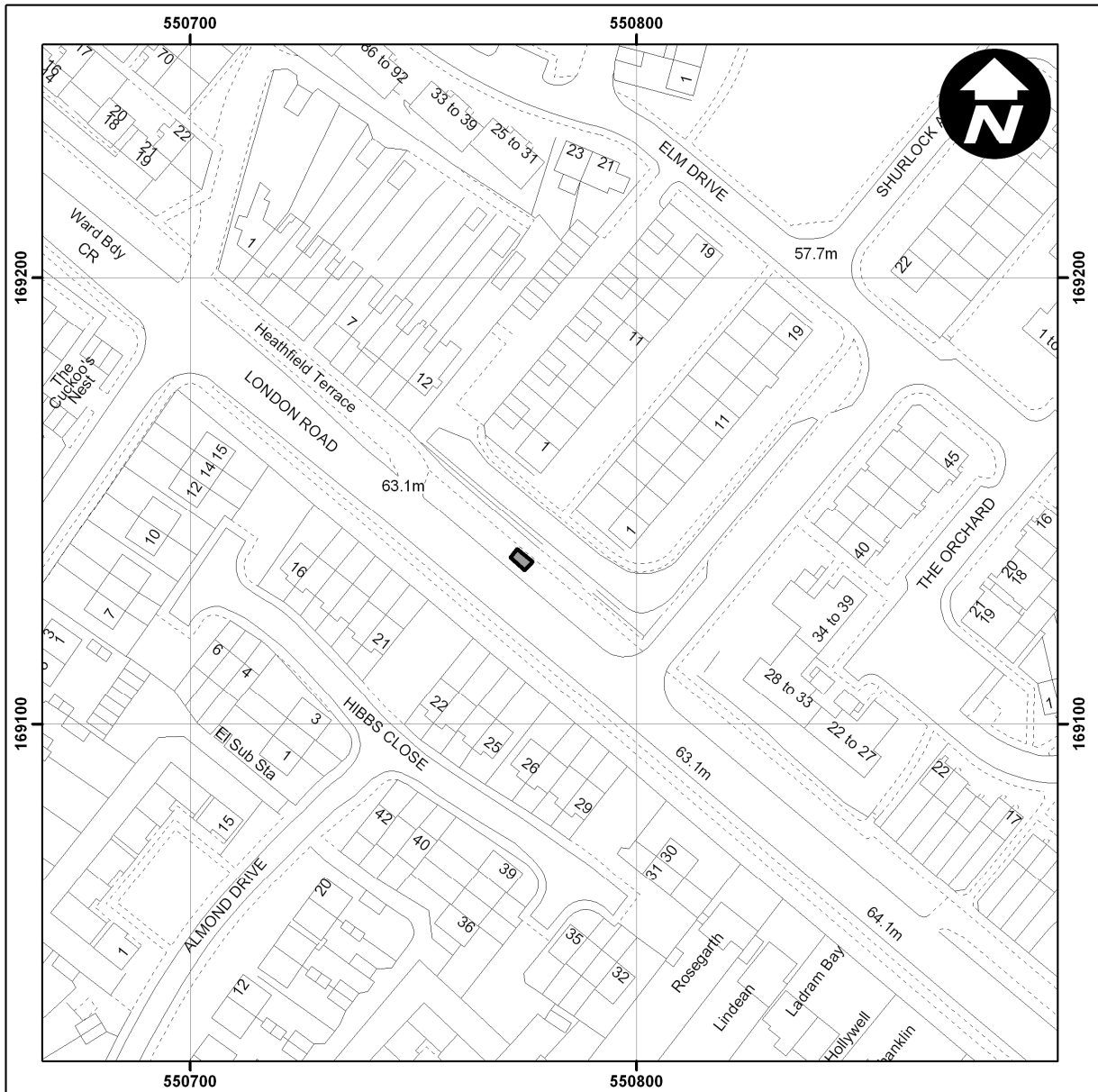
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LK9IANBKOFZ00>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LK9IANBKOFZ00>

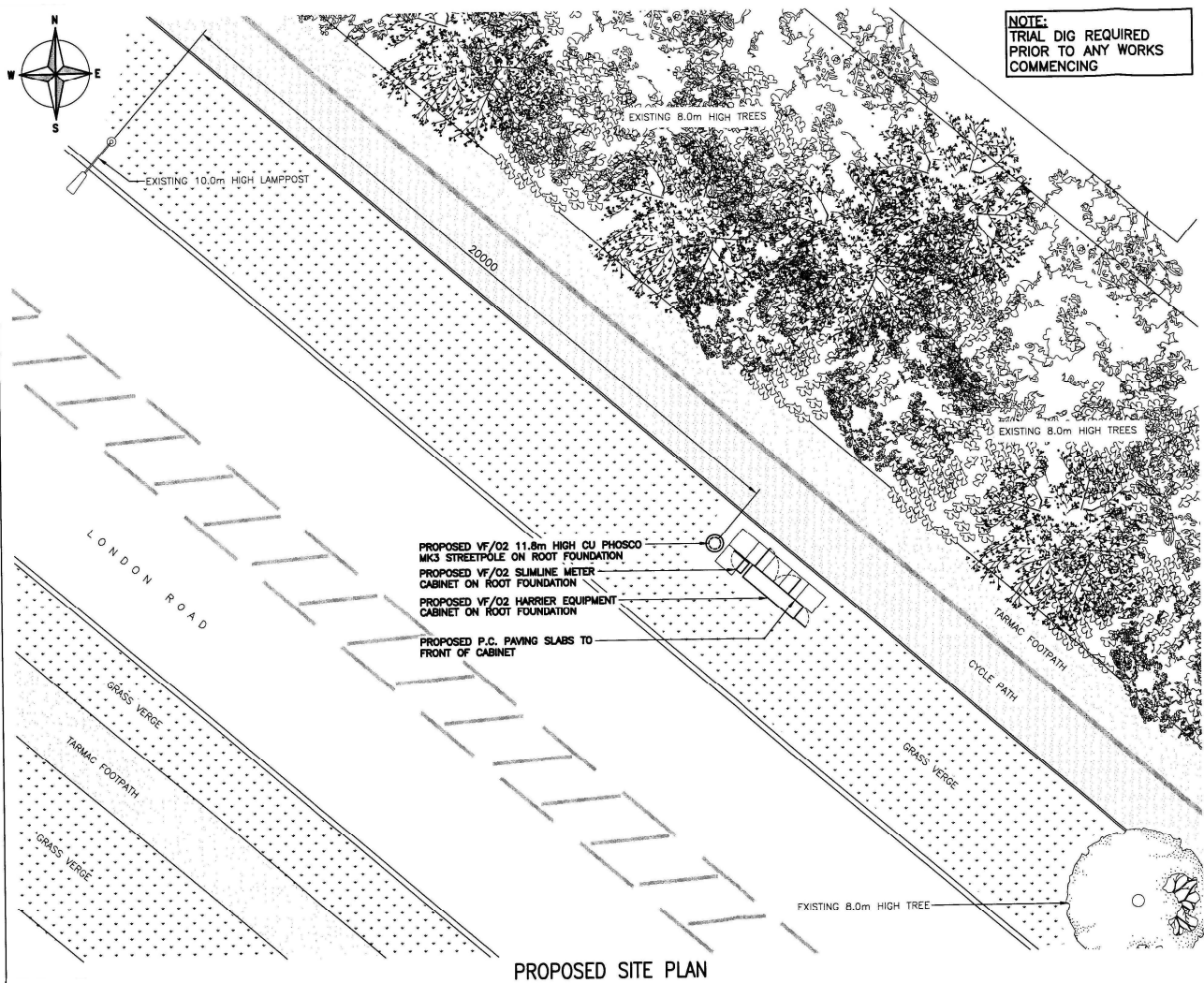


Site Plan

Scale 1:1,250
 Date 23/05/11



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5.14 – SE/11/01076/TELNOT Date expired 26 June 2011

PROPOSAL 12.5m high Jupiter streetworks column accommodating 6 no. shrouded antennas with slimline meter cabinet and radio equipment enclosure and development ancillary thereto.

LOCATION: Land South Of Service Station, London Road, Swanley BR8 7QD

WARD(S): Swanley White Oak

ITEM FOR DECISION

The proposal has been referred to Development Control Committee by Councillor Ball as concerns have been raised about the siting and appearance of the mast.

RECOMMENDATION: No Objection Lodged

Description of Proposal

- 1 The proposal is for a 12.5m slim line pole that will be positioned on the grass verge which separates the footpath from the Texaco garage. There will also be a small equipment cabinet which will measure 1.8m by 0.8 m and be 1.5m high.

Description of Site

- 2 The site is within the built confines of Swanley. The Texaco garage is on the junction of Crescent Gardens with London Road.
- 3 London Road is a main road through Swanley and is often busy. There is also a post box and a bus stop outside.
- 4 There is landscaping directly opposite the site.

Constraints

- 5 None

Policies

South East Plan

- 6 Policies - CC6, BE4 and LF1

Sevenoaks District Local Plan

- 7 Policy- EN1

Sevenoaks Core Strategy

- 8 Policies – LO2 and SP1

Others

- 9 Planning Policy Statement 1: Delivering Sustainable Development, Planning Policy Guidance Note 8: Telecommunications.

Planning History

- 10 None relevant

Consultations

- 11 No comments have been received as of yet from the Parish Council. The comments will however be reported to the planning committee, once they have been received.

Representations

- 12 Thirteen neighbours have been consulted. No comments have been received as yet, however any comments that are received in time will be reported to the planning committee.

Head Of Development Services Appraisal

Principal Issues

- 13 This application is made on behalf of Vodafone and O2 to ascertain whether prior approval for the siting and appearance of a mast and associated equipment is required.
- 14 It is important to highlight that this is not a planning application, as under the Town and Country (General Permitted Development) Order 1995 (as amended), the proposal is considered to fall within the permitted development limits of Part 24.
- 15 As stated above, before installing certain telecommunications apparatus (such as this), within the permitted development legislation, the code system operator must apply to the planning authority for a determination as to whether their approval of the siting and appearance of the development is required. This application has been submitted to fulfil this requirement.
- 16 The principle issues include the following:-

Whether there is a need for the mast

- 17 Under the Telecommunications Act 1984, a licence was granted to Vodafone and O2 to provide a wireless mobile phone service part of their operator's licence, issued by the Government.
- 18 The Vodafone and O2 2G digital networks were development in the early 1990's. The digital technology is referred to as GSM (Global System for Mobile Communications) which is the common European operating standard enabling phones to inter-connect to other networks.
- 19 In April 2000, Vodafone and O2 were successful in their bids for two of the five licences to provide a 'Third Generation' mobile telecommunications service known as 3G. In addition to voice service this technology enables Vodafone and O2 to offer high resolution and multi media applications. Among other things it enables virtual banking, e-retailing, video conferencing and high quality broadband for people on the move.
- 20 A number of maps have been provided with the application, that show the existing and proposed 3G coverage for O2 and Vodafone. The maps show that there is limited 3G coverage in the area. The proposed maps show that with the mast there would be a vast improvement to the 3G coverage cell.

Siting and Appearance of the mast and equipment

- 21 PPG8 states that factors to be considered concerning the appearance of the mast and ancillary apparatus include materials, colour and design. This guidance specifically states that:-
- 22 *The use of appropriate materials and colouration may allow a mast to blend more easily into its surroundings. Features of design which an authority may wish to consider include dimensions; overall shape; and whether the construction is solid or forms an open framework. They should also consider with the developer the availability of alternative designs which might be more suited to the local environment.*
- 23 Factors concerning siting may involve:-
 - the height of the site in relation to surrounding land;
 - the existence of topographical features and natural vegetation;
 - the effect on the skyline or horizon;
 - the site when observed from any side, including from outside the authority's own area;
 - the site in relation to areas designated for their scenic or conservation value;
 - the site in relation to existing masts, structures or buildings, including buildings of a historical or traditional character;
 - the site in relation to residential property;

- 24 The application site is located directly adjacent to London Road which serves as a main thoroughfare through between Swanley Town Centre and Sidcup. It will be positioned in front of the existing Texaco garage where there is already street furniture, including a lamp post, a post box and a bus stop. The lamp post is 10 metres high and 12 metres from the proposed site of the phone mast. On the opposite side of the road there is vegetation which breaks up the residential frontages to the east and west.
- 25 In principle, in view of the existing street furniture, a mast in this location is considered to be visually acceptable, and is not considered to appear dominant on the skyline or out of place within the urban confines of this site.
- 26 Another mast is proposed on the corner of London Road and Shurlock Avenue (planning reference number SE/11/1024/TELNOT refers). This mast is approximately 345 m from the mast that forms the basis of this application. Although the two masts are in relatively close proximity both masts are needed to facilitate the 3G service.
- 27 The other issue that has to be considered is the design of the proposal. The proposal is 2.5m higher than the nearby lamppost. The design of the proposed phone mast is a streetworks pole with shrouded antennas. This gives the mast a slim line appearance which is not out of context within the street scene. In addition the antennas are housed within the body of the mast and make it appear less bulky at its highest point.
- 28 No objection is raised to the visual appearance of the cabinets in view of their height and scale.

Health Considerations

- 29 PPG8 states, that it is the Government's firm view that the planning system is not the place for determining health safeguards. This guidance states it is central Government's responsibility to decide what measures are necessary to protect public health. It then states that in the Government's view, if a proposed mobile phone base station meets the ICNIRP guidelines for public exposure it should not be necessary for a local planning authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them.
- 30 The operators have submitted a declaration of conformity with the ICNIRP public exposure guidelines. Following the advice offered in PPG8, as the equipment meets the ICNIRP guidelines for public exposure, it is considered that this is sufficient to allow the Local Planning Authority to assess the effects of the application upon residents' health.
- 31 As the proposal meets these requirements, there is no objection to the proposal upon these grounds.

Property values

- 32 PPG8 also clearly states that authorities may receive representations about alleged impact of proposed telecommunications development on property values. It clearly states that issues of this nature should not be taken into consideration

as PPS 1, states that it is not for the planning system to protect the private interests of one person against the activities of another.

- 33 In view of the advice and guidance within PPG8 and PPS1, no objection is raised to this particular ground.

Highway Issues

- 34 As no comments have been received by the Highway Officer at the time of writing this report, these will be presented at the planning committee, should any be received.

Conclusion

The two principle issues of siting and design have been discussed. Given the above it is found that there is no planning objection to be raised on either of these grounds. The siting is appropriate within the context of the site and the design is acceptable.

Background Papers

Site and Block Plans

Contact Officer(s): Deborah Miles Extension: 7360

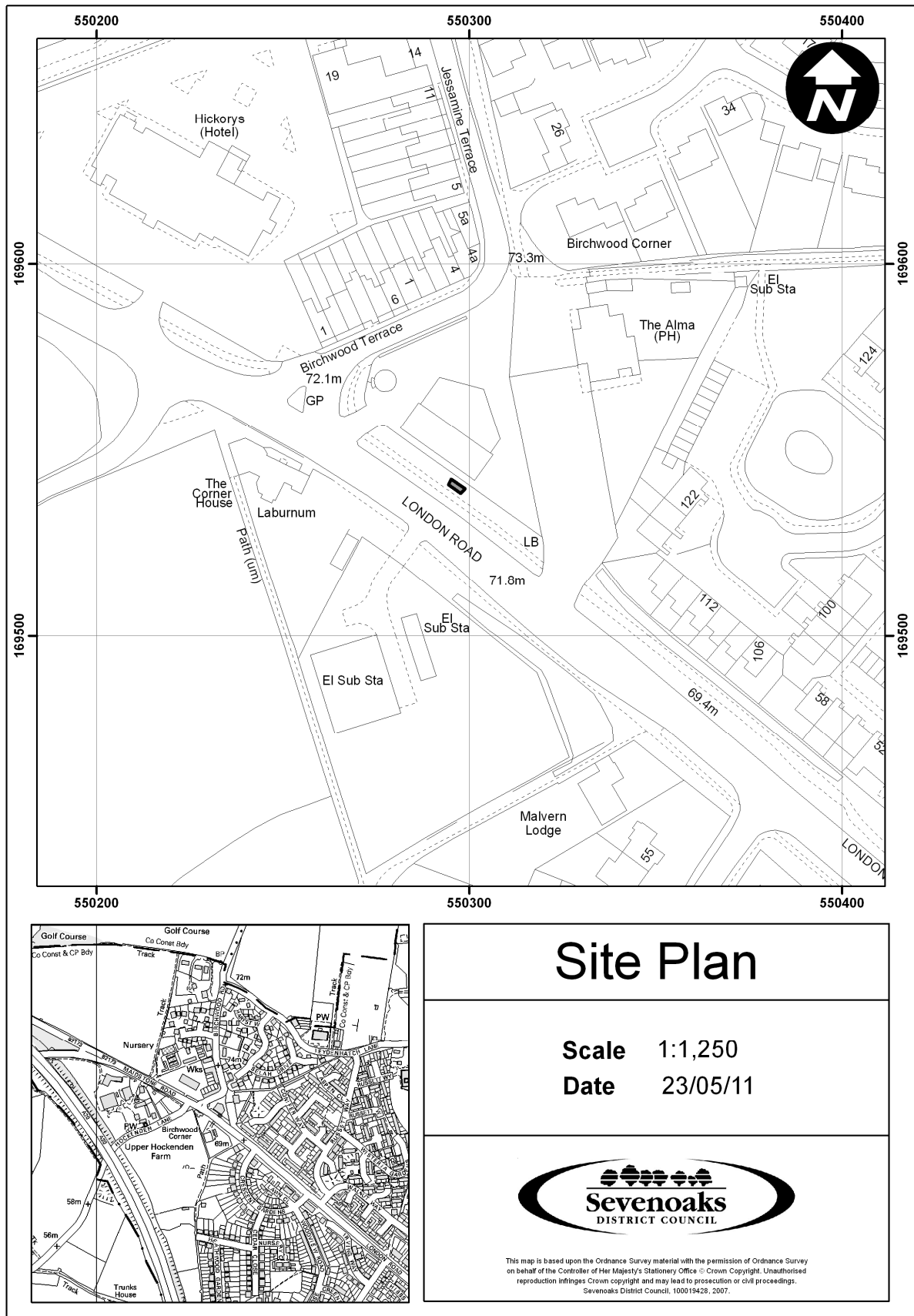
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LKNV9UBK0FZ00>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LKNV9UBK0FZ00>

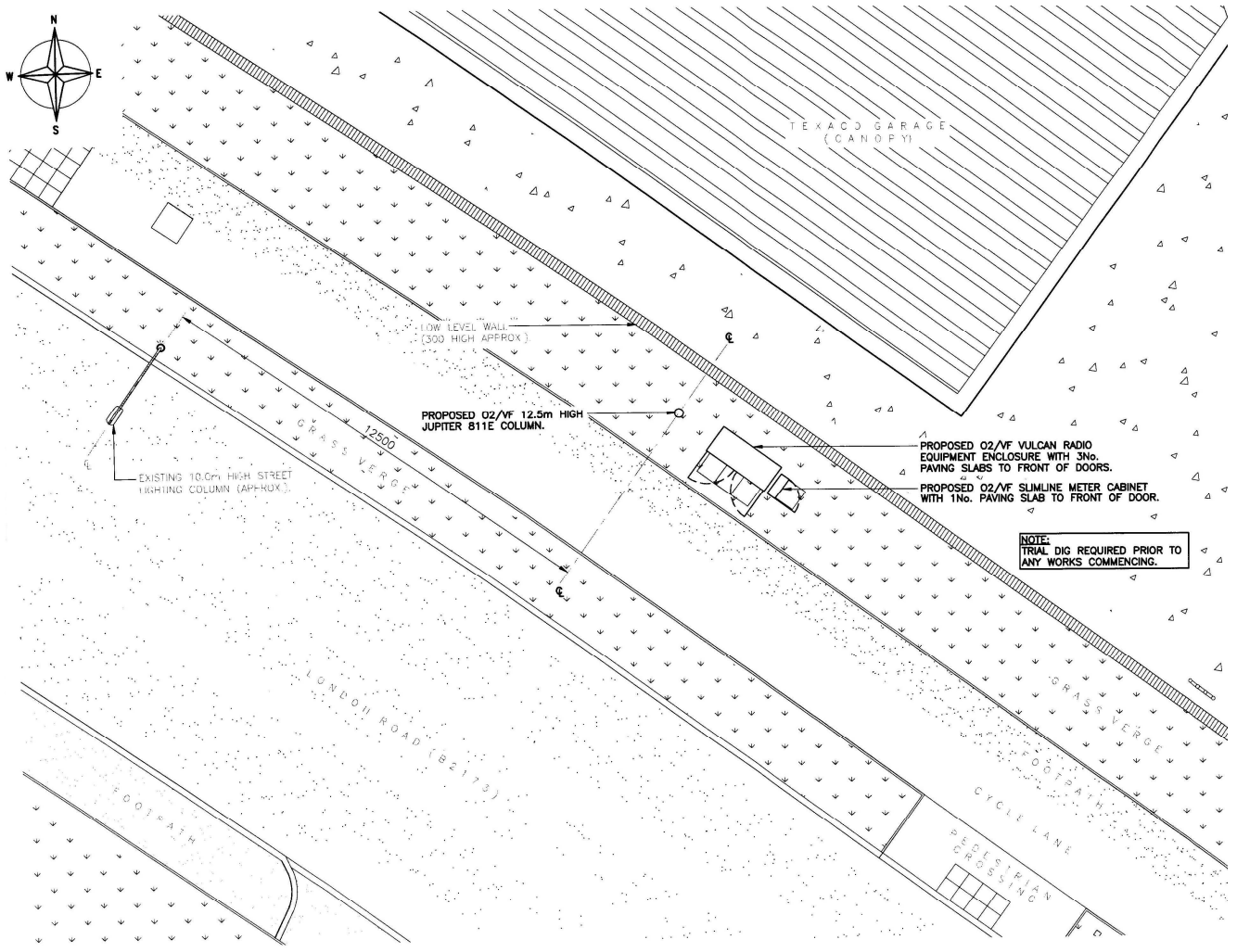


Site Plan

Scale 1:1,250
Date 23/05/11



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PROPOSED SITE PLAN

6.01 - Reference: 310/05/085

ENFORCEMENT OF PLANNING CONTROL

Four Winds, Farley Common, Westerham

ITEM FOR DECISION

This matter has been referred to Development Control Committee at the discretion of the Community and Planning Services Director.

Planning permission has been refused and subsequently dismissed on appeal for the retention of a replacement dwelling, including a basement double garage and a 2.5m high boundary wall. The boundary wall and the basement remain on site without the benefit of planning permission.

This matter was previously presented to Committee on 10th March 2011, when Members authorised the service of an Enforcement Notice relating to the removal of a brick boundary wall, backfilling a basement garage together with the permanent closure of any internal access and permanent cessation of uses within the garage and the breaking up and removal of the retaining walls adjacent to the access ramp to the garage.

However, following receipt of further advice, the measures seeking the complete removal of the brick boundary wall are considered unreasonable, as the owner could erect a brick wall up to 2m in height without the benefit of planning permission.

This report therefore seeks to consider the expediency of enforcement action to the basement garage and require the reduction in height of the brick wall to a height not exceeding 2m in height.

RECOMMENDATION:

That authority is to serve an Enforcement Notice, subject to the Head of Legal and Democratic Services agreeing the wording of the terms of the Notice, requiring the:

- (a) The reduction in the height of the brick boundary wall along the eastern boundary to a height not exceeding 2m above ground level.
- (b) Back filling of the basement garage structure with inert material and permanent closure of any internal access and permanent cessation of uses within the garage.
- (c) Breaking up and removal of the retaining walls adjacent to the access ramp to

the garage and;

- (i) The restoration of the original ground levels to the front north-eastern corner of the site, or;
- (ii) The restoration of the original ground levels incorporating the approved parking layout under ref: SE/07/03532/FUL and SE/08/01003/DETAIL, or;
- (iii) The implementation of an alternative scheme of restoring this part of the site to include a car parking layout, (i.e. not at the original ground level), details of which shall first have been submitted to and approved in writing by the District Planning Authority. Such details to include cross sections (both north-south and east-west), to show the original and proposed levels.

FOR THE FOLLOWING REASONS:

1 The land lies within the Metropolitan Green Belt where strict policies of restraint apply. The developments comprising the retention of a 2.5m high wall and basement garage with access ramps, add to the built form on the land to a degree that is harmful to the character and appearance of the area. This conflicts with PPG2 (Green Belts) and policy H13 of the Sevenoaks District Local Plan.

2 The land lies within an Area of Outstanding Natural Beauty. The developments comprising the boundary wall and basement garage with access ramps, detract from the character and appearance of that area. This conflicts with policy LO8 of the Sevenoaks District Council's Core Strategy Development Plan Document.

Compliance period: Six months

Head of Development Services Appraisal

Breach of Control

- 1 The continued retention of the garage, associated retaining walls and the boundary wall at a height of 2.5m following the dismissal of the appeal against the refusal of planning permission constitutes a breach of planning control.

Relevant Background:

- 2 Details of the relevant planning policies, planning history description of the site and consideration of the determining issues remain as set out in the previous

Enforcement report to Committee (10th March 2001). For convenience this is provided in full as Appendix A.

- 3 The reason this matter is being referred back to Committee is because of an inaccuracy at paragraph 17 of that report. This stated that:

“Whilst in some situations it may be possible to consider the lesser remedy of reducing the height of the wall to 2m, which would be permitted development, in this instance permitted development rights for all enclosures were removed by virtue of condition 4 on the original planning permission, therefore, any boundary wall would require planning permission.”

- 4 However, further legal advice has since concluded that the reference to enclosures in the above condition does not apply to a means of enclosure erected along the boundary of the site. In light of this, the owner would be entitled to exercise his normal permitted development rights relating to this particular form of development, which enable the erection of a wall up to a height of 2m without the benefit of planning permission.

- 5 In the circumstances rather than seek the removal of the brick boundary wall in its entirety, the recommendation has been amended to seek the reduction in the height of the brick boundary wall along the eastern boundary to a height not exceeding 2m above ground level. In all other respects the enforcement notice remains as recommended and agreed previously.

- 6 Members may note that with regard to the breaking up and removal of the retaining walls adjacent to the access ramp to the garage, there are considered to be several possible options which may satisfactorily resolve the situation and hence these are listed as options 1 to 3 of requirement (C) in the recommendation.

- 7 In considering whether or not to enforce against unauthorised works, Government guidance (PPG 18 – Enforcing Planning Control) advises that Local Planning Authorities have a general discretion to take enforcement action, where they regard it as expedient. They should be guided by a number of considerations.

- 8 The decisive issue for the LPA should be whether the breach of control would unacceptably affect public amenity, or the existing use of land and buildings meriting protection in the public interest. The guidance also notes that an authority may be liable to “maladministration” if they fail to take effective enforcement action which was plainly necessary.

- 9 In this instance, the Council has already refused an application for the retention of these works, on the basis that there is substantial harm to the public interest in terms of the impact on openness and the visual amenities of the area. This was upheld in an appeal decision dated 16th March 2010. Copies of the appeal decision and earlier Committee report on the 2009 application are attached as

Appendix B and C respectively, and these set out the planning issues and policies that apply in this case.

- 10 Members should note that the proposed enforcement notice does not relate to the basement area permitted under the house. Additionally, Enforcement Action is not sought for the removal of the additional basement garage area, but it is required to be infilled and not used. Matters raised in relation to the potential impact of this box structure being demolished in whole or in part have therefore been addressed.

Considerations

- 11 No change is proposed to the Enforcement Notice, other than in its relation to the action sought regarding the brick boundary wall. Members previously agreed Enforcement Action regarding the basement garage and associated works, which is covered in the attached reports, and therefore, this report will focus on the issue of the wall.
- 12 In this respect, I note the wall exceeds the height allowed under permitted development (2m) by 0.5m over its entire length of some 47m, 33m of which extends beyond the rear of the new house well into the garden.
- 13 In dismissing the appeal against the planning application for the retention of these works, the Inspector specifically considered the impact of the wall. At paragraph 15, the Inspector made the following comments:

“The boundary wall is, itself a tall and upstanding structure, which is visually impermeable from either side along its not inconsiderable length. Although erected as a garden boundary, domestic gardens are an integral part of the Green Belt and not excluded from the relevant policy provisions. From what I could see of the remaining sections of the original garden boundary hedge, the now existing wall is both significantly higher and more dense than what existed before. In my estimation, there can be no question that the presence of the wall fails to maintain the openness of the Green Belt and, again returning top the first main issue, must also therefore be regarded as inappropriate Green Belt development.”

- 14 The Inspector commented further on the visual impact of the wall at paragraph 19 of his decision as follows:

“To the extent that it has already been faced, the boundary wall is clad in bricks that match the exterior of the house itself and, by way of ornamentation, it also includes a raised diaper patten. Whatever the merits of both bricks and design, the Council says that it has produced supplementary planning guidance in the form of a Village Design Statement for Westerham and Crockham Hill, which advocates the greater use of hedges as boundaries between properties in future developments. It seems to me that a wall of the height and length now existing does not

represent permitted development and (whether or not finished as proposed, and supplemented with garden shrubbery), detracts from the informal visual relationship that currently prevails between private gardens and natural woodlands hereabouts. It also reinforces rather than reduces the urbanising impact of the development subject of this appeal as a whole. This bears particularly harmfully on the AONB, the natural landscape quality of which would not be conserved by its retention or completion.”

- 15 It is clear that the wall as built is a form of development, which fails to maintain openness and fails to safeguard the countryside from encroachment. Notwithstanding the fact that the wall could be erected at a height of 2m without express planning permission, the fact that the wall significantly exceeds 2m in height over its entire length, exacerbates the visual impact by adding to the physical presence of this structure and renders it more imposing than it would otherwise be, adding to the suburban appearance of the site. I therefore, consider the retention of the wall at its current height of 2.5m to be unacceptable.
- 16 Accepting that the owner would be entitled, and indeed is perhaps likely, to retain a 2m high brick wall along the western boundary, it is my view that rather than help to reduce the visual impact of the basement garage and retaining walls, the solid, rather imposing and suburban appearance of the wall would in fact compound the impact, resulting in significant visual harm detrimental to the character of the locality.
- 17 Furthermore, with specific regard to the basement, I would note that even if the visual harm were to be rectified through removal of the retaining walls to the garage and infilling of the entrance and actual groundwork, without cessation of the use of the garage the harm in principle to the Green Belt would remain. This would result in a disproportionate addition to the dwelling, contrary to National and Local Planning Policy and its retention of use would be at odds with the District Council's application of Green Belt policy.
- 18 Members should also be aware that further comments were submitted by the owner immediately prior to the presentation to Committee on 10th March 2011. In summary, these alleged a number of factual errors in the Council's understanding of the structure as constructed, which the owner considered to be pivotal to his case.
- 19 These are summarised as follows;
 - A The house and garage do not have separate foundations but are one single slab and are contiguous with the house.
 - B The retaining walls of the house do not resist the lateral forces of the subsoil and ground water – the walls are contiguous and interlinked for strength. The walls between the house and garage have no reinforcing and are not capable of taking lateral loads as the enforcement demands.

- C The site has immense hydrological problems and avoidance of the risk of floatation of the structure is the main driving design factor.
- D The extended slab and box section is a technical solution derived in compliance with best practice.
- 20 The owner states that there are numerous other technical matters of fact, which can be proved as matters of calculation and accordance with best professional engineering practice.
- 21 The Council's Building Inspector has examined the points raised and has responded as follows:
- "I would respond by stating that no new information or technical justification has been provided to demonstrate that the construction of a below ground concrete structure was the only engineering solution, available to the applicant, to deal with the on site ground conditions.
- The owner has previously (16th June 2009) argued that the infilling of the garage structure would adversely affect the overall structural integrity of the building. It has been commented that the external garage basement walls, together with the internal separating block wall, have not been designed to resist lateral forces which would result from the infilling of the garage structure and could cause differential movement and settlement.
- It is important to note that it is for the owner to provide details of the proposed method of infilling, together with structural justification, for the approval of Building Control. Although the owner and his advisors are responsible for proposing an acceptable solution it is feasible that lightweight preassembled units could be used to infill the garage, transferring no lateral loading, at all, to the walls, only the vertical self weight of the units to the floor slab."
- 22 I would also note, that the engineering background was a matter raised at the planning appeal stage. However, the Planning Inspector reached the conclusion that they did not warrant the very special circumstances required to outweigh the harm to the Green Belt and other harm identified. The matter of very special circumstances does not fall to be considered at this stage. It is now necessary to consider what remedial measures are necessary to rectify the breaches of planning permission which have taken place.
- 23 With regard to deferral, the owner has been given ample opportunity to discuss the potential terms of the Enforcement Notice, but has not responded specifically on this matter to date.
- 24 In any event, the Enforcement Notice does not require the removal of the main element of the basement garage structure. The principal walls, floor and roof are not required to be removed.

Update

- 25 Further correspondence was exchanged since the 10th March 2011 Committee meeting and, as some was copied to the (then) Development Control Committee, selected copies are shown at Appendix D, together with related reports in Appendix E for convenience. These do not alter the recommendation.

Human Rights Act:

- 26 Article 8 of the Human Rights Act provides for everyone to have the right to respect for their family life, home and correspondence. This is subject to the proviso that there shall be no interference by public authority with the exercise of this right, except when pursuing a legitimate aim in law as is necessary in a democratic society, in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others. Article 8 applies even if the erection of the creation of the basement garage/store, associated access works and brick boundary wall are unauthorised. However, in my opinion any rights of the owners of the site to erect the garage and wall is outweighed by the public interest. I am satisfied that the serving of an enforcement notice is expedient in this case. The site lies within the Metropolitan Green Belt and an Area of Outstanding Natural Beauty. The primary objectives in this area are to protect the character, amenity and openness of the Green Belt and the countryside in general.

Conclusion

- 27 In light of the recent planning history, including the recent appeal decision, I am of the view that the basement garage/store, the associated access ramp and retaining walls and brick boundary wall represent inappropriate development harmful to the maintenance of the Green Belt and to its openness. Furthermore, these works adversely affect the visual amenities of the Green Belt and this part of the Area of Outstanding Natural Beauty.
- 28 I therefore recommend enforcement action as set out above.

Background Papers

APPENDIX A – Previous Enforcement report 10th March 2011, including Late Observations.

APPENDIX B – Previous Appeal Decision.

APPENDIX C - Previous report to Committee on planning application (subject to latter appeal).

APPENDIX D – Copy of all correspondence sent to Members post March Committee and SDC response.

APPENDIX E – Copies of previous correspondence, structural reports and Building Control comments.

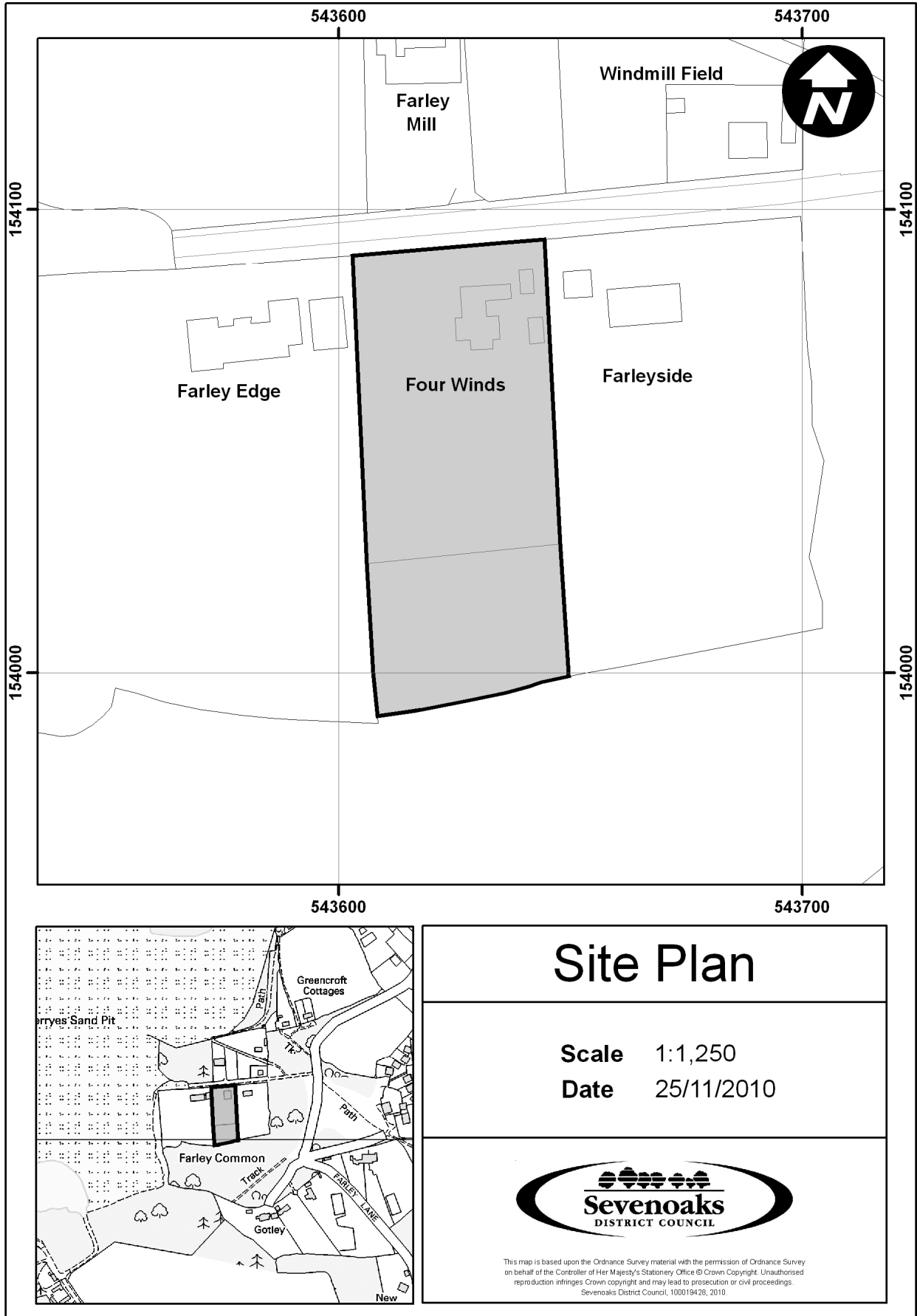
Agenda Item 6.1

Development Control Committee: 9 June 2011

310/05/085 Item 6.01

Contact Officer(s): Jim Sperryn Extension 7179

Kristen Paterson
Community and Planning Services Director



Previous Enforcement report 10 March 2011, including Late Observations – APPENDIX A

Development Control Committee: 10 March 2011

310/05/085 Item 6.01

6.01 - Reference: 310/05/085

ENFORCEMENT OF PLANNING CONTROL

Four Winds, Farley Common, Westerham

ITEM FOR DECISION

This matter has been referred to Development Control Committee at the discretion of the Community and Planning Services Director.

The completion of this enforcement report has been held in abeyance since August 2010 to enable the applicant time to respond to the recommendations set out below. However, no further response has been received to date setting out his intentions regarding rectifying the unauthorised works.

Planning permission was refused and subsequently dismissed on appeal for the retention of a replacement dwelling including a basement double garage and a 2.5m high boundary wall. The boundary wall and the basement remain on site without the benefit of planning permission. This report seeks to consider the expediency of enforcement action to remove the basement garage and boundary wall.

RECOMMENDATION:

That authority is given to serve an Enforcement Notice requiring the:

- (a) Demolition and removal of brick boundary wall along the eastern boundary of the site between Four Winds and Farleyside.
- (b) Back filling of the garage with inert material and permanent closure of any internal access.
- (c) Breaking up and removal of the retaining walls adjacent to the access ramp to the garage and;
 - (i) The restoration of the original ground levels to the front north-eastern corner of the site, or;
 - (ii) The restoration of the original ground levels incorporating the approved parking layout under ref: SE/07/03532/FUL & SE/08/01003/DETAIL, or;

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- (iii) The implementation of an alternative scheme of restoring this part of the site to include a car parking layout (i.e. not at the original ground level) details of which shall first have been submitted to and approved in writing by the District Planning Authority. Such details to include cross sections (both north-south and east-west) to show the original and proposed levels.

FOR THE FOLLOWING REASONS:

1 The land lies within the Metropolitan Green Belt where strict policies of restraint apply. The developments comprising the retention of a 2.5m high wall and basement garage with access ramps, add to the built form on the land to a degree that is harmful to the character and appearance of the area. This conflicts with PPG2 (Green Belts) and policy H14A of the Sevenoaks District Local Plan.

2 The land lies within an Area of Outstanding Natural Beauty. The developments comprising the boundary wall and basement garage with access ramps, detract from the character and appearance of that area. This conflicts with policy EN6 of the Sevenoaks District Local Plan.

Compliance period: Six months

Development Plan

Planning Policies

Sevenoaks District Local Plan Policies:

- 1 EN1 General principles
- 2 EN6 Areas of Outstanding Natural Beauty
- 3 H13 Replacement dwellings in the Green Belt

Others

- 4 Core Strategy Development Plan Document: LA08 The Countryside and the Rural Economy
- 5 Planning Policy Statement 1: Delivering Sustainable Development
- 6 Planning Policy Guidance 2: Green Belts

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- 7 Planning Policy Statement 3: Housing
- 8 Planning Policy Statement 7: Sustainable Development in Rural Areas

Planning History

- 9 SE/07/02532/FUL: Demolish existing house and erect one single house. Approved 12.2.08
- 10 SE/08/00877/FUL: Demolish existing house and erect one single house and integral garage. Amendment to planning application SE/07/03532/FUL; Refused on 19.6.08 on the following grounds:
 - “1) The land lies within the Metropolitan Green Belt where strict policies of restraint apply. The proposal would add to the built form on the land to a degree that would be harmful to the character and appearance of the area. This conflicts with PPG2 and policy SS2 of the Kent & Medway Structure Plan 2006, as amplified by policy H14A of the Sevenoaks District Local Plan.
 - 2) The land lies within an Area of Outstanding Natural Beauty. The proposal would detract from the character and appearance of that area. This conflicts with policy EN4 of the Kent & Medway Structure Plan 2006 and policy EN6 of the Sevenoaks District Local Plan.
 - 3) The land lies within a Special Landscape Area. The proposal fails to give long term protection to the landscape and would harm its character. This conflicts with policy EN5 of the Kent & Medway Structure Plan 2006 and policy EN7 of the Sevenoaks District Local Plan.”
- 11 SE/09/00672: Erection of replacement detached dwelling (amendment of planning permission SE/07/03532) to include basement double garage and new 2.5m boundary wall on eastern boundary. This application was refused for the same reasons as set out above, and subsequently dismissed on appeal. The appeal decision is attached in full as Appendix A.

Head of Development Services Appraisal

Description of site

- 12 The application site is located to the south of a private access road leading from Farley Lane. The site is within the Metropolitan Green Belt and AONB. The area is characterised by low density, large detached houses set in extensive grounds. Four Winds formally comprised a detached property of no significant architectural merit, which was in poor condition. It has an extensive

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plot bounded by mature trees and hedges. The original dwelling has now been demolished and the new dwelling constructed, including the construction of a double garage attached to the house but at basement level. It is approached via a sloping driveway visible from the adjacent roadway and has a substantial visual impact, despite being in the main below ground level. In addition a 2.5m high boundary wall has been constructed along the eastern boundary.

Breach of Control

- 13 The continued retention of the garage, associated retaining walls and the boundary wall following the dismissal of the appeal against the refusal of planning permission constitutes a breach of planning control.

Determining Issues

- 14 The determining issues are set out in full in the report presented to members to consider the relevant planning application, a copy of which I attach as Appendix B. The only significant point to note at this stage is that the South East Plan policies are no longer relevant. However the thrust of the policies protecting the openness of the Green Belt remain in place in the Local Plan Policies and in the relevant national policies. The main issues therefore remain:

Green Belt Implications.

Visual Impact.

Impact on residential amenity.

Considerations

- 15 The detailed consideration of the impact of the development is again set out in full in the attached report of the planning application, and is assisted by the conclusions of the Inspector. The appeal gave the applicant the opportunity to fully present his case for special circumstances to outweigh the usual presumption against inappropriate development in the Green Belt, but this case was not accepted. The appeal Inspector considered that both the basement and the wall constituted inappropriate development, by definition harmful to the openness of the Green Belt. In addition he concluded that the basement together with the associated construction of the access ramp, turning area and retaining walls resulted in "a visible upstanding presence", which clearly adversely affected the openness of the Green Belt.
- 16 In terms of the impact of the unauthorised developments on the visual amenities of the area the Inspector considered that the site had been "transformed to a scene of almost solid urbanity". He also considered that additional works including cladding the retaining walls with sandstone would "increase rather than diminish this significant and entirely adverse visual impact".

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- 17 As no works have been carried out to remove the unauthorised development, it is necessary to consider what steps should be taken to remedy the breach of control and restore the openness of the Green Belt, the visual amenities of the area and the rural character of the site. I consider that the boundary wall should be demolished in its entirety. Its continuing presence adversely affects the rural character of the area to an unacceptable degree. Whilst in some situations it may be possible to consider the lesser remedy of reducing the height of the wall to 2m, which would be permitted development, in this instance permitted development rights for all enclosures were removed by virtue of condition 4 on the original planning permission, therefore any boundary wall would require planning permission. In this instance a lightweight structure such as a fence or trellis might be more acceptable, but preferably a substantial hedge and tree screen could be established along the boundary with no loss of privacy or security.
- 18 The retention of the garage and access ramp continues to adversely affect the openness of the Green Belt and the character of the area, therefore I consider its removal to be expedient. To this end, I consider the void created by the garage should be backfilled with inert material and original garden levels restored. The filling of the space with inert material should not prejudice the structure of the main house, nor of the drainage issues which the applicant claimed necessitated the creation of the basement in the first instance. The space could in effect act as a soakaway to control any excess water on the site, rather than as a space which in itself would require additional drainage to keep dry. The retention of the space but the filling of the access ramps to render it completely underground would also potentially exacerbate any drainage problems. I consider that the filling of the space with the restoration of ground levels to be a reasonable action which could be taken to remedy the ongoing harm caused by the unauthorised development.
- 19 I would also note the comments made by the appeal Inspector in considering whether there were very special circumstances in support of the garage which would outweigh the harm to the Green Belt. At paragraph 21 he comments as follows:

“In light of all I have heard and seen in this case, I do not doubt that the excavation of the ground to the east of the permitted replacement dwelling was carried out in response to a genuine emergency and not as a deliberate attempt to flout Green Belt planning control. Nonetheless, the Appellant had plainly been made aware that an almost identical basement garage would be problematic before planning permission for the replacement dwelling was granted, and I am far from convinced that the construction of such a large reinforced concrete subterranean box was the only way in which ground stability and water flows, when unexpectedly encountered, could have been handled relative to the construction of the basement of the main house alone.”

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Human Rights Act:

- 20 Article 8 of the Human Rights Act provides for everyone to have the right to respect for their family life, home and correspondence. This is subject to the proviso that there shall be no interference by public authority with the exercise of this right except when pursuing a legitimate aim in law as is necessary in a democratic society, in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others. Article 8 applies even if the erection of the creation of the basement garage/store, associated access works and brick boundary wall are unauthorised. However, in my opinion any rights of the owners of the site to erect the garage and wall is outweighed by the public interest. I am satisfied that the serving of an enforcement notice is expedient in this case. The site lies within the Metropolitan Green Belt and an Area of Outstanding Natural Beauty. The primary objectives in this area are to protect the character, amenity and openness of the Green Belt and the countryside in general.

Conclusion

- 21 In light of the recent planning history, including the recent appeal decision, I am of the view that the basement garage/store, the associated access ramp and retaining walls and brick boundary wall represent inappropriate development harmful to the maintenance of the Green Belt and to its openness. Furthermore, these works adversely affect the visual amenities of the Green Belt and this part of the Area of Outstanding Natural Beauty.
- 22 I therefore recommend enforcement action as set out above.

Contact Officer(s): Jim Sperryn Extension 7179

Kristen Paterson
Community and Planning Services Director

(Item No 6.01) 6

To; The Officers of the Planning Department and Members of Sevenoaks District Council Development Control Committee – 10th March, 2011.

10 March 2011

Dear Sir / Madam,

Sevenoaks Planning Reference: 310/05/085

Site Reference: Four Winds, Farley Common, Westerham, Kent. TN16 1UB.

Late Observation Note.

- Members can reasonably expect me to present new information, but in this case the crucial information relating to the engineering necessary to surmount the site conditions is not new, as the matters have always been available. These engineering matters are provable facts and materially pivotal, but have been inadequately represented to Members and the appeal inspector. They are not being presented this evening.
- The Green Belt is a fundamental planning issue, but the real site circumstances that led to the engineering solution are sufficient to constitute very special circumstances. Without knowledge of them Members are not fully informed.
- I appreciate that I have had extended time already but I respectfully request the Committee defer the pursuit of Enforcement proceedings at this time so that a full consideration of the position can be made. I accept that compromises may have to be made, but I am confident that a negotiated solution can be reached and put before Members.
- Mr Sperryn will be able to confirm to Members that the wall was withdrawn as a material factor (subject to the 2m height restriction) by Mr Richard Morris at a meeting on 25th August 2010.

Yours sincerely,

Mark Banister.

Memo to Members relating to matters of fact for the Site Visit to Four Winds, Farley Lane.

SDC REF: 310/05/085

Date 10th March 2011

The determination of enforcement action you are charged with making this evening flows from the merits of the engineering matters relating to the integrity of the structure. On the one hand I received the professional and insured advice of my consulting engineer to build it as a single structural unit in response to the extraordinary site circumstances: on the other hand the two engineers (Mr Haime and Mr Hook) instructed by SDC believe it to be two separate structures. Over the ensuing months I have supplied your officers with all the geotechnical and engineering details and justifications, and you are now able to see for yourselves. Neither of the SDC's engineers has ever visited the site.

There are four main factual matters originally proposed by Mr Haime and subsequently supported by Mr Hook which have been accepted by your officers:

- i) The house and garage have separate foundations.
Incorrect - the house and garage foundations are one single slab and are entirely contiguous with no separation as claimed.
- ii) The retaining walls of the house resist the lateral forces applied by the subsoil and ground water.
Incorrect – the external garage and house walls junction off the same continuous slab. Similarly the walls are continuous and interlinked for strength. The walls between the house and garage have no reinforcing and are only designed to take vertical load and are not capable of taking lateral load as the proposed enforcement demands.
- iii) The house has sufficient mass to resist flotation in water-saturated sub-soils.
Incorrect - This site has immense hydrological problems and avoidance of the risk flotation of the structure is the main driving design factor.
- iv) None of the above requires the garage construction to augment the design of the original house.
Incorrect – the construction of an extended slab and box section to match the design of the approved built form was a technical solution derived in compliance with the best practice and the guidance offered in the definitive text on the subject “Structural Foundations Manual for low rise buildings” by MF Atkinson (second edition). SDC's engineers have offered no technically-based rebuttal.

There are numerous other technical issues of fact, all of which my engineer Mt Pont can prove as matters of calculation and accordance with best professional engineering practice.

You will note that as another matter of fact the boundary wall was withdrawn as a material planning matter by SDC (at a meeting with various witnesses with Mr Morris on the 25th August 2010).

I cannot tell you how grateful I am that you are visiting the site and can now see for yourself that all we have presented is factually correct. Mr Pont has kindly agreed to attend this morning and is happy to answer any questions relating to fact that you may wish to ask of him.

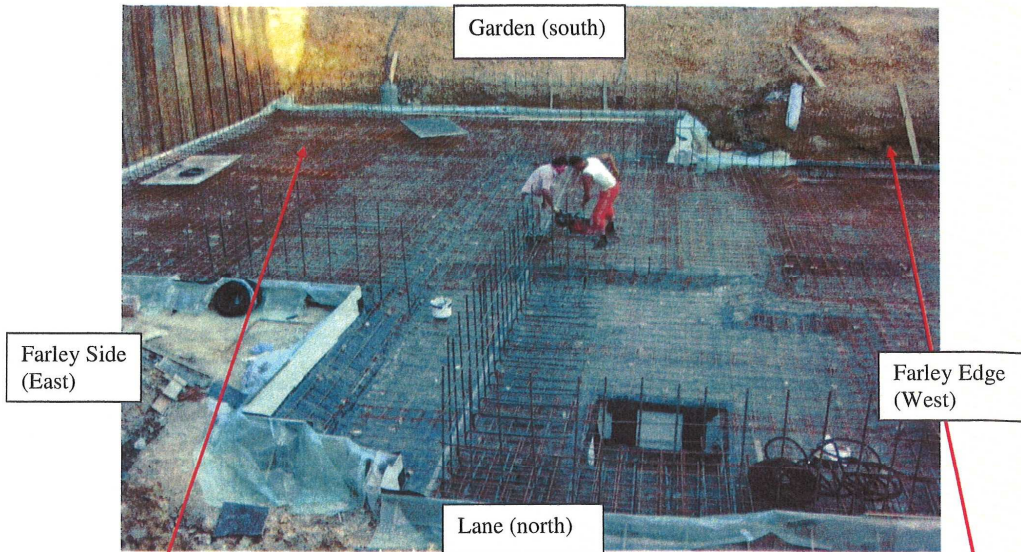
Yours sincerely,

Mark Banister.

Agenda Item 6.1

Development Control Committee: 9 June 2011

310/05/085 Item 6.01 – Appendix A

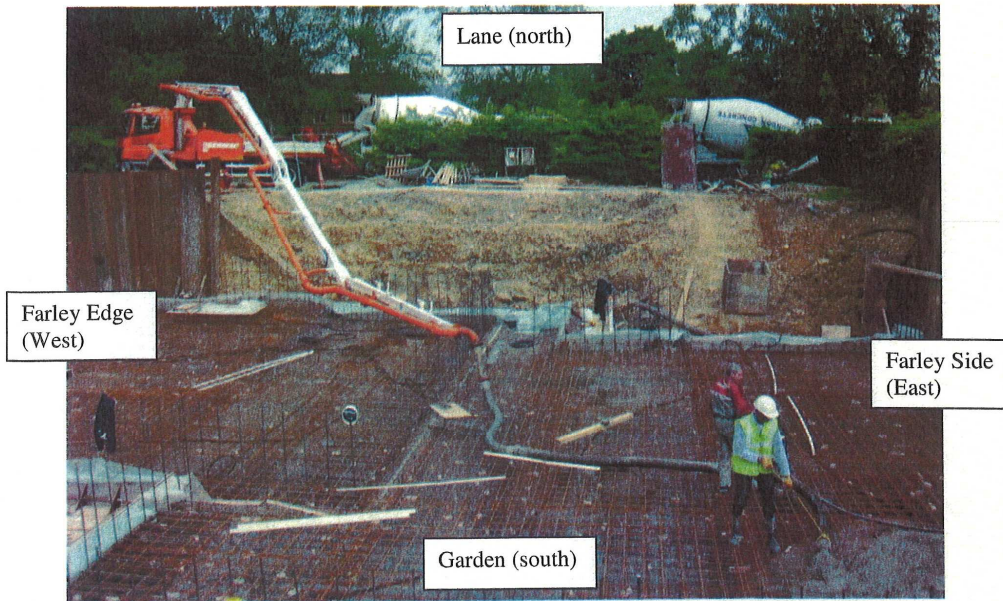


Blown up to show vertical reinforcing bars of continuous garage and house walls fixed to single garage and house foundation slab.



Replica picture free of labels





Start of continuous pour of concrete for entire single house and garage slab

Replica picture free of labels



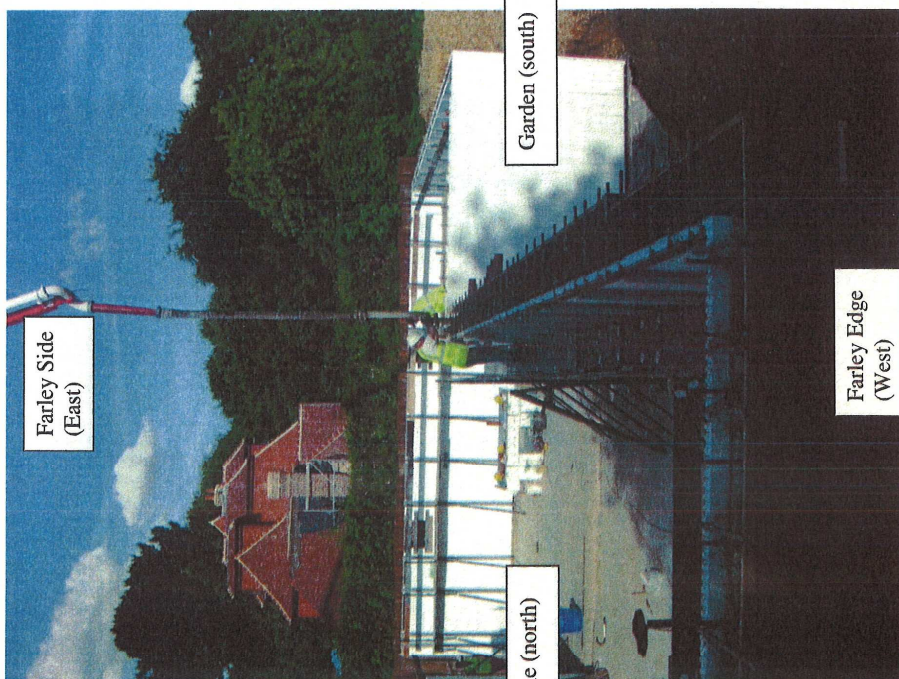
Agenda Item 6.1

Development Control Committee: 9 June 2011

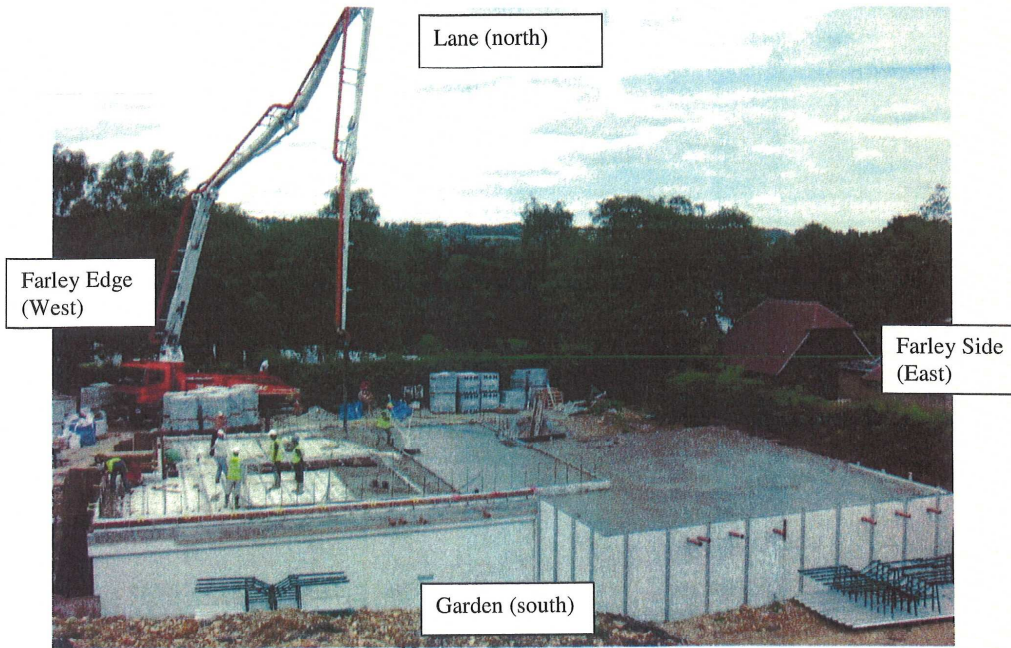
310/05/085 Item 6.01 – Appendix A



Replica picture free of labels



Two weeks later single pour of continuous house and garage basement walls



Single continuous concrete pour of garage roof and house ground floor deck

Replica picture free of labels





Appeal Decision

Hearing held on 23 February 2010
Site visit made on 23 February 2010

by Mr D Lavender MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
16 March 2010

Appeal Ref: APP/G2245/A/09/2114987 Four Winds, Farley Lane, Westerham, Kent TN16 1UB

- 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 by Mr R Banister against the decision of Sevenoaks District Council.
- The application Ref SE/09/00672/FUL, dated 25 March 2009, was refused by notice dated 18 September 2009.
- The development proposed is erection of a replacement detached dwelling (amendment of planning permission SE/07/03532) to include basement double garage and new 2.5m boundary wall on eastern boundary.

Decision: I dismiss the appeal.

General background

1. The appeal property lies in a solidly rural part of Sevenoaks, between the village of Westerham (to the south east) and the M25 motorway (to the north) and is one of a loose assemblage of houses set in elevated woodland surroundings on Farley Common. It is embedded within the Metropolitan Green Belt (the broad extent of which is defined by Policy SP5 of the South East Plan) and the Kent Downs Area of Outstanding Natural Beauty (to which protection is lent by South East Plan policy C3 and Local Plan policy EN6).
2. The planning permission reference SE/07/03532 referred to in the application description was for a for five bedroom detached house with basement but no garage. This was to be sited about 9 metres from the eastern boundary of the site, which extends, in all, to nearly 0.4 ha. A basement garage had apparently originally been proposed on the east side of the property as part of the scheme, but was deleted at the Planning Officer's request before the application was permitted in February 2008.
3. When that development commenced, in late March or early April 2008, an emergency arose during excavation for the basement to the house when a large amount of ground fell in from the east side. Advice from a consulting engineer was urgently called upon, who recommended attending to the stability of the ground by battering back the sides of the excavation and searching for the underlying cause of the slippage through further trenching. However, during these works, more slumps of soil took place which, I was told, soon put the stability of the neighbouring property beyond the eastern boundary at risk. Sheet piling was accordingly quickly installed in an effort to stabilize the ground but it was not until soakaways close to the boundary and an old well in the neighbour's garden had been uncovered and identified as possible causes, and the piling (which by then had failed) had been re-driven, that building could continue. This, however, necessitated very much more substantial structural

SEVENOAKS DISTRICT COUNCIL

REC'D 16 MAR 2010

COMMUNITY & PLANNING SERVICES

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and engineering works than had originally been intended. It is unnecessary to rehearse the full details of these here, the relevant aspects being that:

- A large basement garage and storeroom has been formed to the east side of the site, from the much increased excavation;
 - The garage/storeroom has effectively been constructed as part of a single contiguous structure with the basement of the house itself;
 - The subterranean floor and walls of the both the garage/storeroom and the house have likewise been “tanked” to prevent water penetration from the surrounding ground;
 - The subterranean walls have also been reinforced, to which the stabilisation lent by garage roof is an integral component, to withstand the pressure from the surrounding ground;
 - A “french drain” has been constructed around the entire perimeter of the structure to relieve substantial continuing water pressure, now believed to emanate from a natural spring line;
 - The water collected from the french drain discharges to two 3,000 litre capacity sumps. These are underneath, and accessed through, a steeply sloping concrete surfaced access ramp that has been formed to access the garage from Farley Lane. The ramp has reinforced retaining walls to either side;
 - The sumps themselves are (and have to be) continuously pumped out, the water being collected as “grey water” for use in the house with the surplus being discharged to a new soakaway (which I was told had been constructed at the Building Inspector’s request);
 - A hedge that formed the eastern boundary of the site partly collapsed into the emergency excavation and a further length of it has since been grubbed out. It has been replaced with a new stepped garden wall, typically about 2.5 metres high and, I estimate, about 50 metres in length. Because of the ground conditions, this has been constructed with a reinforced core and, at the time of my inspection, the whole of its eastern face and part of its western face had been clad with brick. It was designed in collaboration with the neighbour, who is supportive of its retention.
4. The Appellant says that the Council’s Building Inspector has been kept informed throughout and has visited the site on a regular basis, although works have apparently progressed under the Building Notice procedure so no structural calculations or similar details have been produced. Whatever the case may be in that respect, the Council’s Planning Officer did not see the works until August 2008 and it was not until 2 September 2008 that a letter was sent to the Appellant advising of an apparent breach of planning control and requesting the application now subject of this appeal. At that time, the dwelling had been constructed to first floor level, the roof not being erected until October 2008.
 5. As matters currently stand, the shell of the dwelling and garage/storeroom are both now complete and the former is in the process of being fitted out
-

Appeal Decision APP/G2245/A/09/2114987

internally prior to decorating. In addition to the foregoing works, the now submitted plans indicate that the front of the garage would be fitted with a door, and brick piers supporting solid gates would be erected at the entrance from Farley Lane. I was also informed that the retaining walls to either side of the access ramp would be clad with sandstone. The boundary wall would be clad for the remainder of its western face with brick, prior to the entire wall being capped with a tile crease and soldier course.

6. Although the description of the application includes reference to the replacement dwelling permitted under reference SE/07/03532, and must be considered as such (rather than as an extension to an existing dwelling), the proposal before me is effectively a hybrid scheme principally intended to deal with the additional development that has already taken place relative to what had been permitted, and to secure permission for the further works that have not been permitted and still remain to be carried out. As such, it is in part an application submitted in accordance with the provisions of Section 73A of the Town and Country Planning Act 1990 (as amended), for permission for development carried out without planning permission before the date of the application (namely, the various building and engineering works so far undertaken in the form of the construction of the garage/storeroom, together with the entrance ramp and retaining walls and the section of boundary wall). It is also in part an application for new development (namely, the erection of the garage doors, gate piers and gates and the finishing of the retaining walls to the access ramp and of the boundary wall).
7. That is not to say that there are no other changes to the scheme as permitted deriving from the substantial engineering and ground works that have been carried out, or otherwise. Rather, I simply record that no such changes have been specifically drawn to my attention by the Council and that without there being before me any approvals or rejections of subsequent details (such as those required by the SE/07/03532 planning conditions) it is not possible for me to make an authoritative judgment on the subject. I have therefore considered only the supplementary works directly attributable to the construction of the garage/storeroom and boundary wall, as agreed at the Hearing. The garage/storeroom and the boundary wall are also in effect two distinct developments and I will therefore consider each in turn as suggested to me on behalf of the appellant (albeit in the context of potential for a "split" decision), this being an approach not objected to by the Council.

Main issues

8. It was put to me by the local Ward Councillor that this is a case that involves real people and real flooding, that local people do not perceive any harm to the local environment arising from the development, and that the appeal should be determined on the basis of common sense rather than on the basis of law acting in a vacuum. That approach is, in fact, the substance of Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended), which requires that applications and appeals be determined in accordance with the development plan unless material considerations indicate otherwise, it being the latter clause which, among other things, provides for "common sense" to play its part in any such decision. This does not, however, depart from the fact that a balancing exercise between policy requirements and other considerations has to take place.

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9. Within the Metropolitan Green Belt, as here, this balance is of particular importance, because the Green Belts have been an important arm of national planning policy through successive changes in Government over a long period of time. While the Green Belts continue to enjoy widespread public support, the development constraints imposed by them have periodically been challenged through the Courts and the resulting judgements have established a rigorous and disciplined approach to decision making, the framework for which derives from Planning Policy Guidance Note 2 “*Green Belts*” (PPG2). For a decision to be seen to be both robust and fair it is necessary to adhere to that disciplined approach, the final stage of which is to weigh alleged harm against the very special circumstances that might attach to any particular case. It is for this reason that both the Hearing and my ensuing reasoning are structured by the following four main issues:
- (a). Whether the proposal represents inappropriate Green Belt development for the purposes of PPG2 and development plan policy.
 - (b). The effect of the development on the openness of the Green Belt and the purposes of including land in it.
 - (c). The effect of the development on the character and appearance of the area and the visual amenities of the Green Belt.
 - (d). If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Consideration of the main issues:

Issue (a): Green Belt inappropriateness

(i) The garage/storeroom:

10. Paragraph 3.4 of PPG2 advises that the construction of new buildings inside a Green Belt is inappropriate unless it is for a limited range of specified purposes. These include the limited extension, alteration or replacement of existing dwellings. Further explanation is provided by paragraph 3.6 which says that the replacement of existing dwellings need not be inappropriate, providing the new dwelling is not materially larger than the dwelling it replaces, adding that development plans should make clear the approach that local planning authorities will take. The relevant development plan policy in this case is Local Plan policy H13. Clause 4) of this policy requires that the gross floor area of the replacement dwelling does not exceed the gross floor area of the original dwelling by more than 50%. Clause 5) requires that the dwelling is well-designed, sympathetic to the character of the area and sited and designed so as to minimise visual intrusion into the landscape. I do not regard these (or the other) criteria as being alternatives, because clause 5) by itself would provide for replacement dwellings of any size, whether or not materially larger than the original, which would be in direct conflict with PPG2. Rather, I take the policy criteria as having been formulated to guide the assessment of all aspects of proposals for replacement dwellings, so all have to be satisfied in order to demonstrate policy compliance. Among these, clause 4) is the one

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that responds most directly to PPG2 paragraph 3.6 in terms of establishing what is “not inappropriate” development.

11. There is no dispute that the replacement dwelling, as permitted, was 123% larger than the original dwelling that occupied the site and that, as now constructed with the basement garage/storeroom, it is 188% larger than the original. In either case the 50% criterion in clause 4) of policy H13 is vastly exceeded and it follows that both amount to inappropriate Green Belt development, the latter substantially more so than the former. Nor is there any exemption given by the fact that the garage is a supplementary addition to the now existing dwelling. Any such suggestion is dispelled by three facts. Firstly, the garage/storeroom and house have effectively been built as a single structure; secondly, the permission granted by Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) for domestic extensions was withdrawn by condition when permission for the replacement dwelling was granted, and thirdly because the size comparison required by policy H13 is with the original dwelling on the site not the permitted replacement. Argument that the garage is underground does not influence clause 4) of policy H13 or PPG2 considerations of “inappropriateness” because these relate only to size. The judgement in *R (oao Heath and Hampstead Society) v Camden LBC [2007] JPL 1527* further confirms that increases in size below ground level count towards consideration of whether a replacement dwelling is “materially larger” than the original. There is therefore no question in my mind that, for the purposes of PPG2 and Local Plan policy H13, the garage/storeroom represents inappropriate Green Belt development (as, indeed, does the replacement dwelling itself).

(ii) The boundary wall, access ramp and retaining walls to the ramp:

12. I consider these three elements together in issue (a) because in themselves they do not represent “enlargement” of the original dwelling in the sense that any additional floorspace is created by them. Nonetheless, to the extent that their construction has involved building operations and that they may thus be regarded as buildings, they do not fall within any of the categories of development that are “not inappropriate” listed in paragraph 3.4 of PPG2. It follows that they are, by definition, inappropriate. Even if that was held to be incorrect because they represent “engineering and other operations” they would only be “not inappropriate” if the criteria in paragraph 3.12 are met. Those criteria relate to the second main issue, so I return to them there.

Issue (b): Effect on Green Belt openness and purposes

(i) The garage/storeroom:

13. Paragraph 1.4 of PPG2 asserts that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the most important attribute of Green Belts is their openness. Openness is not defined in PPG2 but I take it to mean the absence of visible development. This is an approach which, it would, seem, has also been adopted by the Council when granting permission for the replacement dwelling itself, because the basement then proposed would have been entirely concealed beneath the dwelling’s superstructure. As the Officer report to the Council’s Planning Committee intimates, the harm deriving from the replacement dwelling being

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"inappropriate" development because of the enlargement provided by the basement was outweighed by the consideration that the basement had no demonstrable effect on openness or Green Belt purposes and, when its floorspace was excluded, the above ground increase in floorspace did not exceed the policy H13 50% criterion for replacement dwellings. This is the "flexible approach" that was commended as an exemplar in the appeal at Little Hatch, to which my attention was drawn. In that case, as here, construction difficulties were encountered which led to provision of a lightwell. That rendered part of the basement visible and in turn led to the enforcement notice and planning application subject of that appeal. However, while the Inspector concluded that the appearance of the lightwell did not constitute inappropriate development that impinged on the openness of the Green Belt, the total area of the basement was just 57 sq m, the overall enlargement of the replacement relative to the original dwelling amounted to "a mere increase of less than 5%" and the lightwell was entirely below the general level of the surrounding garden land and not more widely visible.

14. The circumstances in this case are very different. The basement garage/storeroom is a further enlargement, not part of the original permission, it is alongside the replacement dwelling rather than underneath it, thereby much enlarging the spread of the floorplate, and it is very substantial in size (extending to some 150 sq m which, as I remarked at the Hearing, is in itself equivalent to the floorspace of a fairly sizeable dwelling). Moreover, the opening into it and the associated construction of the access ramp, turning area and retaining walls, whether with or without the proposed gate piers and gates, would (in comparison with the lightwell) result in it having a much more visible upstanding presence. In all of these respects it cannot be said that the openness of the Green Belt has been or would be maintained or that the Green Belt purpose of safeguarding the countryside from the incremental encroachment of development has not been, or would not further be, compromised. Returning briefly to the first main issue, it also follows from these conclusions that any engineering or other operations involved in the construction of the access ramp and the retaining walls to the ramp amount to inappropriate Green Belt development.

(ii) The boundary wall:

15. The boundary wall is, itself, a tall and upstanding structure, which is visually impermeable from either side along its not inconsiderable length. Although erected as a garden boundary, domestic gardens are an integral part of the Green Belt and not excluded from the relevant policy provisions. From what I could see of the remaining sections of the original garden boundary hedge, the now existing wall is both significantly higher and more dense than what existed before. In my estimation, there can be no question that the presence of the wall fails to maintain the openness of the Green Belt and, again returning to the first main issue, must also therefore be regarded as inappropriate Green Belt development.

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Issue (c): Effect on the character and appearance of the area and the visual amenities of the Green Belt.

(i) The garage/storeroom:

16. The countryside hereabouts is part of the generally rising land that slopes with increasing steepness upwards from Westerham towards the crest of the Downs in the vicinity of Biggin Hill. The Common itself has an attractive woodland character, the thin scattering of houses on and around it being largely concealed among the trees, though which a network of well-used paths meander from public parking places. The informal and, in places, undefined relationship between gardens and woodland is a particularly notable feature which imparts a strong sense of rurality to the area and creates a distinctive environment of some quality which, I have no doubt, is a much appreciated local amenity. The appeal property is the central one of three large detached houses standing on the south side of the end of a short and narrow spur off Farley Lane as it crosses the central part of the Common. The spur itself has a pea gravel surface and grass verges bordered with hedges to either side, giving a pleasantly arcadian appearance. The neighbouring property to the east has recently been modernised and extended and has brick piers to its front entrance drive, but otherwise the individual properties (including the few opposite) all at present have entrances simply punched through the hedges and no entrance gates.
17. As built, the appeal property is the most eminent of the three, standing slightly closer to the lane, and at a slightly more elevated level relative to its neighbours. It would seem from the approved plans that the original intention had been to retain a former drive and turning area to the east side of the house, and (following deletion of the originally proposed basement garage) to construct a patio area and pergola further to the rear, enclosed behind a 2 metre high garden wall projecting sideways from the flank of the house. In the proposed scheme, the drive and turning area have become the now existing access ramp to the basement garage, and the patio, pergola and garden wall would be constructed on and around the garage roof at about the same ground level as originally envisaged. The resulting appearance from the front would, nonetheless, be significantly changed. In particular, the combined height of the basement garage entrance and the proposed garden wall above it would be some 5 metres, and the retaining walls to either side of the access ramp would (according to the submitted image sketches) slope upwards from just above the level of the Lane to this same height on either side. In contrast with the surface of the Lane, the concrete surface to the access ramp detracts from rurality. Cladding the retaining wall cheeks with sandstone (in comparison with there being no retaining walls at all) would, I consider, have much the same effect. Even without the proposed garden wall in place, I could see that the section of frontage between the permitted replacement dwelling and the eastern site boundary had, in consequence of the works carried out by the time of my site inspection, been transformed to a scene of almost solid urbanity. It seems to me that the works that are yet intended to be carried out would increase rather than diminish this significant and entirely adverse visual impact.
18. It was put to me that the proposed installation of entrance gates would completely screen these works from view. I disagree for three reasons.

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Firstly, the ramp and retaining walls would remain partly visible to either side through the mainly deciduous hedge remaining along the rest of the frontage. Even if supplemented with additional planting, this hedge would not, in my estimation, provide full and effective screening especially during the winter months. There would be nothing, in any case, to prevent trimming or grubbing out of the hedge in later years. Secondly, as the Council contends, there can also be no guarantee that the gates would be permanently, or even usually, kept closed. Thirdly, the gates, even with the gate piers set back behind the hedge (unlike those at the neighbouring property to the east), would still be incongruous with the rural appearance of the lane, albeit less so than the development they are intended to mask. It was further suggested that cars parked in a subterranean garage would be less harmful to visual amenity than cars parked (as permitted) in the open on a drive at ground level. However, while cars are inherently transient in their appearance, the development subject of this appeal would be a permanent visual presence and, despite the suggestion of conditions to control on-site parking, enforcement of the use of the garage would, I consider be impractical and, from the Council's point of view, uneconomic. In sum, the natural landscape quality of the AONB would not be conserved by the proposed development, and the character and appearance of the Lane would be permanently spoilt, as would the visual amenities of this part of the Green Belt.

(ii) The boundary wall

19. To the extent that it has already been faced, the boundary wall is clad in bricks that match the exterior of the house itself and, by way of ornamentation, it also includes a raised diaper pattern. Whatever the merits of both bricks and design, the Council says that it has produced supplementary planning guidance in the form of a Village Design Statement for Westerham and Crockham Hill which advocates the greater use of hedges as boundaries between properties in future developments. The Council further asserts that permitted development rights for means of enclosure (including the construction of garden walls up to 2 m in height where not adjacent to a highway) were withdrawn by condition 4 of the permission for the replacement dwelling. The Appellant claims to have been unaware of the former and not to have appreciated the latter, also suggesting imprecision in the formulation of the condition and pointing to the existence of other high walls in the area. Whatever the case may be in those respects, it seems to me that a wall of the height and length now existing does not represent permitted development and (whether or not finished as proposed, and supplemented with garden shrubbery) detracts from the informal visual relationship that currently prevails between private gardens and natural woodlands hereabouts. It also reinforces rather than reduces the urbanising impact of the development subject of this appeal as a whole. This bears particularly harmfully on the AONB, the natural landscape quality of which would not be conserved by its retention or completion.

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Issue (d): Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

(i) *The garage/storeroom:*

20. Paragraph 3.1 of PPG2 affirms that inappropriate development should not be permitted except in very special circumstances. It adds that inappropriate development is, by definition, harmful to the Green Belt and that the Secretary of State will attach substantial weight to harm to the Green Belt when considering any planning application or appeal concerning such development. Moreover, as paragraph 21 of Planning Policy Statement 7 "*Sustainable Development in Rural Areas*" avers, AONBs have been confirmed by the Government as having the highest status of protection in relationship to landscape and scenic beauty, alongside the National Parks. The conservation of the natural beauty of the landscape and countryside is therefore to be given great weight in development control decisions in these areas. It is apparent from my findings on each of issues (a) to (c) that the development would cause significant harm to both the Green Belt and the AONB. Set against these important national policy considerations are the emergency circumstances under which the development was undertaken and the structural and financial implications of removing the works as they now stand.
21. In the light of all that I have heard and seen in this case, I do not doubt that the excavation of the ground to the east of the permitted replacement dwelling was carried out in response to a genuine emergency and not as a deliberate attempt to flout Green Belt planning control. Nonetheless, the Appellant had plainly been made aware that an almost identical basement garage would be problematic before planning permission for the replacement dwelling was granted, and I am far from convinced that the construction of a such a large reinforced concrete subterranean box was the only way in which ground stability and water flows, when unexpectedly encountered, could have been handled relative to the construction of the basement of the main house alone. The access ramp, in particular, may have been required as a temporary measure while lorry loads of subsoil were being removed from the excavation, but that does not justify the concrete surface or retaining walls to it that have also been built, whether before or after the present application was submitted. Nor is the presence of the ramp or the form and extent of the retaining walls necessary for access to the sumps, which it might also be possible to alter, or re-position.
22. Moreover, the full effect of the harm to the local environment (which, as I saw at my site inspection, extends also to the levelling of the major part of the site, whether by tipping the arisings from excavation or scraping the top soil into a large heap) is not just visual but also potentially physical. Even if sufficiently engineered to enable construction to take place, there can be little doubt that the excavation, tanking and drainage works that have now been carried out have much altered the natural hydrology of the site. Planning Policy Guidance Notes 14 "*Development on Unstable Land*" and 25 "*Development and Flood Risk*" both contain important cautionary advice about the implications of not handling such matters sustainably and with appropriate care, whether at pre-or post-planning stages. By unilaterally constructing (even in an emergency)

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such a substantial scheme of groundworks via the Building Notice procedure, without involving the relevant drainage authorities (including the Environment Agency), it seems to me that there can be no warranty that stability and drainage problems will not recur or simply transfer elsewhere, possibly with serious consequences.

23. There can be no question that the works carried out have involved the Applicant in substantial unexpected cost (albeit, like the excavation cost, much of this would have had to have been faced in any event if the originally proposed garage had been permitted). The cost of now removing or altering the works would also represent a considerable financial burden. However, both in effect are the costs of short-term expedience, and fall to be weighed against the financially impossible to quantify, but far more enduring, harm to interests of acknowledged national importance. In weighing the balance between the two, it would be wrong, in my view, to permit the retention of permanent development solely on the basis that the solidity of its construction did not justify the cost of removing it. I do not suggest that others would purposively risk a similar level of expenditure, but such an approach might well encourage wider disregard for the consequences of progressing alterations to permitted schemes without prior planning clearance. In this particular case, given the Council's flexible stance towards works that are entirely subterranean, and in the absence of unanimity between the structural engineers on either side, I am also not convinced that altering the development in ways that might sufficiently ameliorate its harm in policy and visual impact terms would be excessively costly, even if in doing so the basement became no longer suited to use as a garage/storeroom.
24. I thus come to the conclusion that the arguments advanced in favour of retaining and completing the garage/storeroom in the manner proposed do not amount to the very special circumstances necessary to outweigh the general presumption against inappropriate development in the Green Belt. Nor do they warrant a decision other than in accordance with SE Plan policy C3 and Local Plan policies H13, EN6 and EN1. Nor do they justify the visual harm to the character and appearance of the area, the damage to the natural landscape qualities of the AONB, and the harm to the purposes and visual amenities of the Green Belt that I have identified.

(ii) The boundary wall

25. The considerations pertaining to the boundary wall are similar. I note that it does not reach so far back along the boundary that it would interfere with the root system or canopy of a beech tree protected by Tree Preservation Order. The Council has also indicated that it would have no objection to a wall that was contained in length between the flank of the replacement dwelling and that of the property neighbouring to the east. I make no comment on that, not least because the application before me is to retain and complete the wall in its entirety. My reasoning on the first three issues indicates how I have come to the view that this would be harmful in policy and environmental terms. Although it is argued that the reinforced construction of the wall derived from the ground conditions prevailing as a result of the garage/storeroom excavation, those conditions do not militate against the provision of a boundary hedge, which I consider would be the most appropriate form of boundary in this part of the AONB.

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26. As with the garage/storeroom, I thus come to the conclusions that the arguments advanced in favour of retaining and completing the wall in the manner proposed do not amount to the very special circumstances necessary to outweigh the general presumption against inappropriate development in the Green Belt. Nor do they warrant a decision other than in accordance with SE Plan policy C3 and Local Plan policies EN6 and EN1. Nor do they justify the visual harm to the character and appearance of the area, the damage to the natural landscape qualities of the AONB and the harm to the purposes and visual amenities of the Green Belt that I have identified.

27. I find nothing in any other matter discussed at the Hearing or referred to in the representations to persuade me to any other view. Both parts of the appeal must therefore fail.

D Lavender

Previous report to Committee on planning application (subject to latter appeal) APPENDIX C

Development Control Committee: 17 September 2009

SE/09/00672/FUL Item No 5.03

5.03 - SE/09/00672/FUL Date expired 22 May 2009

PROPOSAL: Erection of replacement detached dwelling (amendment of planning permission SE/07/03532/FUL), to include basement double garage and new 2.5m boundary wall on Eastern boundary. Resubmission of SE/08/00877/FUL.

LOCATION: Four Winds, Farley Common, Westerham TN16 1UB

WARD(S): Westerham & Crockham Hill

Note: **The decision on this application is linked with enforcement issues relating to it. For this reason this report covers both the application and the enforcement issues that arise.**

ITEM FOR DECISION SE/09/00672/FUL

This application is being reported to Development Control Committee following deferral by Members at the last meeting.

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

1) The land lies within the Metropolitan Green Belt where strict policies of restraint apply. The proposed inclusion of an underground double garage and storage area to this replacement dwelling would be inappropriate development harmful to the maintenance of the character of the Green Belt and to its openness. The Council does not consider that the special circumstances put forward in this case are sufficient to justify overriding Government Guidance in the form of Planning Policy Guidance Note 2 (Green Belts), policy SP5 of the South East Plan or policy H13 of the Sevenoaks District Local Plan.

2) The land lies within the Green Belt where strict policies of restraint apply. The proposed 2.5m high brick boundary wall by reason of its height and depth of rearward projection would be inappropriate development harmful to the maintenance of the character of the Green belt and to its openness. This conflicts with Government Guidance in the form of Planning Policy Guidance Note 2 and policy SP5 of the South East Plan.

3) The application site lies within an Area of Outstanding Natural Beauty. The proposed underground garage and storage area by virtue of the level changes, associated ramp, access arrangements and retaining walls and the proposed 2.5m high brick boundary wall by virtue of its height and depth of rearward (southerly) projection, fails to give long term protection to the landscape and would detract from the character and appearance of the area. This conflicts with policy C3 of the South

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East Plan and policies EN1 and EN6 of the Sevenoaks District Local Plan.

ITEM FOR DECISION Enforcement 310/05/085

That authority is given to serve an Enforcement Notice requiring:

Breaking up and removal of the garage roof and backfilling the garage with inert material to be covered with top soil.

Reduction in height of the boundary wall to a height not exceeding 2m above the adjacent ground level.

For the following reasons:

1) The land lies within the Metropolitan Green Belt where strict policies of restraint apply. The proposed inclusion of an underground double garage and storage area to this replacement dwelling would be inappropriate development harmful to the maintenance of the character of the Green Belt and to its openness. The Council does not consider that the special circumstances put forward in this case are sufficient to justify overriding Government Guidance in the form of Planning Policy Guidance Note 2 (Green Belts), policy SP5 of the South East Plan or policy H13 of the Sevenoaks District Local Plan.

2) The land lies within the Green Belt where strict policies of restraint apply. The proposed 2.5m high brick boundary wall by reason of its height and depth of rearward projection would be inappropriate development harmful to the maintenance of the character of the Green Belt and to its openness. This conflicts with Government Guidance in the form of Planning Policy Guidance Note 2 and policy SP5 of the South East Plan.

3) The application site lies within an Area of Outstanding Natural Beauty. The proposed underground garage and storage area by virtue of the level changes, associated ramp, access arrangements and retaining walls and the proposed 2.5m high brick boundary wall by virtue of its height and depth of rearward (southerly) projection, fails to give long term protection to the landscape and would detract from the character and appearance of the area. This conflicts with policy C3 of the South East Plan and policies EN1 and EN6 of the Sevenoaks District Local Plan.

Compliance Period: 6 months

Development Plan

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1 SE Plan Policies

Policy SP5: Green Belts

Policy C3: Areas of Outstanding Natural Beauty

2 Sevenoaks District Local Plan Policies

EN1 General principles

EN6 Areas of Outstanding Natural Beauty

H13 Replacement dwellings in the Green Belt

3 Planning Policy

Planning Policy Statement 1: Delivering Sustainable Development

Planning Policy Guidance 2: Green Belts

Planning Policy Statement 3: Housing

Planning Policy Statement 7: Sustainable Development in Rural Areas

Other Material Considerations

Relevant Planning History

4 SE/07/02532/FUL: Demolish existing house and erect one single house.
Approved 12.2.08

5 SE/08/00877/FUL: Demolish existing house and erect one single house and integral garage. Amendment to planning application SE/07/03532/FUL; Refused on 19.6.08 on the following grounds:

“1) The land lies within the Metropolitan Green Belt where strict policies of restraint apply. The proposal would add to the built form on the land to a degree that would be harmful to the character and appearance of the area. This conflicts with PPG2 and policy SS2 of the Kent & Medway Structure Plan 2006, as amplified by policy H14A of the Sevenoaks District Local Plan.

2) The land lies within an Area of Outstanding Natural Beauty. The proposal would detract from the character and appearance of that area. This conflicts with policy EN4 of the Kent & Medway Structure Plan 2006 and policy EN6 of the Sevenoaks District Local Plan.

3) The land lies within a Special Landscape Area. The proposal fails to give long term protection to the landscape and would harm its character. This

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conflicts with policy EN5 of the Kent & Medway Structure Plan 2006 and policy EN7 of the Sevenoaks District Local Plan.”

Consultations

Westerham Parish Council

- 6 WPC supports this application and understands the unusual circumstances under which permission for the wall was requested.
- 7 Discussion with the owners took place re the soil conditions they found on site which had necessitated a larger excavation than previously approved. This had exposed problems with underground water on site. The owners had consequently been advised that a larger excavation than approved was necessary. Councillor Shutter said that, in his opinion, the report by Mr. S. Childs of 3D Surveying and Engineering Ltd., submitted with the application, did not justify the granting of planning permission for the underground garage. (The General Permitted Development Order 1995 requires that any wall over 2m. high gains planning approval.)

Council's Consulting Structural Engineer

- 8 With regard to your enquiry, the stability and integrity of the house would not appear to rely on the construction of the adjacent garage for the following reasons:
 - 1 The house has its own foundations.
 - 2 Its retaining walls resist the lateral forces applied by the subsoil and ground water.
 - 3 The house has sufficient mass to resist flotation in water saturated subsoils.
 - 4 None of the above requires the garage construction to augment the design of the original house.
- 9 Finally, with or without soil backfilling to the garage, there appears to be no structural significance to either the house or garage.
- 10 Further information has been submitted by the applicant amplifying the structural reasons for undertaking the works. The Council's Consulting Engineer has examined the information but has nothing to add to his previous observations.

Representations

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- 11 A letter has been received from a neighbouring property owner supporting the erection of a new 2.5m high boundary wall on the eastern boundary and commenting that the underground garages would minimise visual intrusion.

Head of Development Services Appraisal

Description of site

- 12 The application site is located to the south of a private access road leading from Farley Lane. The site is within the Metropolitan Green Belt and AONB. The area is characterised by low density, large detached houses set in extensive grounds. Four Winds formally comprised a detached property of no significant architectural merit, which was in poor condition. It has an extensive plot bounded by mature trees and hedges. The original dwelling has now been demolished and a new dwelling is in the process of being constructed.

Description of Proposal

- 13 Planning permission was granted for a replacement dwelling under reference SE/07/03532/FUL. It appears from the plans submitted that this element of the proposal remains very largely as approved.
- 14 The key difference is that the present application seeks to introduce additional underground storage space abutting the east flank and south-eastern rear corner of the house. Described as a double garage, this additional floor space would include a separate boiler room/store. The area, which has already been excavated, equates to approximately 150m² externally and slightly less measured internally.
- 15 A section submitted with the application indicates that the roof to this storage area will meet the natural ground level. The area above is to be terraced. The storage area would be served by a single garage door, approximately 4.3m wide. Access would be provided from the front of property (north) directly from the road and would comprise a ramped access which would slope down from the site boundary adjacent to the road to the entrance. Because the original site level was raised above the road level, the ground level at the entrance point to the store would be roughly 1.2m below the road level. This would entail a concrete retaining wall to the east side of the access ramp, which would extend approximately 11.5m towards the front of the site. The retaining wall to the west side would be similar but incorporate a turning area and steps up to the natural ground level. These works are progressing on site.
- 16 The proposals also include the erection of a brick wall along the eastern boundary of the site with Farleyside. The wall would be set back some 7.7m from the front of the site and extend some 47m to the south at a height of

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2.5m. The wall is described as being of “old fashioned aged walled garden brick wall”. The southern-most section of the wall has already been constructed in blockwork.

Constraints:

- 17 Metropolitan Green Belt, Area of Outstanding Natural Beauty (AONB).

Determining issues

- Green Belt Implications.
- Visual Impact.
- Impact on residential amenity.

Green Belt

- 18 PPG2 (Green Belts) states that there is a general presumption against inappropriate development within the Green Belt. Such development should not be approved, except in very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings inside the Green Belt is inappropriate unless, amongst other things, it is for agricultural and forestry, or the replacement of existing dwelling houses, provided that it does not result in disproportionate additions over and above the size of the original building. The Guidance explains that Development plans should make clear the approach local planning authorities will take, including the circumstances (if any) under which replacement dwellings are acceptable.
- 19 In line with the Guidance, policy H13 of the SDLP sets out the approach the Council will take and sets out a number of criteria with which proposals must comply. Amongst other things, these states that the gross floor area of the replacement dwelling must not exceed the gross floor area of the “original” dwelling (as first built or as stood in 1948) by more than 50%. The replacement dwelling must be well designed, sympathetic to the character of the area and sited and designed to minimise the visual intrusion into the landscape; particular care will be required in Areas of Outstanding Natural Beauty.
- 20 The principle of the replacement of the dwelling has been approved under SE/07/03532FUL. During the consideration of this application, the Council concluded that the original dwelling had a total floorspace of 232.5m² (including 2 garages within 5m of the original house). The replacement dwelling has a total floor area of approximately 518m². This represents an increase of about 123% over the original floor area.
- 21 Whilst the proposed replacement house was considered to represent inappropriate development, it was accepted that very special circumstances

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existed because the increase in built form above ground level was precisely 50% and the basement was contained entirely within the footprint of the house with no light wells or windows, no direct access from outside and not visible above ground level. Accordingly, the replacement dwelling would have no greater impact on the openness of the Green Belt as a result of the inclusion of the basement.

- 22 The present proposals have resulted in the substantial excavation of some 150m² which extends beyond the approved footprint of the house. Combined with the approved building, this would represent a total increase over the floorspace of the original dwelling in the order of 188%.
- 23 The proposals are therefore considered to represent inappropriate development, which by definition is harmful to the maintenance of the Green Belt.
- 24 Government Guidance states that in such circumstances it is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.
- 25 In summary, the applicant has advanced the following circumstances:
 - Severe, unforeseen, construction problems with the foundations and basement structure, largely a consequence of ground conditions and associated drainage issues. This is amplified in a supporting statement by Stephen Childs of 3D Surveying and Engineering Ltd.
 - The openness of the Green Belt would not be prejudiced because the basement garage structure is entirely below ground level.
 - There would be no material difference in terms of the visual impact on the street scene between what was originally permitted and what is now proposed in terms of the overall appearance of the replacement dwelling.
 - The Council has already accepted the principle of a basement to the house.
 - Reference is made to a previous appeal decision within the District.
- 26 Advice received from the Council's Consulting Structural Engineer does not support the applicant's contention that the garage is required to ensure the structural stability of the house.
- 27 PPG2 states that the statutory definition of development includes engineering and other operations, and the making of any material change in the use of

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land. The carrying out of such operations and the making of material changes in the use of land are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt, one of which includes safeguarding the countryside from encroachment.

- 28 With regard to the street scene, it is my view that the wider visual impact would be modest. I accept that with gates in situ and closed and appropriate planting along the frontage public views would be limited. However, it is reasonable to anticipate the gates will at times be open and having viewed the structure from the road directly in front of the site, do not consider the computer generated images submitted in support of the application to be completely representative of the views which can be gained. Viewed from the road, the excavation undertaken to reduce the existing ground level, create an access ramp and the substantial retaining walls is readily visible and consequently, in my view, adds to the bulk of built form of the site to the detriment of the visual openness of the Green Belt.
- 29 Mr Justice Sullivan set out some helpful advice on the balancing exercise that has to be undertaken between very special circumstances and the harm that they can they can cause to the openness of the Green Belt openness in R (on the application of Chelmsford BC v First Secretary of State & Draper [2003] EWHC 2978 (Admin). At paragraph 42 he said: *“The list of development that is appropriate within the Green Belt has changed, but paragraph 3.2 of the current PPG2 emphasises the fact that, even if there is no other harm, for example, to openness, inappropriate development is, by definition, harmful to the Green Belt. This reminds decision takers that it is important that they do not fall into the trap of saying, for example when considering the effect of a proposed development in terms of the openness of the Green Belt, this development is inconspicuous, therefore there will be only be limited harm to the Green Belt. The harm in principle will remain even if there is no further harm to openness because the development is wholly inconspicuous. Adopting this policy approach is essential if the cumulative effect of numerous (inconspicuous) developments in the Green Belt is to be prevented.”*
- 30 With regard to the appeal decision on a site at Little Hatch, Stone Street, Seal, I do not consider the case to be of particular relevance as, amongst other reasons, it did not vary the footprint of the dwelling and was only 5% over the 50% policy limitation set out in policy H13. Furthermore, I am aware of a recent case for a subterranean garage at Cedar Court in Leigh in which the Inspector did not accept the limited visibility of the ramp and underground area and consequent limited visual impact on the openness and character of the Green Belt to represent very special circumstances to outweigh the presumptive harm to the Green Belt.
- 31 In the circumstances, I consider the case advanced for the construction of underground storage does not clearly outweigh the harm which would be caused by reason of inappropriateness and do not consider the circumstances advanced to outweigh the normal presumption against inappropriate development in the Green Belt.

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- 32 With regard to the wall, I would note that even if reduced to 2m in height, it would fail to comprise permitted development as Condition 4 on the planning permission (SE/07/03532/FUL) removes permitted development rights for means of enclosure. Notwithstanding this fact, the proposed wall (part of which has already been erected) would exceed 2m in height over its full depth of some 47m, 33m of which would extend beyond the rear of the new house well into the garden. In my view the wall is a form of development which fails to maintain openness and fails to safeguard the countryside from encroachment and it is thus considered unacceptable in this respect.

Visual impact

- 33 PPG2 (Green Belts) and states that the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt.
- 34 Policy C3 of the South East Plan states that high priority will be given to conservation and enhancement of natural beauty in the region's Areas of Outstanding Natural Beauty (AONBs) and planning decisions should have regard to their setting. Proposals for development should be considered in that context.
- 35 Policy EN6 of the SDLP relates to Areas of Outstanding Natural Beauty and states that development which would harm or detract from the landscape character of these areas will not be permitted. Policy EN1 of the SDLP identifies a broad range of criteria to be applied in the consideration of planning applications. Criteria 1 states that the form of the proposed development, including any buildings or extensions, should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard. Criteria 2) states that the proposed development should respect the topography of the site and retain any importance features. Criteria 3) of policy EN1 of the SDLP states that the proposed development must not, amongst other things, have an adverse impact on the amenities of a locality by reason of form, scale, height or outlook.
- 36 As explained above, the underground storage area, by virtue of the vertical face of the entrance in combination with the ramped access and retaining walls either side, is considered to have a visual impact outside the site, even if relatively limited. I do not consider the impact could be suitably mitigated by soft landscaping. Consequently, I consider this part of the present proposals to unacceptably add to the overall visual bulk of approved built form on the site to the detriment of the openness of the Green Belt and the semi rural and open character of the landscape and thus this part of the AONB.
- 37 With regard to the brick boundary wall, such means of enclosure are not a characteristic of the immediate area, where the visible boundaries tend to be

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more informal in nature, comprising planting including hedges. I would note that Guideline 5/1 of the Westerham and Crockham Hill Village Design Statement, which has been adopted by the Council as supplementary planning guidance, states that “There should be greater use of hedges as boundaries between properties in future development.” I consider the 2.5m high wall proposed would represent an uncharacteristically formal and suburban approach which, especially because of the extensive depth of southerly projection beyond the rear of the houses, would appear as an incongruous feature at odds with the semi-rural and sylvan character of the area.

- 38 In the circumstances, I consider the brick boundary wall would also harm the visual openness of the Green Belt as well as the visual character of this part of the AONB. Though planting may help to soften the impact over time, I consider unlikely that this would be so comprehensive as to fully mitigate the impact.

Impact on residential amenity

- 39 Criteria 3) of policy EN1 of the SDLP states that the proposed development must not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements. Appendix 4 to H6B also states that proposals should not result in material loss of privacy, outlook, daylight or sunlight to habitable rooms or private amenity space of neighbouring properties, or have a detrimental visual impact or overbearing effect on neighbouring properties.
- 40 The storage area is set far enough from neighbouring occupiers to mitigate any direct impact. Despite its height, the neighbouring occupier at Farleyside supports the erection of the 2.5m high brick boundary wall.

Conclusion

- 41 In light of the above, I consider the proposals represent inappropriate development and do not consider the circumstances advanced outweigh the harm in principle to the Green Belt. I also consider the proposals would detract from the visual openness of the Green Belt and the landscape character of this part of the AONB. I therefore recommend refusal on the basis of the inclusion of the basement area and the erection of the boundary wall as proposed.
- 42 In determining to refuse the application, I would also recommend the instigation of enforcement proceedings seeking the removal the additional basement garage.

Background Papers

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Agenda Item 6.1

Development Control Committee: 9 June 2011

310/05/085 Item 6.01 – Appendix C

Development Control Committee: 17 September 2009

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- Site Plan

Contact Officer(s): Mr J Sperryn Extension: 7179

**Kristen Paterson
Community and Planning Services Director**

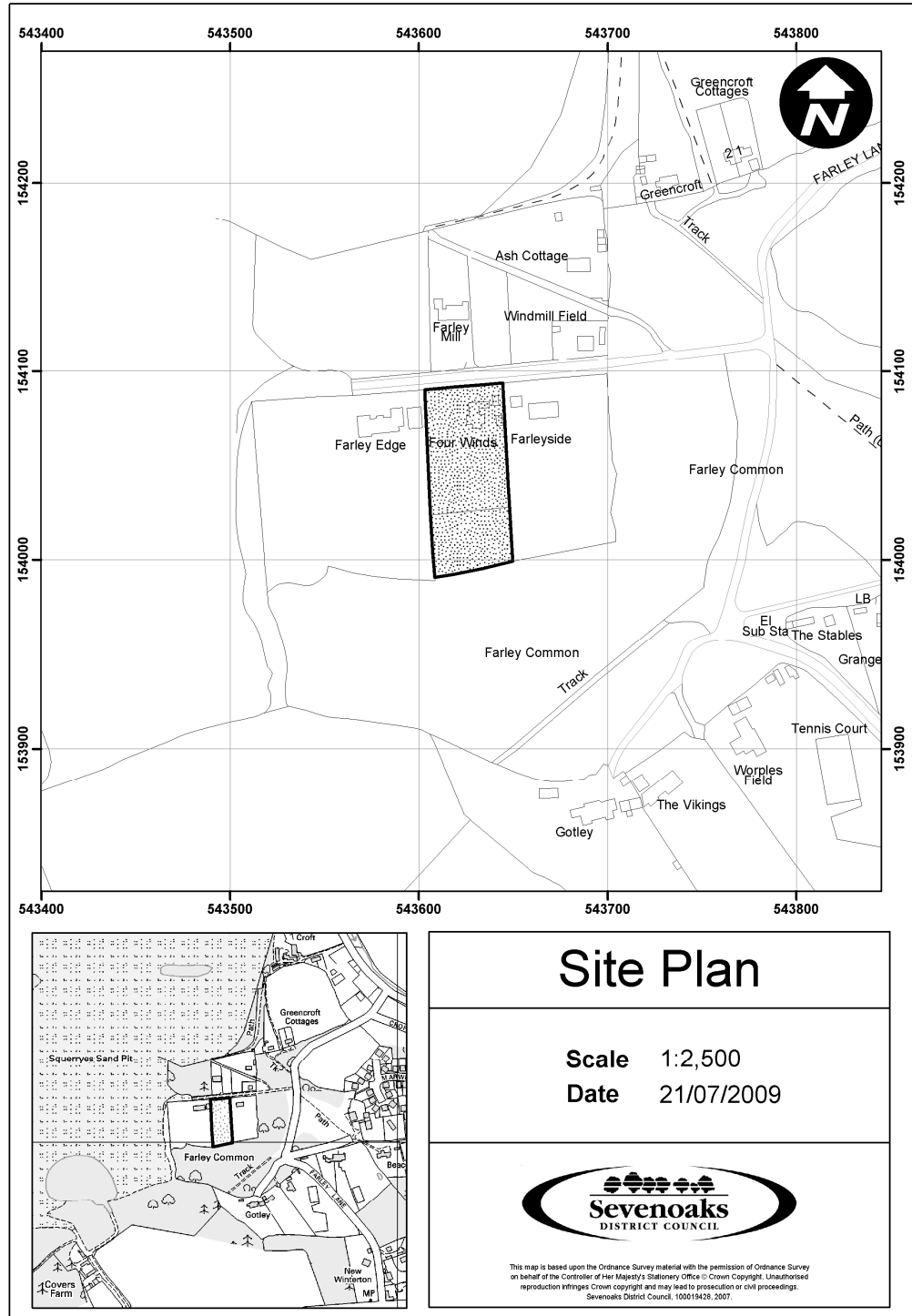
Link to application details:

http://publicaccess.sevenoaks.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=KHH74VBK0H000

Link to associated documents:

<http://idox.sevenoaks.gov.uk/PLWAM/showCaseFile.do?appType=Planning&appNumber=09/00672/FUL>

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Agenda Item 6.1

Development Control Committee: 9 June 2011

310/05/085 Item 6.01 – Appendix D

APPENDIX D

Four Winds –

Copy of correspondence sent to DCC Members post March Committee and SDC Response

From	To	Dated
Mr M Banister	Chief Executive	5.5.11
Head of Development Services	Mr M Banister and Mr R Banister Cc: DCC	21.4.11
Mr M Banister	DCC Members	18.4.11
Mr M Banister	Deputy Chief Executive and Director of Community and Planning Services Chief Executive Head of Development Services Head of Legal and Democratic Services Cc: DCC	15.4.11
Mr M Banister	Chief Executive Deputy Chief Executive and Director of Community and Planning Services Cc: DCC	13.4.11
Mr M Banister	Head of Development Services Cc: DCC	8.4.11
Head of Service	Mr R Banister	30.3.11
Mr M Banister	Head of Development Services	16.3.11

**Farley Edge,
Farley lane,
Westerham
Kent. TN16 1UB.**

Tel:

Thursday 5th May, 2011

Re: Four Winds, Farley Lane, Westerham.

Dear Mr Hales,

Thank you for your letter dated 28th April, affirming Ms Paterson, and your own full agreement with the contents of Mr Kehoe's letter of the 21st April 2011. This will be important when I address that letters failings and inaccuracies, especially in respect of Members and their liabilities. I further note that you state that Mr Morris and Mr Kehoe have full authority to represent you and Ms Paterson at a meeting with me to discuss the Four Winds situation.

Whilst I can readily appreciate that you would, indeed you must, have confidence in these two gentlemen and their ability to represent you in respect of the planning matters, regardless of my views of the merits, or wisdom of this judgement. I think we are all very well aware that this matter has progressed well beyond the confines of only the planning. The transparent and completely unreasonable procedural failings in this case, their consequential impact on the legality of the procedure, the repeated failure to address these matters despite our clear and repetitive protestations, the implications this has had for the proper and reasonable procedural conduct of due process in respect of our planning and its outcome, demands that this is without doubt the remit of Ms Paterson as the head of dept, and you as Chief Executive of the Council, especially given its potential implications for Members.

As the most senior official, responsible for setting and upholding the ethical standards of the Council and its employees, and application of "best practise" and "good governance procedures" and "due process" within the Council, - all powers and responsibilities delegated to you from Members, - it is inconceivable that you could assign any aspects of this discussion to others. Any attempt to do so would represent a gross dereliction of duty, and disregard for the authority that Members have personally vested in you in the first instance.

For these reasons I repeat that I must insist that you and Ms Paterson both attend the meeting that I have previously requested, and the Council has now acceded to. For these reasons I must decline the prospective dates and meeting that has been proposed with Mr Morris and Mr Kehoe, because for the meeting to be effective it must address issues that they cannot be expected to have, or hold responsibility for.

Indeed as I have previously pointed out, and you must recognise, it would be entirely inappropriate of yourself to propose them as the two sole representatives of the Council at such a meeting given their own clear "conflict of interest" related to their past responsibility for, and failure to address, the inappropriate conduct of the Council, which has to be one of the key issues that needs to be addressed at the meeting.

Whilst I am sure this was an unintentional, and unfortunate, albeit an obvious procedural oversight on your part, you will excuse me for pointing out yet another of this endless

litany of failings by the Council. The necessity of having to do so clearly demonstrates the unprofessional and inadequate conduct of our case from its inception to this point, and the total failure by even you, the Chief Executive, to appreciate and comply with reasonable best practise in respect of the proper procedural conduct of our case by proposing a meeting where the Council is represented by only two people, both of whom have a clear conflict of interest, and are either responsible for, or have condoned many of the matters that are so demonstrably improper and unreasonable in our case.

Clearly for any meeting to have the remotest chance of success, which must be its purpose, not just compliance window dressing, it requires objectivity as a primary criteria. However professional these two gentleman may be, they are nevertheless human, which is not a criticism, but a factual observation, and it is unrealistic on your part to believe that they could or would set aside their historical actions in the search for a resolution, or that it is reasonable to expect me to find such a notion credible or acceptable. Conversely as the Chief Executive one of your primary responsibilities is to hold an all pervading view of the totality of issues, and bring a fresh pair of eyes, and perspectives, and potentially judgements, to just such intractable problems that our audit trail of factual errors, and procedural mistakes represent, that are themselves beyond debate and critically compromise the Councils position. The Council has the unavoidable responsibility in law to engage in a negotiated resolution if at all possible, and only to proceed to enforcement when that fails. As the Chief Executive you are now the only untainted Council Official left to undertake this task, so it is both your responsibility and obligation to do so. -- In conclusion you must understand that Mr Kehoe's letter clings principally to the single key issue of the Inspectors judgement. In a court that particular judgement will never be sustainable due to the evidential and procedural compromises SDC burdened it with from the outset. In reality therefore SDC has no sustainable position at all in respect of the Inspectors judgement, but you will only really understand why that is when you attend the meeting with an "open mind", and having grasped the reality through an understanding of the alternate perspective, you will comprehend why a reasoned resolution is the only pragmatic way forward.

To conclude it is not appropriate, nor I believe reasonable to Members, for you to avoid addressing the issues that have arisen in this case, for which Members will now have to account, (and contrary to Mr Kehoe's letter, Members and you should be in no doubt that they are indeed accountable) without your first making an overt, clear, and reasoned attempt at resolution. Further any failure on your part to act as a "reasonable man" will only serve to enhance my case, and be deleterious to that of Members. I do not believe it is "reasonable" for you to act in such a manner, either towards us, or similarly towards Members. I readily concede that it is for Members, and prospectively others, to be the final judge of your conduct in respect of the liabilities that you, and those you are responsible for (the officials), have prospectively imposed on Members, but I would reasonably surmise there is an expectation that you would at a minimum act, and wish to be seen to act, "reasonably". The choice of course is yours, but everyone is watching to see if your actions are compliant with the words.... (and law).

Yours sincerely,

Mark Banister.

CC:
Members of the DCC.
Ms Paterson
Mr Kehoe
Mr Morris
Cllr Bracken

Deputy Chief Executive and
Director of Community and Planning Services:
Kristen Paterson



Mr M Banister and Mr R Banister
Farley Edge
Farley Lane
Westerham
Kent
TN16 1UB

Tel No: 01732 227196
Ask for: Mr Jim Kehoe
Email: jim.kehoe@sevenoaks.gov.uk
My Ref: 3124/796D/JK/RM/NC/tj
Your Ref:
Date: 21st April 2011.

Email:

Dear Mr Banister,

Re: Four Winds, Farley Lane, Westerham, Kent, TN16 1UB

Thank you for your letters of 8th, 13th, 15th and 18th April 2011.

I assume that it is common ground that the basement double garage, retaining structure and 2.5 metre boundary wall as built require planning permission and that the planning permission has not been granted.

In your letter you ask:-

'Would you kindly explain your actions please, especially in relation to the failure to present ALL the information to Members, and how this represents a fair and honest procedure that is compatible with best practice, good governance, and due process.'

When considering the adequacy of the information presented to the 10th March 2011 Development Control Committee meeting, it is reasonable to see this as a step that follows on from the earlier stages of the planning history of the site and in particular the stages set out below.

- The Council's refusal of Planning Permission dated 18th September 2009, (reference SE/09/00672);
- Following the refusal of planning permission on 18th September 2009, (reference SE/09/00672), the dismissal of an appeal to the Planning Inspectorate, in a decision dated 16th March 2010.

The last formal planning decision on the development before the March 2011 Committee meeting was the March 2010 Appeal decision. The remedy available to appellants who wish to have an appeal decision quashed is a right to challenge to the High Court, which is described by the Planning Inspectorate as 'the only method by which the decision can be reconsidered.' However, this right has not been exercised and the March 2010 Appeal dismissal decision stands.

Chief Executive: Robin Dales
Community & Planning Services, P.O. Box 183, Argyle Road, Sevenoaks, Kent TN13 1GN
e-mail: community&planning.services@sevenoaks.gov.uk www.sevenoaks.gov.uk
Telephone: 01732 227000 Fax: 01732 451332 DX 30006 Sevenoaks
Switchboard Times: Monday - Thursday 8.45 a.m. - 5.00 p.m. Friday 8.45 a.m. - 4.45 p.m.



The Inspector appointed by the Secretary of State did consider the arguments advanced in favour of retaining and completing the garage/storeroom.

'I thus come to the conclusion that the arguments advanced in favour of retaining and completing the garage/storeroom in the manner proposed do not amount to the very special circumstances necessary to outweigh the general presumption against inappropriate development in the Green Belt. Nor do they warrant a decision other than in accordance with SE Plan policy C3 and Local Plan policies H13, EN6 and EN1. Nor do they justify the visual harm to the character and appearance of the area, the damage to the natural landscape qualities of the AONB, and the harm to the purposes and visual amenities of the Green Belt that I have identified.' (Paragraph 24 of March 2010 Appeal decision).

Before doing so, the Inspector clearly took into account the absence of unanimity between the structural engineers.

'There can be no question that the works carried out have involved the Applicant in substantial unexpected cost, (albeit, like the excavation cost, much of this would have had to have been faced in any event if the originally proposed garage had been permitted). The cost of now removing or altering the works would also represent a considerable financial burden. However, both in effect are the costs of short-term expenditure, and fall to be weighed against the financially impossible to quantify, but far more enduring, harm to interests of acknowledged national importance. In weighing the balance between the two, it would be wrong, in my view, to permit the retention of permanent development solely on the basis that the solidity of its construction did not justify the cost of removing it. I do not suggest that others would purposively risk a similar level of expenditure, but such an approach might well encourage wider disregard of the consequences of progressing alterations to permitted schemes without prior planning clearance. In this particular case, given the Council's flexible stance towards works that are entirely subterranean, and in the absence of unanimity between the structural engineers on either side, I am also not convinced that altering the development in ways that might sufficiently ameliorate its harm in policy and visual impact terms would be excessively costly, even if in doing so the basement became no longer suited to use as a garage/storeroom.' (Paragraph 23 of March 2010 Appeal decision).

This Appeal decision was included in the March 2011 Committee papers for all to see in full. The Committee's attention was specifically drawn to the issue of the emergency excavation by the inclusion of Paragraph 21 of the Inspector's report in the section 'Considerations' (Paragraph 19) of the March 2011 Committee report.

These above decisions are the main parts of the planning history of the site that are relevant to the decision about the expediency of enforcement. The associated information submitted by all parties is publicly available. To the extent that any new material has been submitted to the Council in correspondence after the Appeal decision, this has not quashed that decision. The Case Officer had seen your correspondence to the Council, and the Local Government Ombudsman with their response, to inform as appropriate the report to Members.

The terms of the proposed Enforcement Notice in respect of the garage/storeroom as authorised at the Development Control Committee on the 10th March 2011 read:-

'Resolved: That Officers be authorised to serve an Enforcement Notice, subject to the Head of Legal and Democratic Services agreeing the wording of the terms of the Notice, requiring the:

- (a) Demolition and removal of boundary wall along eastern boundary of the site between Four Winds and Farleyside.
- (b) Back filling of the garage with inert material and permanent closure of any internal access and permanent cessation of uses within the garage.
- (c) Breaking up and removal of the retaining walls adjacent to the access ramp to the garage and;
 - (i) The restoration of the original ground levels to the front north-eastern corner of the site, or;
 - (ii) The restoration of the original ground levels incorporating the approved parking layout under ref: SE/07/03532/FUL & SE/08/01003/DETAIL, or;
 - (iii) The Implementation of an alternative scheme of restoring this part of the site to include a car parking layout (i.e. not at the original ground level), details of which shall first have been submitted to, and approved in writing by, the District Planning Authority. Such details to include cross sections (both north-south and east-west) to show the original and proposed levels.

For the following reasons:

- (1) The land lies within the Metropolitan Green Belt where strict policies of restraint apply. The developments comprising the retention of a 2.5m high wall and basement garage with access ramps, add to the built form on the land to a degree that is harmful to the character and appearance of the area. This conflicts with PPG2 (Green Belts) and policy H13 of the Sevenoaks District Local Plan.
- (2) The land lies within an Area of Outstanding Natural Beauty. The developments comprising the boundary wall and basement garage with access ramps, detract from the character and appearance of that area. This conflicts with policy EN6 of the Sevenoaks District Local Plan.

Compliance period: Six months'

The significance of this is it leaves the main body of the garage/storeroom intact. It would leave the garage roof in place.

In short the approach to enforcement by the Council allows the retention of the 'concrete box', (the term used by M.F. Pont and Associates in their Survey and Structural Report for Mr R Banister), (2009), but limits its use.

Before making a decision, the Committee was provided with copies of the material you submitted for their attention under the Late Observations procedure. A Building Control Officer was present to assist the Committee.

The Council's process is consistent with PPG 18. The General Approach to Enforcement, Paragraph 5 of that document is of particular relevance. In considering enforcement action the decisive issue is whether the breach of planning control unacceptably affects public amenity or the use of land meriting protection in the public interest. The Inspector concludes that there was nothing presented to him to justify the visual harm to the character and appearance of the area, the damage to the natural landscape qualities of the AoNB, and the harm to the purposes and visual amenities of the Green Belt.

In conclusion on this point, the Committee Agenda drew the main issues to the Members' attention that are relevant to the decision on whether to authorise the service of an Enforcement Notice, which is principally the result of the refusal of Planning Permission and its dismissal at Appeal in March 2010. This is not a failure to provide information.

A second highlighted point from your letter reads:-

'As a consequence of this failure I would consider a signed document by each Member stating that they had received, read, considered, and understood, ALL the information presented by us since inception would suffice in the context', and following from that an underlined section states 'Members must be completely clear of the following. They personally have an ABSOLUTE responsibility in law to assure themselves that they have had, and considered ALL the information relating to the decision before them, and where necessary they have a discreet responsibility to positively ascertain that they have been presented with all the facts and information, and thereby satisfied the actions of a "reasonable man" in law.'

It is a matter for the judgement for Councillors at the Committee as to the extent they consider, and the weight they give, to information received by the Council. The Council's application files are open for public inspection and many parts are available on the internet.

There is no requirement in law for Members to sign any sort of declaration as you have suggested. Furthermore, a Councillor does not take decisions as a private individual but as a Councillor on behalf of the Council. Local Authorities as corporate bodies, are separate and distinct from the persons who comprise an authority for the time being. This means that individual Councillors do not incur personal liability for the consequences of any decisions that they make when acting in good faith.

In response to your letter of the 15th April 2011, there is a process for you to contest an Enforcement Notice if it is issued by the Council. This is the right of appeal to the independent Planning Inspectorate against the issuing of that Notice.

Receipt of your response dated 12th April 2011, to the 'Notice as to interests in land' is acknowledged along with its accompanying letter dated 13th April 2011.

There is one further issue. We have in any event decided to refer this case back to the Council's Development Control Committee as we have identified an issue in relation to the unlawful boundary wall, which means that Permitted Development Rights exist to erect a wall up to a height of 2 metres, albeit that the current height is around 2.5 metres. As this is not stated in the March 2011 report, we will prepare a further report for the Committee to enable consideration of the precise requirement of the notice regarding the wall, and on the material planning considerations arising. I expect the Committee date will be in early June 2011. I do not envisage the issuing of an Enforcement Notice in the meantime.

In response to your request for a meeting, Richard Morris and I are available to meet you on Thursday 5th May 2011, 1.30 – 2.30pm or Friday 6th May 2011, 1.30 – 2.30pm, at the Council Offices.

We acknowledge receipt of a copy of your letter to Ms Andrew of the Sevenoaks Chronicle of the 15th April 2011.

As your incoming correspondence has been copied to the Development Control Committee, this reply is also being copied to those Councillors.

Yours sincerely,



Jim Kehoe
Head of Development Services

Cc: DCC Members
Robin Hales
Kristen Paterson
Christine Nuttall
Richard Morris

Tina Jordan

From: Richard Banister
Sent: 18 April 2011 11:38
To: Cllr Arnold; Cllr Bosley; Cllr Brookbank; Cllr Broomby; Cllr Cooke; Cllr Davison, R; Cllr Dawson; Cllr Gaywood; Cllr Gilbert; Cllr Grint; Cllr Maskell; Cllr McGarvey; Cllr Morris; Cllr Parkin; Cllr Piper; Cllr Ryan; Cllr Scholey; Cllr Underwood; Cllr Walshe
Cc: Kristen Paterson; Robin Hales; Jim Kehoe; Christine Nuttall; Cllr Bracken
Subject: TJ PRINTED FW: Four Winds - Westerham, Kent.

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Attachments: Ltr - Ms Kristen Paterson - 15 April 2011.pdf



Ltr - Ms Kristen Paterson - 15...

Dear Members of the DCC

It has been suggested by a Councillor that the Officers should go straight ahead and issue the Enforcement Notice without further consultation with you, even though it is you, the Members of the DCC, who will be legally responsible for this Enforcement Notice, the Enforcement Hearing that decided it, and ultimately its consequences. As a result of this anomalous suggestion I felt it was important to re-present and remind the Officers of the issues, and the lines of authority, and where the ultimate responsibility rests to make sure that if they did indeed carry out such an action, they issued a justification for this highly improper activity. You will see that I sought advice, and that the advice is relevant to all of us in respect of the law, no matter what your actual view is, of the merits or lack thereof relative to my individual case.

In conclusion I thank you for reading this email and its related attachment, and again I apologise for the necessity of having to burden you with this further material.

Yours sincerely,

Mark Banister.

Farley Edge,
Farley lane,
Westerham
Kent. TN16 1UB.

Tel:

Friday 15th April, 2011

Dear Mrs Paterson, (Mr Hales, Mr Kehoe and Mrs Nuttall)

In view of the Questionable Status of the Enforcement process and procedure, and the advice I have received from the policy advice unit of the Department for Communities and Local Government, that indeed a properly conducted Enforcement hearing must include: ALL the information that pertains to the decision before Members in order for it to be compliant with "best practise, good governance procedures, and due process," and it should certainly NOT be based on only limited and selected elements of information that pertain to the case and decision. In view of this advice, if you choose to issue the Enforcement Notice it would be entirely reasonable for me to insist in the circumstances that you include a justification "in terms" in a separate note related to your decision to issue the Enforcement Notice, and how it is compliant with the above observations. If you choose not to include this note, then I must reasonably insist you include a note explaining why you are not explaining your justifications for issuing the Enforcement Notice, similarly expressed "in terms".

In any event it would seem to be especially important given that the aforementioned issues and obvious deficiencies, that only came to light subsequently as a result of Officers written declarations, that Members must have at a minimum, an opportunity to reaffirm their contentment with the decision that they unwittingly made as a direct consequence of Officers failure to present Members with the full information and facts related to the decision previously put before them. However since it is the Members of the DCC who are legally responsible for the decision, and the Enforcement Notice itself, and similarly have ultimate responsibility for the process, procedure, and conduct of the Enforcement hearing that led to the potential for the issuance of the Enforcement Notice, it would seem only right and proper, not to mention legally correct, that only the Members should make the final formal decision to go ahead, and approve the actual issuance of the Enforcement Notice. After all that is the adopted policy procedure the Council utilised in the first place! That said, one would hope Members would only confirm the issuance of an Enforcement hearing after having appraised themselves of ALL the facts in the case, and the related decision before them as is required in law! (Please see my request of Members contained in my letter to Mr Jim Kehoe of the 8th April asking for; ".....a signed document by each Member stating that they had received, read, considered, and understood ALL the information presented by us since inception would suffice in this context."

It would seem that in light of events, and I would hope everyone's belief in the fundamental tenants of democracy and law, that in practise those that bare the responsibility for a decision should also be to the ones that make it! (I.e. the Members of the DCC, not Officers.) Again if Officers decide to set aside this obvious proper requirement, and issue the Enforcement Notice without at a minimum a clear and transparent process of reversion to the Members in light of the issues previously raised in this letter, then again we feel it is entirely reasonable to insist that Officers should give a full justification "in terms" in a separate note related to their decision NOT to revert to Members in respect of the issuance of the Enforcement Notice, and therefore how this action is compliant with the above observations contained in this letter. If Officers do not choose to include this note then we must reasonably insist that you include a note explaining why you are not explaining your justifications for issuing the Enforcement Notice expressed "in terms" without reversion to the members in light of the observations contained in this letter and made above.

In conclusion, I repeat: The ultimate legal responsibility rests with Members, and therefore it is only Members who should determine what happens next. THEIR preparedness and willingness to PERSONALLY ASSUME the full LEGAL RESPONSIBILITY and consequently justify and defend this legally dubious and obviously deficient process, procedure, and conduct of the Enforcement hearing, that then led to the potential for the issuance of an improper and illegal Enforcement Notice, none of which by the advice I have been given by the policy advice unit of the Department for Communities and Local Government is compliant with "best practise, good governance and due process" as it is required to be in law. – **Again this MUST be MEMBERS decision and choice, and at a minimum Members should have the choice and opportunity to correctly comply with the laws requirements.**

Yours sincerely,

Mark Banister.

CC. Members of the DCC.

**Farley Edge,
Farley lane,
Westerham
Kent. TN16 1UB.**

Tel:

Wednesday 13th April, 2011

Dear Ms Kristen Paterson, (Mr Robin Hales, Mr Jim Kehoe)

Thank you for your email reply to my letter sent to Mr Kehoe, yourself, and Mr Robin Hales. I was saddened and disappointed by your reply on a number of levels, and related issues, which I will address in turn, but in no particular order of precedence.

Given the obvious and evermore parlous position that SDC now finds itself in relative to the legality of the conduct of our case, (and I should emphasise that I make this observation from its commencement, not just more recent events) it would be best for SDC to be seen to be actively engaging in the resolution, rather than the inverse: Continued obfuscation, delay, and the repeated cynical manipulation of Members by Officials in respect of full disclosure. Furthermore in light of your deliberate and abject failure to keep Members fully informed on a timely basis of matters that are intrinsic to Members personally, and pertain to their own legal liabilities, and especially when they "could" be held personally accountable, and have individual action taken against them. You and your colleagues should be clear and never forget that you act as Officers as the Members SERVANTS in these matters. Therefore if I ask you to.....

"...arrange immediate distribution of this letter to all the Members of the DCC." – that's what you do. You do NOT have any right to make judgments on either my behalf, or more importantly Members behalf, as to whether or not you wish to engage in this action. You have to do it as part of your responsibilities, and most especially so when it represents a matter related to full disclosure of a serious formal allegation made against YOUR department, YOUR staff, and YOU personally. Further before you suggest that this matter was indeed in hand, (the distribution of my letter to Members) and especially so as I now raise it (!), permit me to familiarise you with the meaning of the word "immediate" that my sentence quite deliberately contained..... "without a lapse of time; without delay; instantly...." The word "immediate" does not quite obviously stretch to a four day delay!

So permit me to ask a rhetorical question...and supply you with the answer. -- Given that you are the second most senior Official in the Council, why do you think I made this request of you and the Head of Planning and the Chief Executive Officer...

- Was it related to chance?
- Laziness on my part?
- An inability to find out the names and email addresses of the Members of the DCC, all so helpfully published on the SDC website?

Or was it because I wanted to afford you the opportunity of highlighting the ongoing and cynical manipulation by ALL the most Senior Council Officials related to this matter, and lets be clear; that's You, Mr Hales, and Mr Kehoe. You were the addressees of my email and letter, which means you must all have agreed on who would undertake the follow on action, what your reply would include, and the related actions you agreed to take. Similarly you must have agreed what you would NOT include in your reply, (like the reasonable request for a timely meeting) or in this specific case, the deliberate inaction in respect of notifying Members. --- It is precisely all these little deeds that give the tell tale signals as to the depth of the malaise that lies at the centre of your method of execution of the SDC planning system, and the

defective core values set by the most Senior Officials in respect of this important responsibility. It highlights your complete disdain for proper execution of "best practise", and "good governance", and "due process". -- And all this at your own hands in such a simple and clear illustration related to the most basic of requests, to distribute a letter. Those that sit in judgement in due course will find issues like this most revealing and insightful. After all if you can't get the little things right, like forwarding an email to all Members of the DCC that highlights your own failings, what hope of your competency related to more complex ethical matters and judgements, like those that have gone before in our case. -- I can only thank you and your senior colleagues for illustrating the scale of the problem so effectively to Members and others.

In due course the reviewers who will sit in judgement of Members, their actions, and consequently you and your colleagues actions, will also be extremely interested to know your explanation for this and other actions. --- If you are now feeling manipulated, reflect on the fact that you had an equal opportunity to do "right" in the first instance, but it was an act of deliberate choice by you, presumably self serving, but certainly at the observable expense of others (Members), that meant you didn't. The manipulation was all your own, and that of your colleagues who participated in this deliberate course of action, and purposeful decision to fail to inform Members -- "immediately".

This then brings me to the matter in hand. Please find attached a copy of our schedule of declaration as to the beneficial interests in Land whose time limit you did not see fit to extend, we consider quite unreasonably so. Indeed now you have this information you could just go ahead and issue the Enforcement Notice if you decided to.

After all one has to cynically ask oneself the question whether your lack of willingness to notify Members of my letter "immediately" could in anyway be related to your being able to issue the Enforcement Notice "immediately" once you had this information. Then if subsequently questioned by any Member all you would have to do is issue a sycophantic note of belated regret. Thankfully because it is my intention to copy the entire membership of the DCC to this letter we need no longer have this concern, because the light of openness is illuminating any potential dark corners where further sharp practise may still be lurking!

I should conclude by making it transparently clear that in sending this information (the signed copy is in the post) we do not consider it a legal confirmation that you can use in terms in anyway, merely a demonstration of our good faith. We do not acknowledge the legality of your Enforcement Notice hearing procedure or its contents, nor any Enforcement Notice that you might try to issue as a consequence of it. Further we are adamant that it is illegal and improper due to gross procedural and contextual misconduct, and related failings that are fundamental to law, and the failure of the imposition of best practise, good governance and due process. All of which should, and must apply, as we have stated with great clarity in prior communications, and to which all citizens have an absolute right. Indeed such are our entirely "reasonable concerns" as expressed in law, that your procedure and conduct of the hearing will need to be validated via a full Judicial Review for it to be deemed lawful. It is your responsibility to prove its merit via independent review as outlined, not ours to disprove, beyond the initial allegation of transparent misconduct, contextual, and procedural failure.

We have therefore included our reply as a gesture of good faith with the aforementioned caveat, in the hope that by our example, you will at some point reciprocate, and act in good faith, not with standing your obligations under the duty of care to do so.

Given the above it is with more interest and amazement that I note you have engaged Ms Christine Nuttall; Head of Legal and Democratic Services to assist Mr Kehoe in addressing the points I raised in my letter. Given that she too must have read my letter in order to carry out this related task, it does not exactly inspire one with confidence that she failed to correctly advise you, and your colleagues, about the meaning of the word "immediate" in the VERY last sentence highlighted and differentiated in blue text so that it would not be missed..... Clearly Ms Nuttall got off to a flying start, but crashed whilst still within the confines of your office!

So whilst I earnestly look forward to Mr Kehoe's explanation of his actions, ably assisted by Ms Nuttall's veil of legal credibility, they will have jointly pulled off the planning and legal equivalent of turning water into wine, which will doubtless accord them great fame, and much deserved notoriety in planning and legal circles.....If they can achieve this trick of alchemy then I will be the first to congratulate them, and tout their success, but doubly so if they don't pull it off... They should be warned however, many have tried, and all have failed. I am therefore minded to observe that the best answers, are often the shortest answers..... "Sorry, we got it wrong." Or as one famous legal mind observed,... "You can't out run your liabilities, but you can surely make them a lot bigger trying to! – therefore the old saying...."The first cut is always the cheapest." – and that's really good legal advice, with which I assume Ms Nuttall is familiar, and will hopefully see the sense of recommending in this particular case. After all the last time I checked the Law required the whole truth and nothing but the truth (and related facts), not just the conveniently selected and edited highlights.....!

Finally I am minded to observe that my letter of the 8th of April made a number of clear requests, some of which I have already addressed in this letter, but for clarity's sake I will recap so that I can expect a further "immediate" response addressing all these points that remain outstanding; Item 1 is to be addressed by Mr Jim Kehoe; 4 is mute; 5 I am now addressing for you as a consequence of your failure to do so;

1. Would you kindly explain your actions please, especially in relation to the failure to present ALL the information to Members, represents a fair and honest procedure that is compatible with best practice, good governance, and due process.
2. As a consequence of this failure I would consider a signed document by each Member stating that they had received, read, considered, and understood ALL the information presented by us since inception would suffice in this context.
- 3 I expect your early reply agreeing to this meeting. That the meeting will be held at a mutually convenient time by Friday 15 April at the latest,
- 4 your acknowledged agreement to suspend the Statutory notice period related to Mrs N Church's (sorry - Mrs N Clinch (sp)) letter until after the meeting.
- 5 Finally I would ask you to arrange immediate distribution of this letter to all the Members of the DCC

This leaves matters 2 & 3 outstanding.

I would have expected that at a minimum you would have facilitated item 3 it is such an obviously "reasonable" thing to do, so if at first you don't succeed in the immortal words... try, try again. I have to believe that SDC might at least wish to appear to be reasonable?

As regards item 2, I accept that this is an issue for Members but your failure to actively make them aware of it is itself an act of gross misconduct by any third parties judgement, and hardly assists Members to carry something out that they are not aware of It will be interesting to see how Members view your conduct especially now they and their proper conduct will itself be the subject of review at some future point.

Once again I look forward to your early reply.

Yours sincerely,

Mark Banister.

**Farley Edge,
Farley lane,
Westerham
Kent. TN16 1UB.**

Tel:

Friday 8th April, 2011

Dear Mr Kehoe,

Thank you for your letter dated 30th March 2011, received in reply to my letter of the 16th March 2011. (For your ease and speed of reference I attach copies of both letters to this email).

When you re-read my letter of the 16th referred to above, you will note that it asked two clear questions of you;

- 1). "... could you please confirm that you are entirely satisfied that Members had all the pertinent information put before them to enable them to reach a "reasoned" decision..... I will need to see a detailed list of that pertinent information..."
- 2). "I will need to see a detailed list of that pertinent information, **and clear and transparent evidence of its** (all the information) **consideration** (by Members)."

I concluded my letter of the 16th of March saying.... "You will of course appreciate the significance." --- This discreet comment remains true today, perhaps more so in light of your illuminating response dated the 30th of March.

I note your absolute and clear confirmation of the list of material that you deemed prudent and exhaustive to present to Members, selected from the far more extensive information that was available to you, which you positively decided NOT to present to Members, and yet your similarly unequivocal observation that... "as such Members had the necessary information to arrive at a well informed decision." -- that by inference you considered a fit, fair, and proper process, despite your carefully selecting and actively limiting the provision of information available to Members to base their judgement and decision on. Would you kindly explain your actions please, especially in relation to the failure to present ALL the information to Members, and how this represents a fair and honest procedure that is compatible with best practice, good governance, and due process.

It is extremely kind of you to confirm your, the Council Officials, as opposed to the Council Members, position in respect of this important point. -- Clearly Members can only know what you the Officials elect to tell them. Further since Members not only rely on you for the full disclosure of information, but also on you and your Officials for advice in respect of the law and legislation, and its correct interpretation, the Members are ENTIRELY dependent on you for all information inputs in respect of the judgements they "can" make relative to a decision, and are therefore totally compromised if you choose to operate a policy of only limited disclosure of information, and bias to a single perspective when explaining the significance of a disputed fact, or offering a legal and legislative interpretation of that fact. Of course a "reasonable man" as expressed in law, would recognise this clear "conflict of interest", and would not hesitate to rule himself, and all other similarly compromised participants out of the proceedings, and import an independent third party to resolve these issues, and facilitate the open, full disclosure of ALL the information to Members. Similarly only an independent third party could have offered Members unbiased autonomous advice and interpretation in respect of explaining the significance of a disputed fact, or offering legal and legislative interpretation.

Regrettably of course we know you failed to take these obvious and entirely necessary actions, and thereby bring the required rigour and independence to the execution of these devolved Statutory Powers, utilising best practise and good governance procedures that are quiet obviously and properly a necessary requirement for Members to fulfil their legal responsibilities and duties, related to making a fit, proper, and thus legal decision.

I have no doubt that a Judicial Review would take an extremely dismissive view of this highly improper, and the entirely unsatisfactory approach to the conduct of these proceedings in respect of what are, after all, Statutory Powers. I believe the reviewers would hold to this view most especially when there is over two years of disputed correspondence between these same Council Officials and myself, which means in any proper procedural context, it would be inconceivable that these Officials could play any role, much less lead, or conduct the entire process. It is therefore inconceivable that the process that led to this decision could stand from a procedural perspective, as it clearly brings the exercise of the law into disrepute, reflecting as it does an actual process more akin to a Kangaroo Court, rather than the proper formal exercise of Statutory Powers devolved to a District Council. This being the case, the decision would quite obviously fall too, with all the reputational loss this would result in, not to mention the cost of financial compensation. The more mystifying element of this sad tale is that you, and all the most senior Council Officials actively ignored all the warnings and entreaties, both formal and informal, that were made to you in advance. Innocence and ignorance was clearly not part of the decision to proceed, rather hubris and arrogance, which is the more reprehensible given that this endeavour is supported by precious public funds that are being needlessly wasted by you and your colleagues actions, and self evident poor judgement.

Further you all had every opportunity to either enter into negotiations, which you are required to do in law, only pursuing formal Enforcement Action when these negotiations had been comprehensively exhausted. -- The clear and ongoing correspondence will show that you failed to engage properly in this process, much less complete this course of action by a total failure to be "reasonable," as is once again required in law. Alternatively, all be it prematurely, you should have pursued a proper formal process in compliance with "best practise" and "good governance" as I outline above. Instead you did neither, but rather elected to waste public money, and bring the Members and Council into disrepute, by actively pursuing a completely compromised and improper process which I have already described.

The Second half of my question asked in my letter of the 16th March, and I note your letter singularly failed to address in any manner, ... "clear and transparent evidence of its (all the information) consideration (by Members)."

As a consequence of this failure I would consider a signed document by each Member stating that they had received, read, considered, and understood ALL the information presented by us since inception would suffice in this context. -- In making this request I am mindful that the law and legislation requires just this commitment from Members, and therefore my demand would be considered entirely reasonable, and the minimum standard that should pertain to the actions of a Councillor fulfilling his or her legal responsibilities in respect of the actions of "a reasonable person" in law, necessary to consider the imposition of Statutory Powers in relation to the issuance of an Enforcement Notice. Similarly the failure by any Councillor to sign such a reasonable affirmation would be a clear indication of their failure to carry out their duties, since again the law requires and finds appropriate the positive affirmation of, and assurance that, the appropriate and required standards of due process have been met and fulfilled.

Indeed given that all Members of the DCC who were in attendance on March 10th at the DCC meeting voted in support of the motion (save Kevin Maskell who was the sole vote against the motion). All these Members have become individually and collectively legally responsible for the decision to issue a Statutory Legal document "The Enforcement Notice."

It is important that Members realise the weight of their responsibility, and thus assure themselves for their own safety's sake, that they have indeed acted as "a reasonable man" as the law requires. This caution is because they are about to assign their individual names to this action, and become legally responsible for it once this document is officially issued, which fortunately for them, is not yet the case. I am offering all these members this last chance at self examination, and to make a full and clear compliance assessment / statement that they have indeed made their decision, as they are required to do in law, in respect of ALL the information that I have placed before the Council, not just that information which you the Council Officials have deemed prudent to place before them. I should state very clearly that we are firmly of the opinion that if Members have indeed given due consideration to just some of the points discussed in ALL the extensive material that we have presented in this case, it would NOT have been correct, or possible, for Members to have even considered this motion, much less to have passed it. The

prior procedural failings in respect of the original seemingly unqualified Engineer, and consequently the original planning decision, the misdirection of the Inspector at Appeal, and a host of other material issues, the Councils failure to comply with the rules pertaining to expert witness testimony, and much more besides, would alone have ensured any decision by Members in respect of Enforcement Notice was inconceivable and completely premature.

Again whilst you may, or may not have made all the information available to Members (**though by your own admission and disclosure you clearly didn't**), or as importantly, may, or may not have drawn Members attention to key issues, or highlighted or failed to highlight their significance to Members, Members must be completely clear of the following. They personally have an ABSOLUTE responsibility in law to assure themselves that they have had, and considered, ALL the information relating to the decision before them, and where necessary they have a discreet responsibility to positively ascertain that they have been presented with all the facts and information, and thereby satisfied the actions of a "reasonable man" in law. Similarly you, the Officials, are Members responsibility, you work for them, it is Members responsibility to correctly instruct you, and to see that you meet their legal requirements and needs in full. – **Ignorance, or a failure to find out the full facts is subsequently NO DEFENCE for Members, it is their clear and absolute responsibility to inform themselves of ALL information.** –

I am sure that Members will be more than puzzled as to why I am so concerned for their liabilities, in reality I am not, but it is simply a case of mutual beneficial interest. They will be best served if they heed my warnings, and similarly if they do, I and the Council will benefit because reasoned resolution will result, rather than unreasonable, unlawful actions that will have to be fought at considerable expense to everyone, and this unfortunate situation will take still longer in resolution. This very honest point made, the Members should also be aware that it is also beholden to me to demonstrate that in respect of the considerable compensation claim that this entirely unnecessary affair will now unavoidably result in, I will be able to demonstrate that I have been open, transparent, and "reasonable" at every point. Further I will be able to show that I have done everything within my power to point out the issues, act reasonably, and thus minimise the extent of compensation particularly by actively seeking a negotiated settlement of the dispute, rather than a more protracted legal process as the Council seemingly prefers, as judged by its unreasonable actions in pursuit of an Enforcement Notice.

In pointing out the positives I should also be equally clear about the negatives for Members. If Members decide to continue to blindly follow Officers advice, then they need to consider two important things very carefully, and keep them in mind.

This matter is never going to go away, and at some point in the near future absolutely everyone's participation, and actions are going to be examined and scrutinised in considerable detail in a formal setting. The truth seekers will be very interested in respect of what people knew and when, and how they are able to justify their conduct and related decisions and actions. Obviously if my contentions are proved correct then it will have career implications for Council Officials. Similarly if it is found in a formal setting that this Enforcement action should never have been placed before Members, and that clearly if Members had themselves undertaken a proper and compliant discovery process in respect of ALL the information, as they are legally bound to have done, and it is then discovered that had they done so, it would have been impossible for Members to have considered the motion, much less passed it, as they already have. It would then be clear that Members did not fulfil their duties properly, nor conducted their office and responsibilities with due circumspection, as determined by the actions that they have ALREADY taken. In short Members could no longer remain Members of the DCC for entirely obvious reasons, and more than likely would have to resign as Councillors and especially given the financial liabilities that they would have quite unreasonably exposed the Council to, relative to my numerous previous clear warnings. – Again given my prior protestations there can be no claim to ignorance by way of mitigation by either Officials or Members. – Furthermore, given that the proper conduct of due process is a legitimate public concern, and interest, it would be entirely appropriate for me to put all of these matters in the public domain. Then voters can make an entirely informed decision about the competency of their elected Members and their control, or lack thereof, of the paid Officials that work for them, and their collective and reckless disregard for the pursuit of proper procedures, and the consequential mis expenditure of public funds, and the accumulation of totally unnecessary large financial liabilities.

I suggest an immediate period of reflection and self examination by the Council Officers and Members is now called for prior to the proposed Enforcement Notice being issued. Given that I am under a statutory time limit to make certain disclosures to the Council reference the letter I received from Mrs N Church on the 22nd March 2011 which by my calculation demands a reply no later than Tuesday 12th of April. I would therefore ask you to either suspend this time limit temporarily, or make a formal extension to it for a short period.

The Council, both Members, and Officials can no longer afford to deny the reality of this situation. Your actions have denied me due consideration and the application of a proper process that I have an absolute right to, and one would reasonably expect from a Council with such a reputed commitment to standards of excellence. The reality is a process designed to deny the individual a fair hearing based on ALL the facts, and this in the context of the imposition and use of Statutory Powers.

It is simply impossible for you to remain in denial, and given very fortunately for you the status of the Enforcement Notice is not yet resolved.... I cannot see any "reasonable" alternative to the earliest meeting where BOTH sides can put all their cards face up on the table, and at a minimum explore a resolution given the legal responsibilities you have to do this.

Given the gravity of this case, and whilst I appreciate all officers of the Council are busy, I consider the following people are essential participants to this meeting.

Robin Hales	-	The Chief Executive Officer
Kristen Paterson	-	The Deputy Chief Executive Officer and Director of Community and Planning Services.
Mr Kehoe	-	Head of Development Services.

I expect your early reply agreeing to this meeting. That the meeting will be held at a mutually convenient time by Friday 15 April at the latest, and your acknowledged agreement to suspend the Statutory notice period related to Mrs N Church's letter (details previously stated above) until after the meeting. **I look forward to your reply and agreement to these matters and the proposed next step within 24 hours.**

Finally I would ask you to arrange immediate distribution of this letter to all the Members of the DCC.

Yours sincerely,

Mark Banister.

CC Cllr Kevin Maskell
Cllr Elaine Bracken

Deputy Chief Executive and
Director of Community and Planning Services:
Kristen Paterson



Mr R Banister

Tel No: 01732 227196
Ask for: Jim Kehoe
Email: jim.kehoe@sevenoaks.gov.uk
My Ref: 3088/796C/JK/RM/tj
Your Ref:
Date: 30th March 2011

By Email:

Dear Mr Banister,

Re: Four Winds, Farley Lane, Westerham, Kent

Thank you for your email of 16th March 2011, regarding the decision of the Planning Committee in respect of the above property.

The information available to Members for their consideration of Enforcement Action included the following:

- The opportunity to attend a Site Inspection
- The Report to the Development Control Committee.
- Details of the planning history of the site.
- The decision of the Planning Inspector in consideration of the Appeal to retain the development as built.
- The Late Papers circulated at the meeting.
- The Officer Presentation and their Questioning.
- The view of the Local Member who addressed the Committee.

As such Members had the necessary information to arrive at a well informed decision.

I hope this helps to clarify matters.

Yours sincerely,

pp

Jim Kehoe
Head of Development Services

Chief Executive: Robin Hales
Community & Planning Services, P.O. Box 183, Argyle Road, Sevenoaks, Kent TN13 1GN
e-mail: community&planning.services@sevenoaks.gov.uk www.sevenoaks.gov.uk
Telephone: 01732 227000 Fax: 01732 451332 DX 30006 Sevenoaks
Switchboard Times: Monday - Thursday 8.45 a.m. - 5.00 p.m. Friday 8.45 a.m. - 4.45 p.m.



Richard Banister

From: Richard Banister
Sent: 16 March 2011 12:44
To: 'jim.kehoe@sevenoaks.gov.uk'
Cc: 'jim.sperryn@sevenoaks.gov.uk'
Subject: Four Winds, Farley Lane, Westerham.
Importance: High

Reference : Four Winds, Farley lane, Westerham.

Dear Mr Kehoe

As unsatisfactory as I found Thursday evenings decision to be, I am aware that you have yet to formally issue the Enforcement Notice. Before you do issue the Enforcement Notice on Four Winds could you please confirm that you are entirely satisfied that Members had all the pertinent information put before them to enable them to reach a "reasoned" decision, and thereby correctly discharge their legal duties in respect of the Statutory Powers pertaining to the issuance of Enforcement Notices.

You will understand that in order for you to answer this question correctly, I will need to see a detailed list of that pertinent information, and clear and transparent evidence of its consideration. You will of course appreciate the significance.

Yours sincerely,

Mark Banister.

Agenda Item 6.1

Development Control Committee: 9 June 2011

310/05/085 Item 6.01 – Appendix E

Appendix E

Four Winds –

Copy of previous reports etc. relevant to correspondence sent to
DCC Members post March 2011 Committee

From	To	Dated
Marshall F Pont and Associates	Mr R Banister	25.11.09
Building Control Officer	Planner	29.07.09
Building Control Officer	Planner	22.06.09
Planner	Mr M Banister	16.06.09
Planner	Building Control Officer	20.05.09
Building Control Manager	Planner	09.04.09
Stephen Childs	Mr R Banister	13.02.09

SUBMITTED Prior To APPEAL

SURVEY AND STRUCTURAL REPORT

ON

THE EXCAVATIONS AND FOUNDATIONS

TO THE

UNDERGROUND GARAGE

AT

FOUR WINDS, FARLEY COMMON

WESTERHAM, KENT TN16 1UB

FOR

MR. RICHARD BANISTER

FOUR WINDS, FARLEY COMMON

WESTERHAM, KENT TN16 1UB

SEVENOAKS DISTRICT COUNCIL
REC'D 14 DEC 2009
COMMUNITY & PLANNING SERVICES

Marshall F. Pont & Associates
67 Mackerels Plain
Back Lane
Ide Hill
Nr. Sevenoaks
Kent TN14 6BW

Tel.

FOUR WINDS, FARLEY COMMON, WESTERHAM, KENT TN16 1UB

We have been asked by Mr. Richard Banister, the owner of Four Winds, Farley Common, Westerham, Kent TN16 1UB to carry out a Survey and Structural Report on the excavations and foundations to the underground garage adjoining the left hand side of the main house at Four Winds, Farley Common, Westerham, Kent TN16 1UB.

We visited the property on Monday 23rd November 2009 and inspected the property and the site surrounding it.

DESCRIPTION OF MAIN HOUSE AND UNDERGROUND GARAGE (Refer to drawings.(index 1 – 5),

If reference is made to the attached drawings, (index 1 – 5), it can be seen that the main property is two storeys in height with a large basement. The external elevations to the property are of brickwork construction beneath a tiled and pitched roof. To the left hand side is situated an underground garage.

DESCRIPTION OF EXCAVATION TO BASEMENT OF MAIN HOUSE AND UNDERGROUND GARAGE

Reference Mr S. Childs, Structural Engineer, to the owner. Date of report 13/02/09.

Excavations were carried out to construct the underground basement to the main house. During the course of this excavation, very wet and unstable layers of red clay were found containing a high proportion of flints down to 4.0 metres in depth. Although the excavations were battered back, the ground continued to subside around the perimeter of the excavation. Continued excavation to the area of the underground car park revealed two large soakaways, one of which had a land drain running into it. Although these were removed and capped, further substantial saturated conditions were found with further subsidence and collapse of the perimeter excavations.

Further investigations revealed a capped and disused well just inside the boundary of the neighbouring property, (Farleyside).

In order to stabilise the situation, 7 metre steel sheet piles were installed to the Farleyside boundary in an attempt to prevent further erosion and stabilise the ground. It was noted by Mr. Childs that even these sheet piles failed in bending and had to be installed a second time.

FOUR WINDS, FARLEY COMMON, WESTERHAM, KENT TN16 1UB

DESCRIPTION OF EXCAVATION TO BASEMENT OF MAIN HOUSE AND UNDERGROUND GARAGE

(CON'T)

In order to stabilise the situation below ground level a reinforced concrete slab was installed with perimeter retaining walls to the underground garage area.

Throughout this work the Local Authority Building Inspector carried out weekly inspections and was fully aware of the work, not only to the main house, but also to the area adjoining which forms the underground garage.

CONCLUSION

The engineer, Mr. Childs, confirms that when he initially inspected the site which is situated above the crown of a hill there was no suggestion of substantial ground water or evidence of any wells.

In order to carry out the excavation to find the source of the water the whole of the building including basement and underground garage were excavated to discover the source. This resulted in a substantial excavation within the area of the underground garage which had to be dealt with.

The main criteria with regard to the appeal is the structural integrity and stability of the main house with regard to the large excavations formed to the left hand side of it.

1. If the whole of the excavation to the garage was back filled with concrete, the substantial load produced on the sub soils would have over stressed and exceeded the carrying capacity of the sub soil and would have produced differential movement on the main house and would not be acceptable for its structural stability.
2. To back fill with a compacted earth or hard core material would similarly not be acceptable as this would have produced a saturated unstable material which would have caused differential movement to the main house.

CONCLUSION (CON'T)

MFP/saw/2882

2

25/11/09

FOUR WINDS, FARLEY COMMON, WESTERHAM, KENT TN16 1UB

3. To construct a light weight box structure to the area of the excavations is in my opinion the best solution to the problem experienced on this site. Mr. Banister sought the advice of his engineer who recommended this solution and had the work carried out.

In our opinion, the concrete box structure now constructed on site to the under ground garage is the best solution to the high ground water problem experienced on this site. We would strongly agree with the way in which Mr. Childs, the engineer, has suggested it and had it carried out to satisfactory completion.

ADDENDUM NO: 1

COMMENTS ON SEVENOAKS COUNCIL'S ENGINEERS OPINION

ITEMS 1 TO 4

DATED

10TH JUNE 2009

ON

PROPOSED DETACHED PROPERTY AT

FOUR WINDS,

FARLEY COMMON

WESTERHAM,

KENT TN16 1UB

Marshall F. Pont & Associates
67 Mackerels Plain
Back Lane,
Ide Hill,
Nr. Sevenoaks,
Kent TN14 6BW

Tel: _____

ADDENDUM NO: 1

COMMENTS ON THE COUNCIL'S ENGINEERS OPINION ITEMS 1 TO 4 DATED 10TH JUNE 2009

I have the following comments to make.

With reference to the four points raised by the Council's Engineer contained in a letter from Mr. J. Sperryn dated the 10th June 2009 we would comment as follows:

- Item No: 1 The house has its own foundations.
- Reply: House and underground car parking are constructed off one continuous raft with continuous D.P.M. and perimeter retaining walls. There is no structural separation between the two.
- Item No: 2 Its retaining walls resist the lateral forces applied by the sub soil and ground water.
- Reply: Both the underground garage and house have the same reinforce concrete retaining walls which are similar and resist the horizontal earth and water pressures.
- At the junction of the house and garage no retaining wall exists, and the construction at this junction would not be structurally capable of resisting the ground water and earth pressures.
- Item No: 3 The house has sufficient mass to resist flotation in water saturated sub soil.
- Reply: Both the house and garage are constructed off the continuous foundations. No Calculations have been provided by the Council Engineer to support his view.
- Item No: 4 None of the above requires the garage construction to augment the design of the original house.
- Reply: In my opinions the Council's Engineer appears to have viewed the garage and the house as two separate structural entities. From the information provided to me they are not.
- Both the foundations and continuous slab and retaining walls are similar, continuous and contiguous. There is no separation except an expansion joint.
- "The opens garage box section "was the best solution open to the owners to prevent any structural instability to the house.
- As to whether it was the only option. I am sure the owner's engineer, Mr. Child reviewed the situation when he was confronted with the saturated soils and collapsing excavation on the site. Not only would a good engineering practice be required but also reasonable costs to the owners.
- The practical solution constructed does deal with the major problems on the site of substantial ground water and earth pressures. The option chosen appears to be less expensive than the option of sheet piling or concrete piling as alternatives.
- From the information provided to me the concrete box construction adopted for the underground garage appears to be the best and only solution.

CONCLUSION

The Council has demanded that the roof of the garage is removed and the garage is infilled with either concrete or hardcore/earth (inert material)

In our opinion and with reference to the substantial ground water and earth subsoil, the “concrete box” structure now on the site for the basement car park should be retained. It is the best and only solution to the water and soil problems experienced on the site.

If the Authority persists in their demands and their solution is carried out, it is probable the property will be unsaleable.

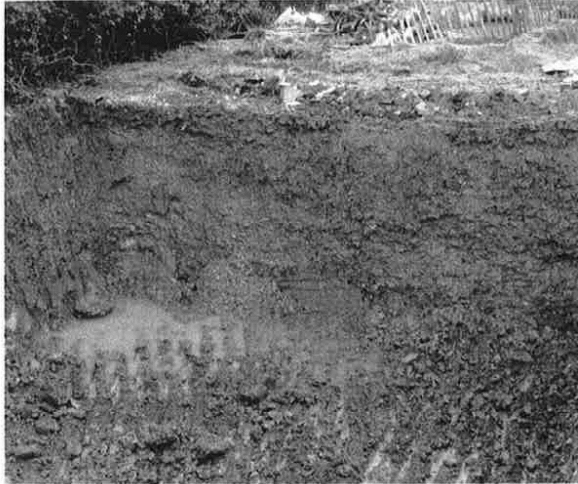
As soon as any prospective purchaser reviews the backfill solution to the garage required by the Authority, they would not proceed with the purchase.

This solution would prevent any possible mortgage or sale of the property to the present owners financial loss.

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This picture shows the water that continuously appeared in the south eastern corner of the excavation nearest the Well in our neighbours adjoining property.



Sheet piles being put in place and hammered down.

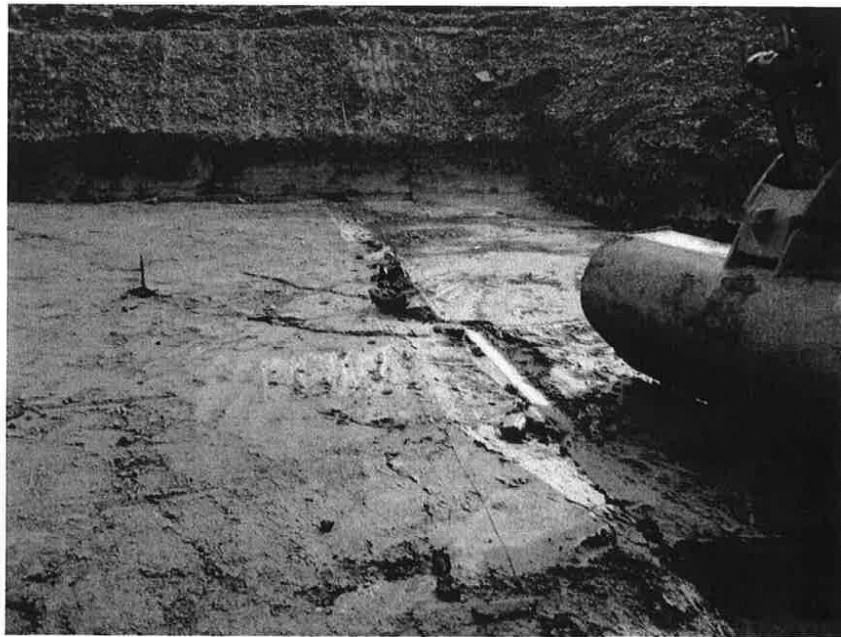
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The line of sheet piles against our neighbours eastern boundary which subsequently had to be re “planted”

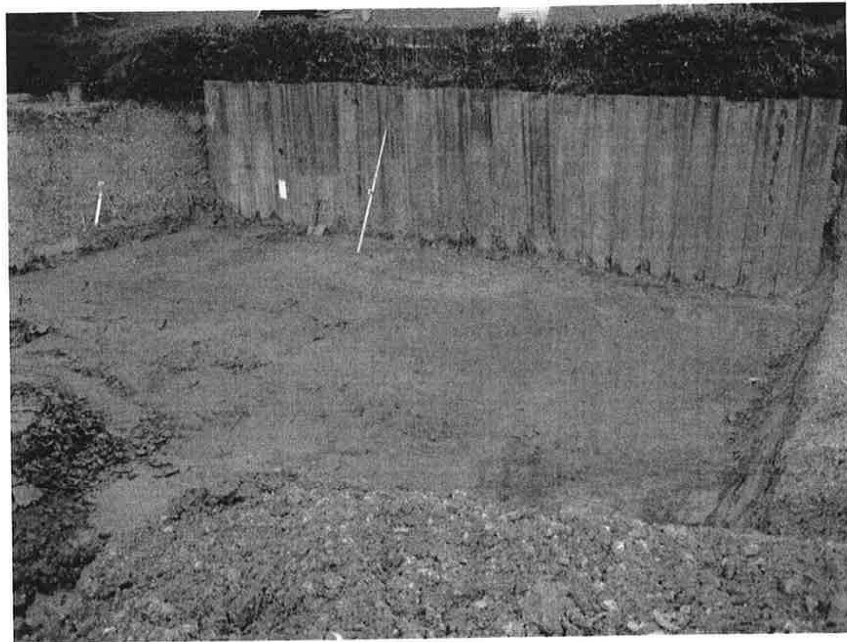


This picture shows the Black gault clay at the slightly lower level as opposed to the red / flinty clay on the sides. You can see that we went down to the points where we encountered the black clay.

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This picture shows you the eastern boundary and its piling. You can also see the water in the right corner, and this is after little or no rain for more than a month.



Opps there go the piles just a few hours after the Digger had been taking away necessitating its return at vast expense to put them in again and sort out the collapsed ground.

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This picture is of the ground to the Western boundary, but the same thing happened to the eastern boundary piling, though for some reason I don't have a picture for this.



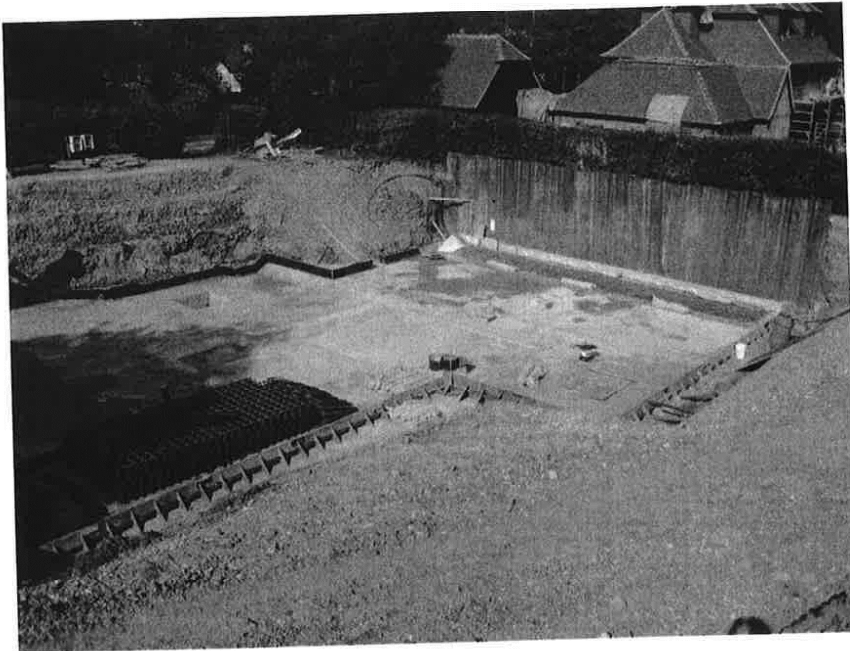
The screed slab area. You can also see just behind the sheet piling how great chunks of ground would just “sheer” off. You can also see this happening at the other end of the sheet piling where there is the beginning of a mound of earth appearing. This happened a lot.

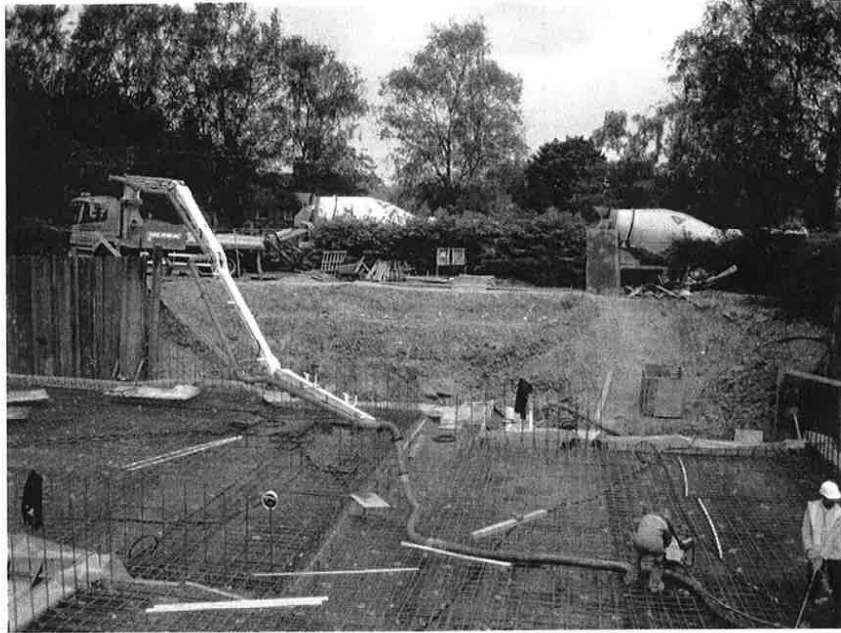
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The slab area in preparation for the bentonite material that forms the waterproofing membrane. You can see the first couple of sections.



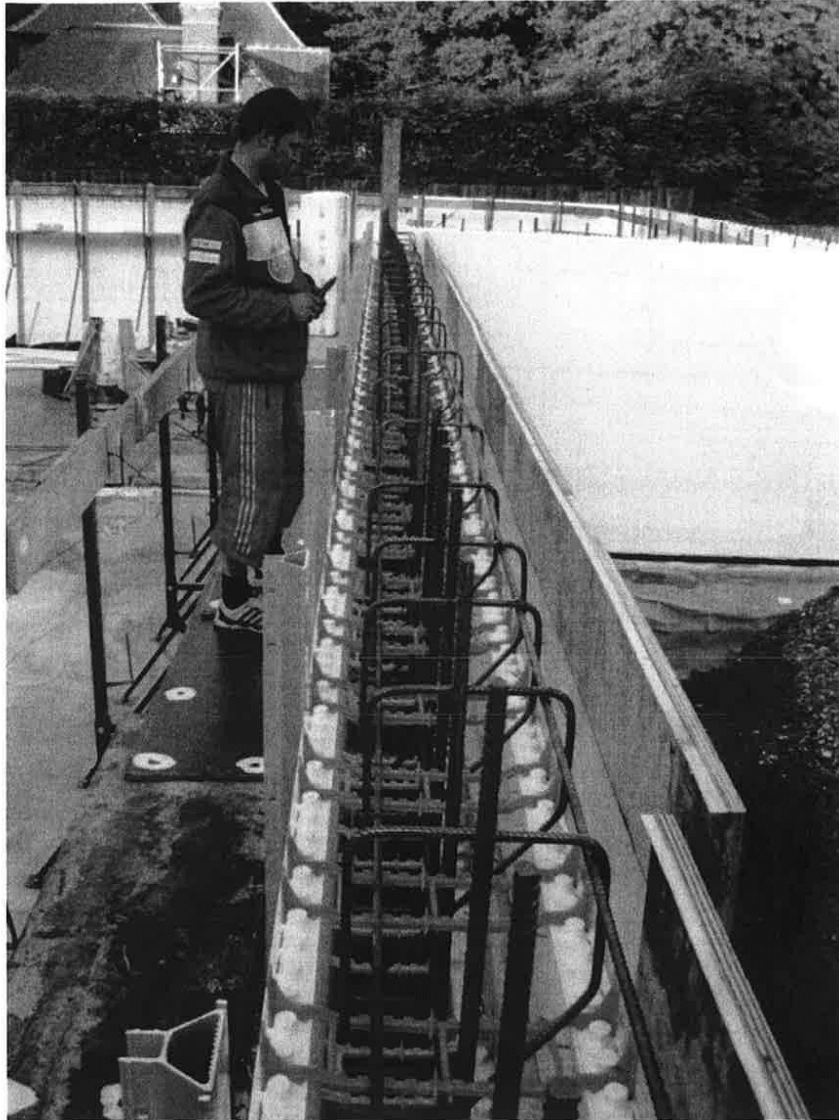


Just at the beginning of pouring the slab..... that's the SINGLE slab..... atleast that's how it looks to me!

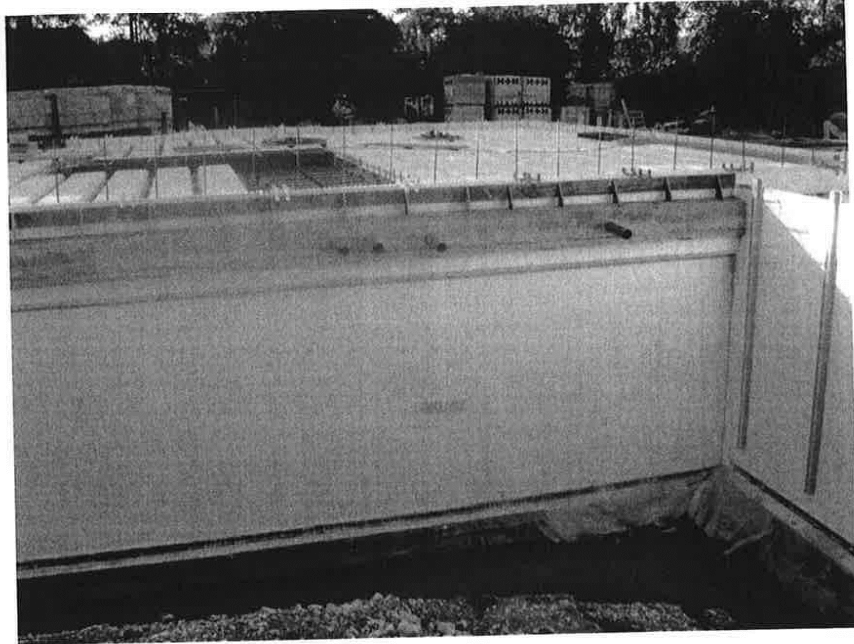
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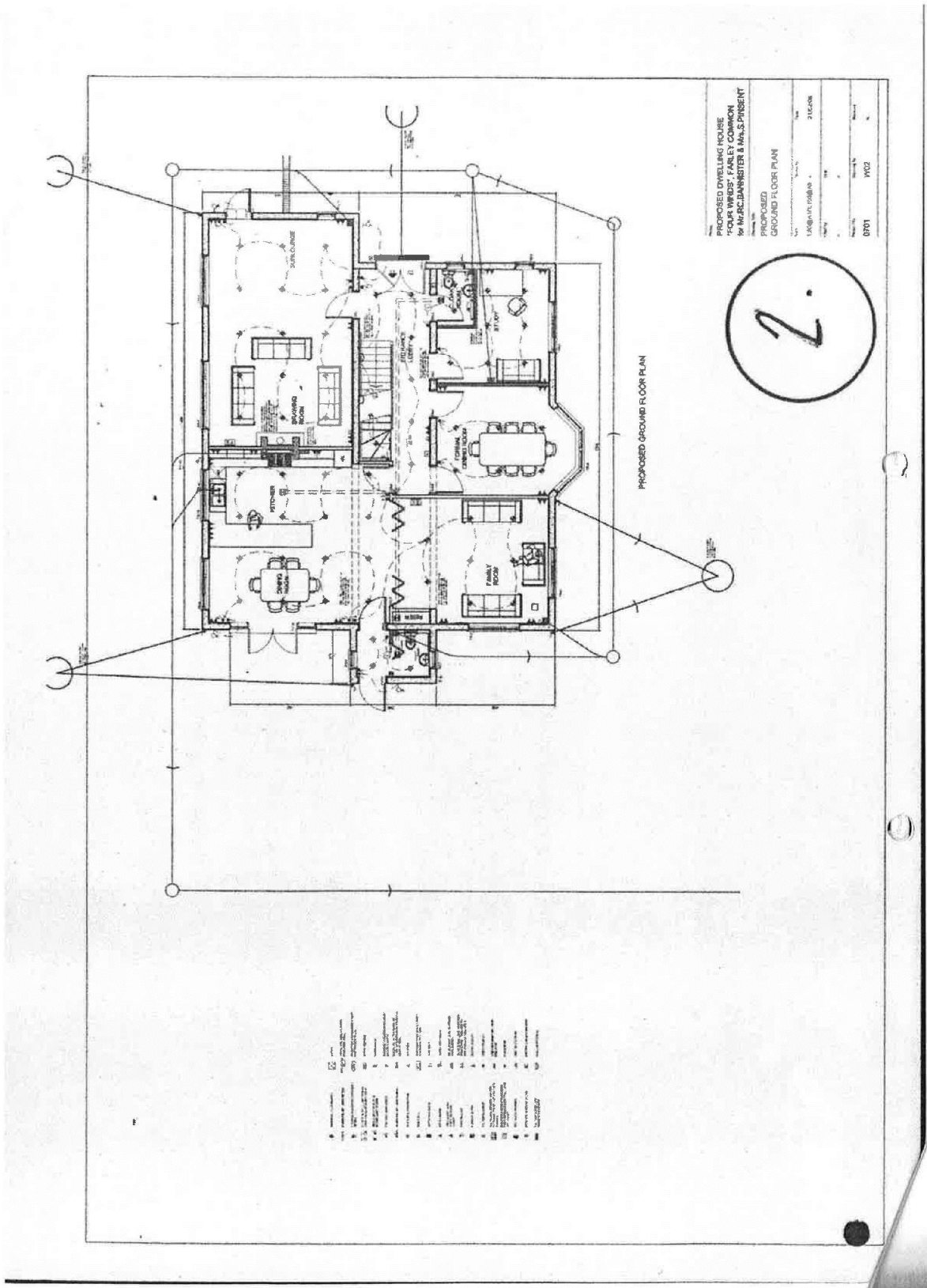
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There is some steel in those walls to reassure you.... You can also see the water in the outside corner of the building around the bottom of the slab. By then we had a pump hooked up to pump it out continuously.



Water.



Building Control

Memo

To: Jim Sperryn

From: Joe Brooks

cc:

Date: 29 July 2009

Re: Four Winds, Farley Common, Westerham

Further to your memorandum of 22nd June 2009, our Consulting Structural Engineer has considered Mr Banister's letter of 16th June 2009 and feels that it would be unwise to enter into dialogue where his professional competence has been criticised in such a personal manner.

has confirmed he has no further comments to make with regard to the observations he made in our memorandum of 20th May 2009.

Joe Brooks
Building Control Officer

File copy

DC South & West

Memo

To: Joe Brooks
From: Jim Sperryn
cc:
Date: 22 June 2009
Re: Four Winds, Farley Common, Westerham

Further to your memorandum of 20th May, I have received a further communication from the applicant's structural engineer strongly refuting the conclusions reached by SDC Consulting Engineer.

If in due course this application is refused, the structural implications of the works undertaken will be a key issue at any appeal and attendance of a structural engineer to support the Council's case will be essential.

In the circumstances, I would be most grateful if you could examine the attached response from Mark Banister and confirm whether or not you wish to add anything to your original comments.

Many thanks for your continuing assistance in this regards.



Jim Sperryn
Principal Planning Officer

**Farley Edge,
Farley Lane,
Westerham,
Kent. TN16 1UB.**

16 June 2009.

Dear Mr Sperryn,

We thank you for summarising the principal arguments and findings of your Consulting Structural Engineer and affording us the opportunity to pass comment on his conclusions.

We are doubly grateful for this opportunity given the erroneous, dangerous, and fundamentally incorrect comments your Consulting Structural Engineer has made.

We appreciate that both sides might be accused of adopting a partisan approach to their respective positions, so for our part we will reference and quote directly from the published literature to demonstrate beyond ANY doubt the veracity of our arguments, their sustainability, and provide absolute proof that in planning terms we have met the requirements for the application of “special circumstances” in this instance.

We will address his comments in the numerical order they were presented.

- 1) **The house has its own foundations.** – WRONG – The house and the garage foundations are contiguous and were poured in one continuous slab. There is a contraction joint cast into the slab at the house and garage junction to manage the worst effects of movement should it occur, and to control and define its location. The design intention of the slab is that it should remain and act as one single slab, which is an altogether different proposition from suggesting that the house and garage are two independent slabs... They are NOT and are not designed to be so.
- 2) **Its retaining walls resist the lateral forces applied by the subsoil and ground water.** – Unfortunately this sentence does not make “it” clear whether you are referring to the House or the Garage, but no matter. The EXTERIOR walls of both the house and the garage are designed to resist the lateral forces and ground water, however it should be clearly noted that the internal walls between the garage and the house were not so designed. Further it should be noted that the exterior walls of the house and garage are continuous and designed to be so, and are junctioned off the same SINGLE slab foundation. In other words were one part of the slab to move independently of the other it would have serious implications for the walls and the house above. Further because the walls are so designed, it assists in minimising the chances of any possible fracturing of the contraction joint and assists in keeping the slab as a single entity which is the design intention, and greatly to be desired.
- 3) **The house has sufficient mass to resist flotation in water saturated subsoils.** – Without wishing to enter into a complex set of calculations and a lengthy technical argument over this point in respect of the completed

building, and its final mass, your engineer is making a boldly overly confident assertion. More straightforwardly your Engineer offers no commentary about how the security of the slab and building might be guaranteed during its construction phase before it achieves the required mass, (something we dispute anyway) which of course has to be ensured so that the final outcome is as desired. This is fundamental, and for this reason alone, his assertion beggars belief. He has completely ignored the hugely powerful effects of volumetric change in clay under different levels of water absorption and concentration.

- 4) **None of the above requires the garage construction to augment the design of the original house.** - We dispute this in the strongest possible terms and reference the definitive expert literature on this subject that defines "best practise." – "Structural Foundations Manual for low rise buildings" by M F Atkinson (second edition). We quote from section 3.3.3 the principal, but not exclusively relevant passage.

3.3.3 Construction problems on clay sites

"Some clay soils are very variable. They often contain water bearing lenses of sands, gravels, and silts as a result of past glaciations. When these are encountered in an excavation (*they were, - please see original submission, or make a site inspection to confirm*) many building inspectors ask the groundwork foremen to excavate deeper in the hope of finding clays at a lower level (*exactly what we did, and found solid gault clay as previously described*). Quite often, excavating deeper can lead to costly foundations. If clays are not encountered within a reasonable distance and the sands are water-bearing, or contain perched water (*they do, and there is a capped well in close proximity as previously described*) the sides of the trench will collapse (*it did several times*) and a large, soft hole will result. The only solution left is to pump out the excavation and fill it with a mass concrete to within 900mm of the ground level.

It will then be possible to compact the granular fill in discrete layers over the mass concrete and provide a raft foundation or wide reinforced stiff ground beam."

The excavation at Four Winds for the basement was some 4m in depth, to have filled the area to one side (the garage area) with mass concrete to within 900mm of the surface would have entailed in excess of 3m of concrete. After some consideration as to cost, practicality, and other factors we elected to build a cube structure (the garage). This was a more elegant engineering solution for a number of reasons that will become clear in a moment. It also used approximately 6 times less concrete, which was both a cost, and environmental consideration, as well as yielding the best engineering outcome, and a structure that we contend has a POSITIVE impact on the openness of the Green Belt by hiding below ground items that would otherwise be above. For all these reasons the merits of the garage and the cube solution were and remain compelling.

One of the principal engineering benefits of the garage being a cube was that it would achieve the same effect as a mass concrete pour as described in the Structural Foundations Manual for low rise buildings, but give it a similar loading to that of the house, (the house is itself effectively a series of cubes). Had it been in filled with solid concrete at a vastly greater density and therefore weight, it would have created a significant differential loading beside the house structure. What you do NOT want is any differential loading, in other words greater weight or pressure on different sides or parts of a structure. This applies to both the slab itself, or just as importantly, the ground beneath it, or the ground beside it. Where there is differential loading in any plain you will induce movement, and with that jeopardise the potential integrity of the structure due to differential settlement. The above referenced Manual has several detailed sections noting these important points and especially in the presence of ground water and clay soils, where issues pertaining to differential settlement and movement are amongst the most severe of any ground types. There are also several sections relating to the particular dynamics of ground water, clay soils, and their particular hazards to buildings in respect of movement due to expansion (heave) and contraction (shrinkage) with varying moisture concentrations over the seasons, and the consequences of volumetric change, and the effects of mature trees in proximity.

Your Consulting Structural Engineer concludes: **“Finally, with or without soil backfilling to the garage, there appears to be no structural significance to either the house or garage.”**

This statement is badly phrased and permits several possible interpretations of meaning so we will answer them all. It is also fundamentally and conclusively incorrect - We have clearly explained that differential loading is highly undesirable for obvious reasons, and that it is a fundamental tenant of good engineering practise to avoid differential loading at every opportunity. In potentially backfilling the garage you would create a differential load of somewhere in the region of x5 and x6 Dead weight compared to that of the house. This would have a direct consequence for the continuous house and garage slab and the ground loadings beneath it as previously explained, and just as importantly the ground to the side. Should the differential load cause an issue with the slab or the ground beneath or to the side, it would have consequences for the exterior walls which are junctioned off the slab and up into the flooring decks above which form the cube structure, upon which the house is similarly constructed. This degree of differential loading would unequivocally induce differential movements and differential settlement into the entire building.

The internal dividing wall between the garage and the house is of block construction and was designed for the purpose of taking vertical load (the vertical walls of the house above) and not any lateral load caused by infilling of the garage with soil. Should the garage be in filled then it would also render it impossible to observe any subsequent effects of the still present ground water, and the inevitable continued movement of the clay soil on that part of the structure, which is itself inextricably linked to the house, as we have conclusively explained.

In summary we could not disagree with your Engineers commentary as to fact, or interpretation, more strongly. Unlike your Consulting Structural Engineer we have backed our position, and the contiguous house and garage building we constructed

utilising the best practise principals that are drawn directly from, and explained in great detail in the definitive engineering manual on the subject, "Structural Foundations Manual for low rise buildings" by M F Atkinson (second edition). We did exactly what the book and best practise says you should do in the circumstances and ground conditions pertaining, with the exception that we built a cube to mimic the dynamics of the house, so as to avoid differential loading and thereby minimise the inevitable effects of movement associated with clay soils in particular.

To conclude by way of summary of your engineers points.

- 1). The raft / slab foundation of the house and garage is one structure, not two independent ones.
- 2). The exterior retaining walls are integral to both the house and garage and linked.
- 3). The house could still "float" and move within the subsoil not least because water saturated clay under pressure becomes liquid and can achieve a near zero shear factor. The reality being that ground movement on clay is an inevitability.
- 4). Contrary and entirely opposite to his assertion, the entire garage construction was designed to exactly augment and compliment the design characteristics of the house and to avoid differential loading, enclose and secure the void areas created during the excavation, minimise and control the volume of ground water within the clay soil around the structure to minimise the potential for undesirable movement, and all in accordance with best practise and the recommendations of the Manual. Your Consulting Structural Engineers conclusions lack credibility, are not supported by facts, or independent credible corroboration, and in some important and fundamental areas are simply wrong.

To Finish the extended area of excavation at the Four Winds site had to be addressed for reasons that must now be transparently clear to even a lay person. We adopted a best practise approach and gave careful consideration to all the circumstances and their likely consequences before adopting the approach we did. The engineering solution is an entirely credible one, which betters many other potential resolutions for all the fundamental reasons we have explained, and as such we commend it to you, and re affirm our belief that it withstands scrutiny. One might conclude retrospectively that other approaches could have been adopted, however it is not their professional insurance and reputation that has to insure the integrity of this house and its longevity. For these reasons and the absolute knowledge that the ground conditions and water issues are not going away, we again reaffirm our belief that the application of "Special Circumstances" in this instance is fully justified and should be applied to this application.

Again we offer our grateful thanks for affording us the opportunity to address these important issues, and correct the incorrect assertions that have been offered to you, and substitute them with the facts as pertain to this application, we greatly appreciate it. It should also be transparently clear that we can confidently support our assertions in a manner that others cannot. We hope that now this has been conclusively demonstrated the matter can be agreed and settled as it should have been already, since the true facts have never varied.

We should make it clear that if Sevenoaks District Council wishes to vary the scheme and its design parameters it would have to guarantee the security of the structure in the context of those changes, given that the post build evidence is that the existing design works, and the proposed changes fall outside of the design criteria. I therefore don't believe your proposition is either reasoned as to the circumstance found on site, or consequentially sustainable.

Yours faithfully,

Mark Banister.

P.S. This letter has been written by the signatory with the technical assistance and direction of Mr Stephen Childs who is currently working on a project abroad with very limited communication. The letter has also been reviewed for content and accuracy by another Civil and Structural Engineer.

Building Control

Memo

To: Jim Sperryn
From: Joe Brooks
cc:
Date: 20 May 2009
Re: Four Winds, Farley Common, Westerham

Further to your memorandum and attachments of 9th April 2009 and our subsequent communications. As requested we have asked Consulting Structural Engineer to provide an opinion of the necessity of the garage structure based on 3D Surveying & Engineering Ltd report dated 13th February 2009 and the information presented to him. confirms that a site visit would not add or alter his opinion.

Comment:

With regard to your enquiry, the stability and integrity of the house would not appear to rely on the construction of the adjacent garage for the following reasons:

1. The house has its own foundations.
2. Its retaining walls resist the lateral forces applied by the subsoil and ground water.
3. The house has sufficient mass to resist flotation in water saturated subsoils.
4. None of the above requires the garage construction to augment the design of the original house.

Finally, with or without soil backfilling to the garage, there appears to be no structural significance to either the house or garage.

20th May 2009

Copy

DC South & West

Memo

To: Kevin Thomsett - Building Control Manager

From: Jim Sperryn

cc:

Date: 9 April 2009

Re: Four Winds, Farley Common, Westerham

Planning permission was recently granted for a replacement house at the above site. Prior to granting permission an "underground" double garage was omitted from the proposals as considered unacceptable in planning terms.

We have now received a planning application at the above site for the retention of the house (which is itself being constructed in accordance with the approved plans) and an underground "double garage" and store measuring some 134m² in area (now in situ). The applicant is alleging that unfavourable soil conditions and poor drainage has resulted in having to construct the underground areas to ensure the stability of the house itself.

I would be most grateful if you could review the information submitted and confirm whether the works undertaken represent the only reasonable option for securing the stability of the house. If so, would there be a sound engineering reason for retaining the garage as an open structure and not filling in the garage with soil.

I attach some of the relevant plans and information for your assistance and would be happy to discuss the matter further if you like.

Many thanks,



Jim Sperryn

SUBMITTED WITH PLANNING APPLICATION
3D SURVEYING & ENGINEERING LIMITED
Blakehall Aerodrome Road, Bekesbourne, Canterbury, Kent, CT4 5EX

Email

CUSTOMER:
Mr R Banister
Four Winds
Farley lane,
Westerham,
Kent TN16 1UB.

DATE: 13.02.09

SE/09/00672

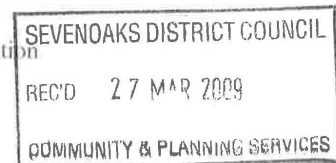
REPORT

To Whom It May Concern:

This is a report explaining the conditions on site, which dictated the way we tackled the excavation and construction of the raft slab and basement of the building. This was undertaken in the most logically practical and safe manner that the soil conditions allowed.

- Excavation of site revealed very wet and unstable layer of red clay containing a high proportion of flint, which increased the shear factor of the ground material especially in wet, the conditions prevailing last year.
- The sides of the excavation were battered back at a relaxed angle – but continued to subside and ground clearly very wet. (Visibly so, particularly severe on eastern side of plot, but not limited to this side alone)
- I requested further excavation of ground to determine source of water and remove sodden material to ensure a stable base platform for the construction and laying of the raft slab foundation.
- Excavation revealed two large soak aways (one with an old land drain feeding into it). – Advised that this previously disturbed ground would now require excavation and inclusion into the raft and slab to ensure integrity of raft foundation.
- Believing issues now fully resolved, we were surprised to find that the relaxed battered extended excavation side to the eastern boundary continued to erode due to sodden wet ground conditions endangering the boundary with the adjacent property. Further investigation revealed a capped and disused Well just inside the boundary of the neighbouring property (Farley Side).
- In light of this obvious and continuing source of water, that my client had no control over, we sheet piled the boundary using 7m piles in an attempt to prevent further erosion and stabilise the ground during construction. (Even these sheets moved and had to be re piled a second time.
- All the additional excavation work on site had revealed that the soil type changed just below the proposed base of the slab from the red clay with flint material, to dense black gault clay. This material is extremely dense and impervious to water and is much more stable and suitable for laying a raft foundation slab on.

Registered in England 6612813 VAT Registration



3D SURVEYING & ENGINEERING LIMITED

Blakehall Aerodrome Road, Bekesbourne, Canterbury, Kent, CT4 5EX

Email

- To ensure the stability of the raft foundation slab I recommended to the client that the slab thickness be increased to 350mm and where necessary to a depth of 600mm to ensure that the entire foundation sat on this much more stable and dense gault clay material. (gault clay is almost impervious to water which may in part account for why the ground above it retains water so well and seemingly does not drain away despite being on the top of the hill).
- The obvious continued presence of substantial amounts of water around the basement of the house and potentially under the raft foundation slab also dictated that a 400mm projection be added to the perimeter of the slab to prevent the slab from floating within the ground, as a direct consequence of the ground conditions and related water pressure.
- I advised the client that all the void areas should be enclosed by a subterranean wall of suitable strength and proportions to prevent the less dense backfilled ground becoming a dangerous source of instability due to its greater capacity to hold water and create water pressure, particularly on one side of the building.
- I further advised a total re think on the proposed waterproofing of the basement and the addition of a comprehensive land drainage system around the perimeter of the house to ensure its internal security and remove as far as possible the water pressure around the perimeter of the building especially in light of the certainty of the continued presence of ground water around the building due to the well and the obvious natural ground conditions that have always kept the well full.
- In light of the aforementioned ground conditions and after further expert consultation the client wrapped the entire subterranean structure in a DPC Benteite material, placed sheet egg box wall drain against the side of the below ground walls, and corrugated plastic sheeting beyond that to ensure its utility. Around the perimeter of the slab a substantial 20mm shingle land drain was created with land drainpipe at its core, and all wrapped in a water permeable membrane to protect its long-term utility. This then feeds into two sets of 3 concrete Milton drainage rings with a sump capacity of 3000 litres. All of this was done to remove the latent ground water pressure and ensure the security of the building.
- The client informs me that even after 3 weeks of no rain over the Christmas period he was having to empty the sump on a daily basis (3000 litres), which only serves to highlight the scale of the water issues on the site and the necessity of enclosing the void space to ensure the security of the entire building.
- Given that the building sits within 500mm of the crown of the hill, and there were no obvious signs of water issues on or around the site when I carried out the original survey in preparation of the planning and building process, I do not consider that any of the ground condition encountered, and the steps that have subsequently proved necessary, let alone the presence of an unknown capped well, could have in any way been reasonably anticipated.

Registered in England 6612813 VAT Registration

SE/09/00672

3D SURVEYING & ENGINEERING LIMITED

Blakehall Aerodrome Road, Bekesbourne, Canterbury, Kent, CT4 5EX

Email:

I therefore feel proper due diligence has been used to adhere to all planning constraints and best construction and engineering practises that the soil and water conditions allowed during the construction of the raft slab and basement. As both an Engineer and Surveyor with particular experience and knowledge of the issues and risk posed by water logged ground conditions (gained in bridge building) I believe the method of construction was the only practical solution that would provide long term security to the structure given the extremely problematic ground conditions; indeed I near insisted that the client adopt my various recommendations in full, which given the post build evidence I feel are more than fully vindicated. Therefore the structure that now has subsequently been built was in my view the only secure engineering option available to us.

Signed.....

Stephen Childs
Director

SE/09/00672

Registered in England 6612813 VAT Registration

Blakehall
 Aerodrome Road
 Bekesbourne
 Nr Canterbury Kent
 CT4 5EX

Tel: :
 Mob
 Email: :

STEPHEN CHILDS

Profile A self-motivated and hard working site engineer with experience in all aspects of the construction industry. Able to use own initiative and work as part of a team. Proven leadership skills, including managing and motivating other staff. An effective communicator at all levels within an organisation. Computer Literate.

Work History March 07- To date PCSE Engineering and Surveying Ltd

Senior Engineer

- I am working as a freelance setting out engineer for this company on a wide range of projects, such as piling civils housing and surveying contracts, which I perform solely with the latest Leica 1200 robotic total station which I have recently purchased. Many of my projects are a combined engineering and management role which helps maintain a smooth and efficient contract.

August 06 – March 07 Coinford Construction Ltd

Surveying Engineer

- Setting out of a seven storey RC frame building in Erith Kent. I was the senior engineer on the project with responsibility for the QA system and programmed requirements. I also carried out all their surveying requirements and produced all relevant drawings.

July 06 – August 06 Okeefe construction (Greenwich) Ltd

Surveying Engineer

- Setting out of new RC framework at Folkestone Academy, which entailed complex high spec circular and multistorey building components. My other responsibility was producing as built survey drawings with Autocad and on site QA control.

SE/09/00672

July 06 Jenner Construction Ltd

Setting Out/ Surveying Engineer

- Setting out new school at Ashford, my duties included setting out of strip concrete foundations, drainage, brickwork and new road scheme

May 06-July 06 Carmalor Construction Ltd

Site Agent / Setting Out Engineer

- My duties involved the day today running of the site which was a new operating theatre at Benenden Hospital, I also performed all of the setting out for project to make it smooth trouble free contract.

Agenda Item 6.1

Development Control Committee: 9 June 2011

310/05/085 Item 6.01 – Appendix E

Dec 05-Apr 06- D J Ellis Construction Ltd

Setting Out Engineer

Setting out of new wind farm maintenance building in Whitstable harbour, duties involved drainage, formwork for foundations, brickwork and holding down bolts for steel frame building.

Jan 05 – Oct 05 – Jackson Civil Engineering Ltd

Setting Out Engineer

- Setting out of new housing estate in Swindon, duties included laying out drainage, foundations, brickwork, kerbs and roads. . Also taking charge of company quality control system ISO 9001.

1998 - 2005 Stewart & Phillips Groundwork's Ltd

Setting Out Engineer

- I have worked on a large variety of projects all around the south east of England from water treatment plants to major construction sites and the housing sector setting out every element of the projects. I also have extensive R.C experience.

1996 –1998 Kent Structural & Marine Ltd Sheerness Kent

Setting Out Engineer

- My duties involved the setting out of complex steel bridge structures in the fabrication stages through to the site erection of the projects. I was also responsible for the company QA systems. Projects include The Millennium Bridge London, Mill on the Exe Bridge Exeter, Gosport Lifting Bridge.

AutoCAD Technician

I am a fully qualified auto cad technician using auto cad 2007, I have qualifications in 2D, 3D surface modelling & 3D solid modelling which I use to it's full advantage when setting out on site.

I also use Terramodel civil engineering software for volumetric and survey work.

I also have all my own setting out equipment which is a Leica 1200 Robotic Total Station

SE/09/00672

Education

1984 -1985 Canterbury Technical College

- Computer studies Technical Drawing and Business Management

1979 – 1984 Frank Montgomery School Canterbury Kent

- CSE Passes in English, Mathematics, Geography, History and Science
- CITB Advanced Surveying and Setting out
- City and Guilds computer aided draughting & design 2 dimensional level 3
- City and Guilds computer aided draughting & design 3 dimensional level 2

Skills

- Use and application of Personal Computer
- Full clean UK Driving Licence
- Strong interpersonal skills
- Qualified Autocad Technician
- Qualified setting out engineer
- Qualified banksman/slinger

References

Available on request.

SE/09/00672

7.01 - Objection to Tree Preservation Order number 1 of 2011

Located at Crispins, The Street, Horton Kirby, South Darent

ITEM FOR DECISION

This report sets out details of objections received to this order.

RECOMMENDATION:

That the Tree Preservation Order No 1 of 2011 be confirmed without amendments.

The Site and Background

- 1 Tree Preservation Order (TPO) No. 01 of 2011 relates to an individual Ash tree located within the garden of Crispins, The Street, Horton Kirby.
- 2 This order was served following a notification (SE/11/00045/WTCA) to remove this tree. It's loss would have a negative impact on the amenity of the local area.

Representations

- 3 An objection to the TPO has been received from the owners of the property, Mr & Mrs Rayment. The owners have stated within their objection that the Ash tree, has an overbearing affect on their property. When the garden is viewed from the rear of the house, the main stem of the tree dominates the view. The owners also state that the tree causes all surrounding buildings and furniture to be coated in a green residue, probably algae that requires constant attention. The seeds deposited by this tree are also a nuisance as they seem to drop throughout the year and young seedlings are forever emerging on the drive. The owners also state within their objection that this tree sheds branches both small and larger limbs up to 3 inches in diameter. They are concerned as their children play within the garden. The owners also claim that at some point they wish to widen their driveway, as the present drive is too small. The location of the tree would prevent this from happening. They also intend to install solar panels onto the roof of their property and are concerned that the shade cast by the Ash tree would prevent these from working effectively. Mr & Mrs Rayment are concerned that the roots of this tree would damage or block the drain located 3m from the base of this tree.
- 4 A second objection has been received from Mrs M Millward, the resident of Days Cottage, The Street, a neighbouring property, with regards to the protecting of the Ash tree. Mrs Millward is objecting on the grounds that the removal of this tree would not be detrimental to the local amenity. Mrs Millard is also objecting on the grounds that this tree is a nuisance with regards to the seeds that it sheds (and resulting seedlings) and the shade that it casts. The shade cast results in significant moss and weed growth. Mrs Millward is also concerned that the roots of this tree could damage the main drainage pipe that runs through the rear gardens of her property and those of her neighbours.

- 5 A third objection has been received from Mrs D Snape, the resident of Dale Court, The Street, Horton Kirby, another neighbouring property. Mrs Snape objects on the grounds that the Ash tree is unattractive and has no significance historically or for the local community. Mrs Snape also objects on the grounds that this tree is too large and too close to her property and that of the owners. Mrs Snape is concerned that should this tree fall, considerable damage would occur to her property. Mrs Snape also objects on the grounds that this tree casts extensive shade over her house and garden resulting in extensive moss and weed growth. Mrs Snape also objects on the grounds that this tree sheds extensive numbers of seeds that result in a large number of seedlings which have to be removed otherwise young trees become established. Mrs Snape is also concerned that the root system of the Ash could damage the main drainage system within her garden and those of her neighbours.
- 6 In response to the first objection, the Ash tree is a mature specimen and so has been present within the garden for some time. The overbearing nature of this tree must have been present previously and not happened overnight. The overbearing nature of this tree could be alleviated by carrying out pruning works, which we would be happy to advise on. With regards to the problems of algae falling from the tree, unfortunately this is a natural phenomenon which cannot be prevented. However, garden furniture could be covered or stored away to prevent them being damaged. Sensitive pruning could allow more natural light into the garden which in turn would help lessen the Algae and Moss growth. The problem of seeds being shed is a seasonal event that usually occurs during the autumn. General garden maintenance should prevent seedlings becoming established. Some form of pruning works can reduce the number of seeds produced each year. With regards to falling branches, all dead/dying or broken branches can be removed as an exemption, consent is not required to carry out these works. It is usual for a mature tree to shed deadwood during its lifetime. However, mature trees should be inspected on a regular basis to ensure they are in a sound and healthy condition. With regards to the proposed extension of the driveway, this would be subject to planning consent and so the likely effects on the tree would be considered before a decision is made. With regards to the installation of solar panels, Ash trees do not cast excessive shade and so should not prevent the panels from working effectively. An application to thin the canopy could be made in order to allow more light to reach the roof of the property. With regards to the threat of damage to neighbouring pipes and the drainage system, no evidence has been provided to indicate that damage has or will occur. Roots can penetrate pipes but only if there is a defect such as a crack or hole within the pipe. Given the age and size of this tree, there is nothing to indicate that damage to the neighbouring drainage system will occur within the near future.
- 7 With regards to the second and third objections from the neighbouring properties, no evidence has been produced that the Ash tree would cause damage to these premises either directly or indirectly. Providing this tree is in a sound and healthy condition, it should pose little or no threat to the adjacent properties. The problems associated with shade, overhanging branches falling branches/seeds etc could be overcome by carrying out a pruning operation. This would require the submission of an application for consent. Providing the proposed works are reasonable, then consent would be granted. Pruning works should also help to prevent the canopies of these trees blocking sunlight to the properties and their

gardens. All of the concerns raised can therefore be adequately dealt with by a suitable pruning option.

- 8 The problem of restriction of light and overhanging branches etc. could be overcome by sensibly pruning the canopy of this tree. This would require an application for approval and the consent of the owner. This tree is situated in a prominent position adjacent to a main road and opposite the Public House. Its removal would be very much noticed and would have a negative affect on the local landscape.

Conclusion

- 9 Given the aforementioned information. It is suggested that the details as provided within the objection to this TPO are not founded. It is my recommendation therefore that TPO 01 of 2011 should be confirmed without amendments. Please find attached TPO/01/2011 (Appendix 1).

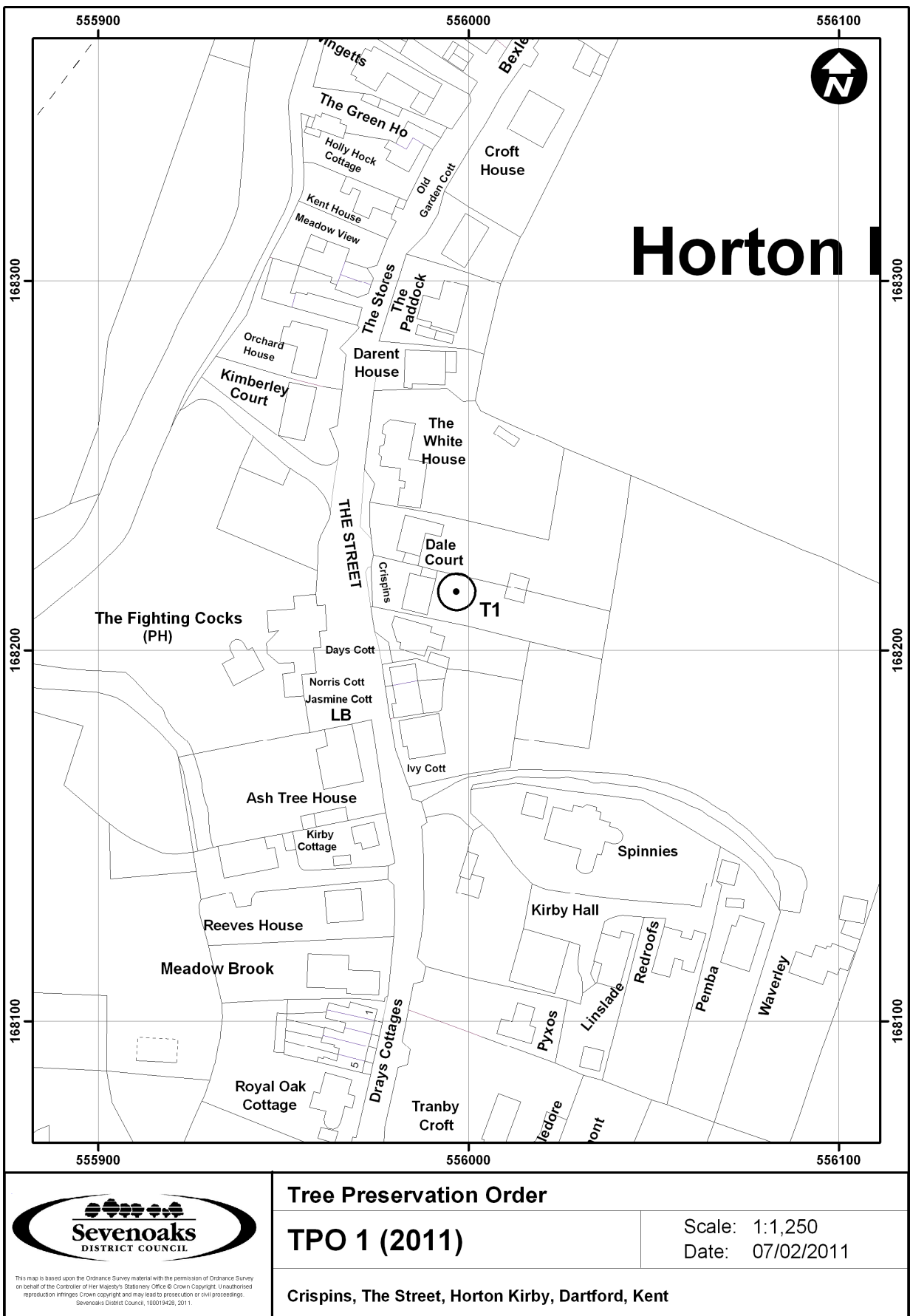
Background papers

Site Plan

Schedule 1

Contact Officer(s): Mr L Jones Arboricultural & Landscape Officer
Extension 7289

Kristen Paterson
Community and Planning Services Director



SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation*</u>
T1	Ash	Situated within the rear garden of Crispins, The Street, Horton Kirby.

Trees specified by reference to an area
(within a dotted black line on the map)

<i>Reference on Map</i>	Description	<u>Situation*</u>
	None	

Groups of trees
(within a broken black line on the map)

<i>Reference on Map</i>	Description	<u>Situation*</u>
	None	

Woodlands
(within a continuous black line on the map)

<i>Reference on Map</i>	Description	<u>Situation*</u>
	None	

* complete if necessary to specify more precisely the position of the trees.

7.02 - Objection to Tree Preservation Order number 6 of 2011

Located at 14 Woodlands Rise, Swanley

ITEM FOR DECISION

This report sets out details of objections received to this order.

RECOMMENDATION:

That the Tree Preservation Order No 6 of 2011 be confirmed without amendments.

The Site and Background

- 1 Tree Preservation Order (TPO) No. 06 of 2011 relates to an individual Oak tree located within the garden of 14 Woodlands Rise, Swanley.
- 2 A request was received from the owner of the property that this tree be protected by a preservation order. The loss of this tree would have a negative impact on the amenity of the local area. TPO 06 was served in order to protect this tree as it is situated outside of a conservation area and was unprotected.

Representations

- 3 An objection to the TPO has been received from the owner of 42 Haven Close, Swanley, Ms T Hodges. Ms Hodges objects on the grounds that this tree has damaged the boundary wall between the two properties and consent was given by the tree owner to the cutting back of several overhanging branches. These works cannot now be carried out without LPA consent. Ms Hodges also claims that the roots of the Oak tree have damaged the soakaway to their property, although this has not been proven. Ms Hodges' main objection is that the serving of this order would prevent the damage to the boundary wall and the soakaway from being resolved.
- 4 In response to the objection, damage has occurred to the boundary wall, this is beyond dispute. No evidence has been provided to prove that the tree was the cause of the damage. Given the proximity of the tree to the wall, it is extremely likely. The fact that the Oak tree is protected should not prevent the wall from being repaired. Who is responsible for the repairs is a matter for the owners and their insurers to determine. The overhanging branches could be cutback, this would require the submission of an application for consent. Providing the proposed works are reasonable, then consent would be granted.
- 5 The objections to the serving of this order appears to be the constraint it places on the affected parties, with regards to carrying out requested tree works. This could be overcome by the submission of an application to carry out periodic pruning works. This tree is situated in a prominent position adjacent to neighbouring gardens. The Oak tree is very prominent, its removal would be very much noticed

Agenda Item 7.2

Development Control Committee: 9 June 2011

TPO/06/2011 Item No 7.02

and would have a negative affect on the local landscape. I have visited 42 Haven Close to assess the situation. It was made clear at this time that the objectors do not wish to see the tree felled. It is also clear that there is a maintenance issue and that the Oak is overdue to be pruned, which I will support and advise on.

Conclusion

- 8 Given the aforementioned information. It is suggested that the details as provided within the objection to this TPO are not founded. It is my recommendation therefore that TPO 06 of 2011 should be confirmed without amendments. Please find attached TPO/06/2011 (Appendix 1).

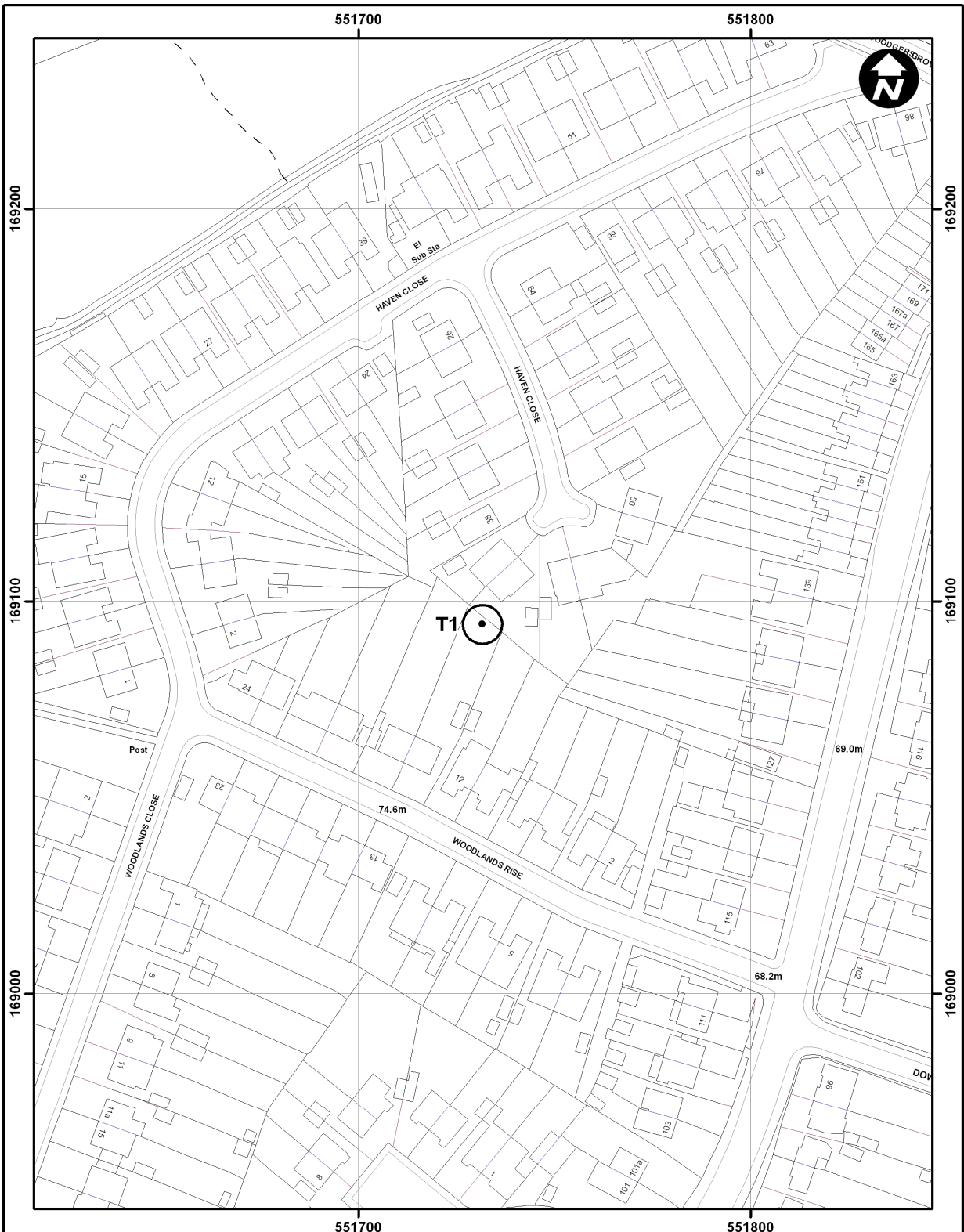
Background papers

Site Plan

Schedule 1

Contact Officer(s): Mr L Jones Arboricultural & Landscape Officer
Extension 7289

Kristen Paterson
Community and Planning Services Director



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Tree Preservation Order

TPO 6 (2011)

14 Woodlands Rise, Swanley

Scale: 1:1,250
 Date: 07/03/2011

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually

(encircled in black on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation*</u>
T1	Oak	Situated on the northern boundary of 14 Woodlands Rise, Swanley.

Groups of trees

(within a broken black line on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation*</u>
	None	

Woodlands

(within a continuous black line on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation*</u>
	None	

* complete if necessary to specify more precisely the position of the trees.