

DEVELOPMENT CONTROL COMMITTEE

14 February 2013 at 7.00 pm

Council Chamber, Argyle Road, Sevenoaks

AGENDA

Membership:

Chairman: Cllr. Mrs. Dawson

Vice-Chairman Cllr. Williamson

Cllrs. Mrs. Ayres, Brookbank, Brown, Clark, Cooke, Davison, Dickins, Gaywood, Ms. Lowe, McGarvey, Orridge, Mrs. Parkin, Piper, Scholey, Miss. Thornton, Underwood and Walshe

Pages

Apologies for Absence

1. **Minutes** (Pages 1 - 10)
Minutes of the meeting of the Committee held on 17 January 2013
2. **Declarations of Interest or Predetermination**
Including any interests not already registered
3. **Declarations of Lobbying**
4. **Planning Applications - Group Manager - Planning's Report**
- 4.1. **SE/12/02797/FUL - Land To Rear of 7 Serpentine Road, Sevenoaks TN13 3XR** (Pages 11 - 30)
Erection of a detached two bedroom dwelling on land adj. 7 and 9 Serpentine Road, including the provision of 2 parking spaces and incorporating the demolition of existing detached garage.
- 4.2. **SE/12/01819/OUT - The New Inn, 75 St. Johns Hill, Sevenoaks TN13 3NY** (Pages 31 - 44)
Outline application for demolition of the New Inn Public House and erection of 13 one bedroom units and one 2 bedroom unit with all matters reserved
- 4.3. **SE/11/01874/FUL - The Red Barn, Stack Road, Horton Kirby, Dartford DA4 9DP** (Pages 45 - 84)
Conversion of barn to residential use, with demolition of some associated structures as amended by plans received 5 December 2011

4.4. **SE/12/03108/FUL - Asda Stores Ltd, London Road, Swanley BR8 7UN** (Pages 85 - 94)

The proposal involves the siting of 2 no. steel storage containers located to the rear of the store - The containers are to be used for Christmas stock and firework storage during the period of November through to February

4.5. **SE/12/02566/FUL - Fingz , 143C High Street, Sevenoaks TN13 1UX** (Pages 95 - 100)

Creation of new access on Pembroke Road to flats above and new rear access to retail unit

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.)

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 227350 by 5pm on Monday, 11 January 2013.

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.

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DEVELOPMENT CONTROL COMMITTEE

Minutes of the meeting held on 17 January 2013 commencing at 7.00 pm

Present: Cllr. Mrs. Dawson (Chairman)

Cllr. Williamson (Vice-Chairman)

Cllrs. Mrs. Ayres, Brookbank, Clark, Cooke, Dickins, Gaywood, Ms. Lowe, McGarvey, Orridge, Mrs. Parkin, Piper, Scholey, Miss. Thornton, Underwood and Walshe

Apologies for absence were received from Cllrs. Brown and Davison

Cllrs. Ayres, Bosley, Mrs. Cook and Edwards-Winsor were also present.

103. Minutes

Resolved: That the minutes of the meeting of the Development Control Committee held on 13 December 2012 be approved and signed by the Chairman as a correct record.

104. Declarations of Interest or Predetermination

For openness, Cllrs. Mrs. Ayres, Bosley and Dawson stated in respect of item 4.3 SE/12/02540/FUL Land Rear of the Rising Sun, Fawkham Green, Fawkham, Longfield that they were occasional users of the Rising Sun pub.

Cllr. McGarvey stated in respect of item 4.1 SE/12/03106/FUL Land West of 5 Mill Lane, Shoreham that he had acted as a temporary Clerk to Shoreham Parish Council during the Summer of 2012.

Cllr. Mrs. Parkin stated that she knew of the applicant for item 4.3 SE/12/02540/FUL Land Rear of the Rising Sun, Fawkham Green, Fawkham, Longfield.

Cllr. Miss. Thornton declared a Disclosable Pecuniary Interest in item 5.1 Objection to TPO/17/2012 - 48 Brattle Wood, Sevenoaks as she had carried out some work for neighbours of the property. She withdrew from the meeting while the item was considered.

Cllr. Williamson stated that the applicant for item 4.2 SE/11/02722/CONVAR Sevenoaks Boxing Club, Unit 19, Gaza Trading Estate, Scabharbour Road, Hildenborough was a customer of his shop.

105. Declarations of Lobbying

Cllr. Ms. Lowe declared that she had been lobbied in respect of item 4.1 SE/12/03106/FUL Land West of 5 Mill Lane, Shoreham.

Agenda Item 1

Development Control Committee - 17 January 2013

Order of the Agenda

The Chairman indicated that, with the approval of Members, she would deal first with the tree preservation order at item 5.1 as the Officer concerned was not involved in any other matters on the agenda.

Tree Preservation Orders

106. Objection to TPO/17/2012 - 48 Brattle Wood, Sevenoaks

The Committee was informed that the Order related to an Oak tree situated in the rear garden of 48 Brattle Wood, Sevenoaks. A Tree Preservation Order had been served following a planning application which would have levelled the garden and impacted the tree by putting soil around it.

The Arboricultural and Landscape Officer considered that, although situated in a rear garden, the tree was prominent and could be seen from the front of the property, from neighbouring gardens and the highway. Its loss would have a negative impact on the amenity of the local area.

Objections had been raised concerning the tree's size, growth, leaves and pruning. The Officer reminded the Committee that a TPO did not prevent pruning but protected the tree from unreasonable pruning.

Resolved: That the Tree Preservation Order No. 17 of 2012 be confirmed without amendments.

Reserved Planning Applications

The Committee considered the following applications:

107. SE/12/03106/FUL - Land West of 5 Mill Lane, Shoreham TN14 7TS

The proposal was for the erection of 4 houses (1 semi-detached pair and 2 detached) and the provision of 8 car parking spaces. The proposal was to be set back from Mill Lane with the proposed dwellings sited behind the rear building line of the existing houses and with a courtyard arrangement containing the parking provision to the front.

The site was bounded by residential dwellings with the listed Mill Lane Cottages to the north east and Oxbourne Cottages to the north west. It lay within the Shoreham Mill Lane Conservation Area, an Area of Outstanding Natural Beauty and was adjacent to the Metropolitan Green Belt.

The Case Officer explained the site history, including the 3 planning appeals. Officers considered that together the history had set defined parameters for development on the site. Since the last appeal decision the design of the proposal had been simplified, including flat roofed dormers, and the height line had been reduced from 9.6m to 7.3m.

Members' attention was drawn to the tabled Late Observations sheet. It was noted that a Members' Site Inspection had been held for this application.

The Committee was addressed by the following speakers:

Against the Application:	Marina Barnett
For the Application:	-
Parish Representative:	Cllr. Richard Inness
Local Member:	Cllr. Edwards-Winser

Following concerns raised by Members, the Kent County Council Highways Engineer explained that at the first appeal KCC had raised an objection concerning access to the site. A demonstration was made at appeal that vehicles could turn around on site, though it was tight. Officers had also pointed out that the narrow access prevented vehicles going in both directions at the same time and raised concerns over sight lines. That appeal had related to a more intensive use of the site but the Inspector had decided access was not a problem. Emergency vehicles could access the site.

Officers considered that the reasons for refusal at previous appeals had been satisfied. At previous appeals Inspectors had set that at upper floor levels a distance of 16m was acceptable to the properties to the rear whereas 14.4m was acceptable at ground level. There were no openings beyond these lines in the present application.

It was MOVED by the Chairman and was duly seconded that, also subject to the satisfactory completion of the section 106 obligation for an off-site affordable housing contribution, the recommendation in the report to grant permission subject to conditions as amended by the Late Observations Sheet be adopted.

An alteration to the motion was proposed and duly agreed that two additional conditions be added. One would be for a plan for refuse collection to be approved and the other to remove Permitted Development rights for extensions. It was further agreed that, if approved, Officers reconsider the enforceability of wording for condition 15.

Some Members felt that previous appeal decisions allowed the Committee little leeway but to accept the proposals. Harm would be caused to neighbouring amenity but an Inspector would not consider it unacceptable. Architectural design in the surrounding area was varied. It was suggested that housing of this type was needed in the village.

Significant concern was raised about parking within the site as double spaces were impractical there and turning was mostly feasible only in small vehicles. Members did not want further parking on the High Street which was a risk with the existing proposal and there was also a likelihood vehicles would need to reverse onto the High Street. The Group Manager Planning advised Members that in view of the previous appeal decisions he thought it very unlikely that a refusal on parking and access grounds would be supported on appeal.

It was noted that the present design proposals had not been submitted at a previous appeal and some believed the design to be undesirable. The proposed design would not sufficiently preserve or enhance the Conservation Area and AONB as required by policies EN1 and EN23 of the Sevenoaks District Local Plan.

The motion was put to the vote and there voted –

7 votes in favour of the motion

Agenda Item 1
Development Control Committee - 17 January 2013

9 votes against the motion

The Chairman declared the motion to be LOST.

It was MOVED and was duly seconded:

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

1. The scheme fails to preserve or enhance the character or appearance of the conservation area, or the special character of the AONB contrary to policies EN1 and EN23 of the Sevenoaks District Local Plan and LO8 and SP1 of the Core Strategy.
2. The scheme fails to provide adequate access and parking arrangements contrary to policy EN1 of the Sevenoaks District Local Plan.”

The motion was put to the vote and there voted –

9 votes in favour of the motion

7 votes against the motion

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

1. The scheme fails to preserve or enhance the character or appearance of the conservation area, or the special character of the AONB contrary to policies EN1 and EN23 of the Sevenoaks District Local Plan and LO8 and SP1 of the Core Strategy.
2. The scheme fails to provide adequate access and parking arrangements contrary to policy EN1 of the Sevenoaks District Local Plan.

108. SE/11/02722/CONVAR - Sevenoaks Boxing Club, Unit 19, Gaza Trading Estate, Scabharbour Road, Hildenborough

The proposal was a retrospective application under section 73A of the Town and Country Planning Act for permission to use an existing building with the variation of 3 conditions attached to the planning permission granted in 2005. It was proposed that the use be extended to allow boxercise classes rather than only the training of individuals, that opening hours for this use be extended but the office hours remain the same and thirdly that amplified music be permitted.

The application site was a detached wooden clad building within a trading estate which had no planning restrictions on its opening hours. It was within the Green Belt and an AONB.

The report advised that on balance the proposals would not have a detrimental impact upon the amenities of the occupants of neighbouring properties, nor have a detrimental impact upon highway safety or the visual amenity of the street scene and wider AONB and would not detract from the openness of the Green Belt.

Members' attention was drawn to the tabled Late Observations sheet. It was noted that a Members' Site Inspection had been held for this application.

The Committee was addressed by the following speakers:

Against the Application:	Jan Trask and Nigel West
For the Application:	James Amos
Parish Representative:	Cllr. Beverly Doherty
Local Member:	Cllr. Mrs. Cook

The Chairman announced it was exceptional and contrary to usual standing orders but on this occasion two speakers against the application were being allowed to share the time between them.

Officers confirmed that previously approved noise mitigation measures had now been completed. In their comments Environmental Health Officers had proposed conditions with regard to noise but had not objected.

In light of comments made by speakers against the application, Officers confirmed that the Council had received correspondence in 2009 with concerns about noise created at the site. However the complainant had requested their details be kept confidential and without disclosing the identity of the complainant it was not possible to pursue the matter.

A Member asked for Officers to explain the scope of this section 73A application and whether it was just a request for a variation of a condition. The Legal Services Manager explained section 73A applications were retrospective and applicants would usually already be doing what they sought permission for. In the determination of such an application all material planning circumstances were relevant when considering the application. The Officer asked whether this had clarified the position and the Member confirmed that it had.

It was MOVED by the Chairman and was duly seconded that the recommendation in the report to grant permission subject to conditions be adopted.

The Committee raised concerns at the effectiveness of previous enforcement at the site.

Members discussed the levels of background noise at the site. Some felt the Sunday opening hours could be inappropriate while the Chairman had visited other sites on the estate at the weekend and found them operating.

Members noted that there was little ventilation in the building and this could cause discomfort in Summer months. An alteration to the motion was agreed that the use for classes be limited to inside the building.

A Member suggested that schemes to limit noise from amplified music from the site could include an automatic cut-out mechanism if the volume rises too high.

The motion was put to the vote and there voted -

Agenda Item 1 Development Control Committee - 17 January 2013

8 votes in favour of the motion

6 votes against the motion

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

1) The following details previously approved under application 11/002874/DETAIL shall be maintained and retained hereafter: Windows: The glazing on the side facing south will be constructed as double glazed units with one pane of glass being at least 4 mm in thickness and the other being at least 6mm thick with an air gap of no less than 16 mm. Whilst the air gap can be air or Argon if the gap is filled with Krypton a further 5 dB reduction can be achieved. These windows will be fabricated so that they cannot be opened. For those windows facing north or west, conventional thermal double glazing will be used.

To preserve the residential amenity of the neighbouring dwellings, in accordance with Policy EN1 of the Local Plan.

2) The following details previously approved under application 11/002874/DETAIL shall be maintained and retained hereafter: Doors: The double doors on the rear elevation will be covered with a 20 mm thick block board or MDF that can be held tightly in place whilst the hall is being used but that can be removed when the doors are required. All other doors and windows should remain closed when the building is in use to prevent noise escape.

To preserve the residential amenity of the neighbouring dwellings, in accordance with Policy EN1 of the Local Plan.

3) No amplified music shall be played until details of a suitable noise level has been submitted to and approved in writing by the Council. The approved scheme shall be implemented thereafter.

To preserve the residential amenity of the neighbouring dwellings, in accordance with Policy EN1 of the Local Plan.

4) Notwithstanding the provisions of any development order, any external equipment (e.g. air conditioning units) will require planning permission before installation which will allow consideration of the noise implications.

To preserve the residential amenity of the neighbouring dwellings, in accordance with Policy EN1 of the Local Plan.

5) The use of the building hereby permitted for the training of individuals partaking in physical training shall only occur from 08.30 to 21.30 hours on weekdays and Saturdays, and from 10.00 to 12.00 hours on Sunday, and the use of the building as an office shall only occur from 0800 to 1730 hours on weekdays and Saturday. The building shall not be used at any other times, including public holidays.

To safeguard the living conditions of neighbouring residential properties, as supported by Policy EN1 of the Sevenoaks District Local Plan.

6) The building shall only be used for office use (Use Class B1) and for the training of individuals for boxing or boxing related exercise classes (boxercise). The building shall not be used for any other Business (Use Class B1) or Assembly and Leisure Use (Use Class D2).

To safeguard the living conditions of neighbouring residential properties, as supported by Policy EN1 of the Sevenoaks District Local Plan.

7) No change in the use of the building other than as specified in condition 6 above is permitted.

To safeguard the living conditions of neighbouring properties, as supported by Policy EN1 of the Sevenoaks District Local Plan.

8) The details of the access ramp approved under 11/02905/DETAIL shall be maintained and retained hereafter.

To prevent inappropriate development in the Green Belt as supported by GB2 of the Sevenoaks District Local Plan

9) The development hereby permitted shall be carried out in accordance with the following approved plans: site plan dated 24th Oct 2011

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

10) There shall be no training of individuals for boxing and boxing related exercise classes outside unit 19.

To preserve the residential amenity of the neighbouring dwellings, in accordance with Policy EN1 of the Local Plan

Chairman's Announcements

The Chairman confirmed there would be a series of training events for Members of the Committee in the coming months. Beginning in February training sessions lasting thirty minutes would be held at 6pm on alternate months. A list of topics would be circulated to Members and further suggestions would be welcomed. Topics may be varied so as not to conflict with items on the agenda.

109. SE/12/02540/FUL - Land rear of the Rising Sun, Fawkham Green, Fawkham Longfield DA3 8NL

The proposal was for the change of use of the land from open land and paddock to an overspill car park. The development would include laying out 8 parking spaces, the erection of fencing and a gate and the construction of a new access from the existing pub car park. The car park area would comprise a polyethylene mesh to allow grass to grow up through it.

Agenda Item 1 Development Control Committee - 17 January 2013

The land was sited to the north of the Rising Sun public house within Fawkham on the side of a valley. It was in the Metropolitan Green Belt and an area of archaeological potential.

The report advised the proposal would represent inappropriate development harming the openness and character of the Green Belt. No very special circumstances had been provided to clearly outweigh the harm caused.

Members' attention was drawn to the tabled Late Observations sheet. It was noted that a Members' Site Inspection had been held for this application.

The Committee was addressed by the following speakers:

Against the Application:	Tracey Malloy
For the Application:	Graham Simpkin
Parish Representative:	Cllr. Lawrence Moss
Local Member:	Cllr. Bosley

In response to a question, the applicant's agent confirmed they had no further information about any other businesses carried out at the public house which could take up parking spaces.

It was **MOVED** by the Chairman and was duly seconded that the recommendation in the report to refuse permission be adopted.

The local Member who sat on the Committee explained that the application had been referred to Committee to reflect on both sides of the argument. The consultation held by the Parish Council was overwhelmingly in support and she felt there was a need to support businesses. However she had sympathy with those residents potentially affected by the proposal. The applicant was commended for consulting locally and trying to meet their concerns.

The Committee noted the comments of the other Local Member who spoke and that it was important to preserve the Green Belt. It was not felt the threshold for very special circumstances had been met.

They also noted the comments in the report that the proposal would not be appropriate for a temporary permission.

The motion was put to the vote and there voted –

11 votes in favour of the motion

3 votes against the motion

Resolved: That planning permission be **REFUSED** for the following reasons:-

The proposed development would be inappropriate development in the Green Belt and would be harmful to its openness. It would change the character of the Green Belt being clearly visible from within the village and accordingly would have a

detrimental impact leading to the encroachment upon the countryside. This conflicts with the National Planning Policy Framework.

The proposed development would fail to conserve the countryside and would harm the distinctive character of the landscape. This conflicts with Policy L08 of Sevenoaks District Councils Core Strategy.

THE MEETING WAS CONCLUDED AT 10.05 PM

CHAIRMAN

Agenda Item 4.1

proposed number/densities); and-a programme of implementation.

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

7) 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 by Policy SP2 of the Sevenoaks Core Strategy.

8) No development shall take place until full details of the proposed foul and surface water drainage systems have been submitted to and approved in writing by the Council. Any approved scheme shall be completed to the written satisfaction of the Council prior to the commencement of the development.

To avoid overload of any existing drainage systems and to meet sustainability and environmental objectives.

9) The vehicle parking spaces shown on approved drawing number COB/11/445/01D shall be provided before the building is first occupied and kept available for such use at all times and no permanent development shall be carried out on the land so shown or in such a position as to preclude vehicular access to the vehicle parking spaces.

In the interests of highway safety and convenience.

10) No openings, other than those shown on the approved plan(s), shall be installed in the flank elevations or roof of the dwelling hereby permitted, despite the provisions of any Development Order.

To prevent over development of the site as supported by Policy EN1 of the Sevenoaks District Local Plan.

11) No building, enclosure or swimming pool, other than those shown on the approved plans, shall be erected within the curtilage of the dwelling hereby approved, despite the provisions of any Development Order.

To prevent over development of the site as supported by Policy EN1 of the Sevenoaks

District Local Plan.

12) No extension or external alterations shall be carried out to the building hereby approved, despite the provisions of any Development Order.

To prevent over development of 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 Policy:

Sevenoaks District Core Strategy: Policy SP1

Sevenoaks District Local Plan: Policy EN1

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.

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

Informatives

1) The applicant is advised to contact South-East Water to provide water supply, drainage and wastewater services to this development.

Description of Proposal

- 1 The proposal is essentially a re-submission of a previously refused planning application (reference: SE/11/02670/FUL) which was dismissed at appeal (reference APP/G2245/A/12/2173717).
- 2 The scheme still seeks permission for a new dwelling and two parking spaces (including demolition of the existing detached garage) but has been amended in the following ways:
 - The height of the dwelling has been reduced by 1.5 metres (thus removing the second floor element of the property);
 - The proposed property is now a two bedroom dwelling (previous proposed dwelling was a three bedroom dwelling);
 - The layout of the garden has been amended, introducing additional landscaping adjacent to the rear boundary with No.9. The position of the patio has also been positioned away from the boundary with No.9 Serpentine Road;
 - The on-site parking proposed for Number 7 Serpentine Road by the previous application has now been removed from the proposal;

Agenda Item 4.1

Description of Site

- 3 The site is situated within the built urban confines of Sevenoaks, within the Sevenoaks Eastern Ward. The proposal is sited on a plot to the side of an existing dwelling at Number 61 Bayham Road (*now referred to as No.61*) and which runs across the rear boundary of Numbers 7 and 9 Serpentine Road (*now referred to as No.7 and No.9*) with its rear boundary adjacent to Number 11 Serpentine Road (*now referred to as No.11*).

Constraints

- 4 No significant planning constraints associated with the site.

Policies

Sevenoaks District Local Plan (SDLP)

- 5 Policies - EN1

Sevenoaks District Core Strategy

- 6 Policies - SP1

Other

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

Planning History

- 10 SE/11/02670/FUL - Erection of dwelling to the rear of 7 and 9 Serpentine Road, including demolition of existing garage & 2 parking spaces (refused 30 December 2011).
SE/07/00705/FUL - Rear extension (granted 13 April 2007);
SE/95/02218/HIST - Rear porch addition (granted 12 January 1996);
SE/92/00385/HIST - Erection of double garage (granted 7 May 1992);
SE/90/02166/HIST - Two storey extension and erection of double garage (granted 5 April 1991);

Appeal History

- 11 Appeal Reference: APP/G2245/A/12/2173717 (relating to refused planning application SE/11/02670/FUL) – Appeal dismissed (12 September 2012).
12 The Inspectors report concluded the following:

In summary, I find that the proposed dwelling would not harm the street scene on Bayham Road. However, the changed parking arrangements for No.7 Serpentine Road would undermine the safety of road users, and the new house would

significantly harm the residential amenities of No.9 Serpentine Road, by reason of an overbearing proximity leading to loss of light and outlook. Those aspects of the proposed development would be contrary to the development plan (notably policy EN1 of the Sevenoaks District Local Plan), and are the reason why the appeal must fail.

I note that the appeal is accompanied by a signed and executed unilateral planning obligation dated 10 July 2012. In accordance with the Council's policies for planning obligations this would provide a sum of £18,963 as a contribution towards the provision of affordable housing in Sevenoaks District. I would meet the 3 tests for obligations set out in paragraph 204 of the National Planning Policy Framework and is therefore a material consideration in the appeal. However, it would not overcome the planning objections to the development stated above.

Consultations

Sevenoaks Town Council

- 13 Two responses were received from the Town Council (dates 16 November 2012 and 27 December 2012). Both responses received were the same:
- Sevenoaks Town Council noted the addition of scales to the plans. However concerns raised in the previous recommendation for refusal have not been addressed, therefore The Town Council reiterated its recommendation for refusal. The Town Council noted the reduction in height of this application by 1.5 metres compared to its predecessor (refused at appeal) but unanimously recommended refusal due to the plan failing to meet the objections raised by the inspector in paragraph 11 in his decision, that:
 - The house would be on higher ground than No.s 7 and 9 Serpentine Road, considerably greater in height bulk and massing than the existing garage - would dominate and have an overbearing proximity to the rear habitable rooms and garden of No. 9 (and of No. 7 itself) - there is a poplar tree on the site which demonstrates exactly how the rear of the proposed building would fill the view from the dining kitchen of No. 7 and enclose it with walls excluding views of the sky
 - The development would bring more intensive domestic activity into the (very small) rear garden of the new house, affecting enjoyment and amenity of both No. 7 Serpentine Rd and the neighbouring house in Bayham Rd all of which are contrary to development plan policies The Town Council also considered that the amenity land available to the proposed house will be unreasonably small and out of keeping with the area.
 - In addition the Town Council objected to both the loss of off street parking for No. 7 Serpentine Road, and the creation of parking for the new house in the front garden which would require reversing into Bayham Road. Contrary to the evidence given to the inspector representing Bayham Road as a quiet road with little through traffic, 2010 KCC traffic surveys showed high level of through traffic in rush hours, with several thousand vehicles every week breaking the speed limit close to the Bayham Road /

Agenda Item 4.1

Serpentine Road junction. The Town Council urged the Highway Authority to look carefully at this evidence and especially the conditions in peak hours, when exit from the property is most likely, in assessing safety.

Local Ward Members

14 Councillor Purves: I would like this application to be brought to Development Control for the following reasons:

- Detrimental to neighbouring property, Number 9 Serpentine Road;
- Plot is of insufficient size for development;
- Lack of amenity space in proposed garden;

15 Councillor Walshe: No comments received.

Kent County Council Highways

16 Original consultation response was received on 15 November 2012:

It is noted that the proposal utilises the existing access currently serving a double garage. The forecourt or apron space is compatible with two standard marked out parking bays. I confirm therefore that I have no objection to this proposal.

17 A further consultation comment was received on 3 January 2013:

In addition to my comments of 15 November, I write to confirm that there has been one slight injury crash on Bayham Road since records began in 1994. I consider that the car parking proposals are not materially different to the existing garaging arrangements or other driveways in Bayham Road and I write to confirm that I have no objection to the proposals.

18 Finally, the Case Officer requested clarification on the Highways Departments view on the loss of parking provision at 7 Serpentine Road. Further comments were received on 23 January 2013:

Whilst clearly there is on street parking in this area, neither Bayham Road nor Serpentine Road have parking restrictions and I would not consider that the displaced parking created by this proposal could be grounds for raising highway concerns or objections. If there is any impact from this here I would regard this as an amenity or convenience issue and not one of road safety. I confirm therefore that considering all aspects of this proposal, I would not wish to raise objection and find the application acceptable with respect to highway matters.

Thames Water - Waste Comments

19 Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary.

Agenda Item 4.1

Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.

Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

- 20 Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required.
- 21 Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

Thames Water - Water Comments

- 22 With regard to water supply, this comes within the area covered by the South East Water Company.

Representations

- 23 Nine letters of Objection from 7 (No.) Local Residents and 1 (No.) response from the Holly Bush Residents Association.

A summary of the main issues are outlined below:

- The outlook and aspect of those properties opposite, particularly Number 20, 21 and 22 Bayham Road would also be badly affected. These properties currently enjoy panoramic views to the north, from the front windows on upper floors;
- Negative impact on the local street scene, particularly in relation to Bayham Road where the proposals would bring forward the property far closer to the road than the existing garage structure;
- The amenity space for the proposed dwelling would still remain woefully insufficient relative to the size of the building and overall plot;
- Impact on loss of off-street parking at No.7 Serpentine Road cannot be overlooked;
- The space indicated for car parking at the front of the property is extremely tight for two vehicles;
- The visual appearance will be awkward and cramped;
- The site is simply unsuitable for a development of this kind;
- The proposed dwelling will still be far too intrusive upon the privacy and light of both the house and garden of Number 9 Serpentine Road;

Agenda Item 4.1

- Despite the reduction in the ridge height the proposed development would be nearly 2.5 metres higher than the existing garage and therefore still harm the residential amenities of No.9 Serpentine Road, by reason of its overbearing proximity leading to a loss of light and outlook.
- The proposed development will still result in more intense domestic activity in the existing garden area;
- The Inspectors conclusion that the new dwelling would not itself entail any harm to the safety and free flow of traffic using Bayham Road must be questioned, particularly as the traffic survey conducted a short while ago by the District Council indicated that Bayham Road was suffering from thousands of users each week, many of whom were speeding;
- The property will overlook our garden resulting in decreased privacy;
- The property is out of proportion and character with other properties in the immediate vicinity;
- The density of building would also be out of character for the area;
- We have concerns that this development would set a precedent for building in back gardens in this area, which would be detrimental to the character of the area;
- The new opening (onto the garden) is much closer to No.61 Bayham Road and would therefore diminish No.61's residential amenities. All that has happened here is a shift so that No.61 is now more affected as the dwelling has been positioned closer to No.61 Bayham Road;
- The plot of land in question has a covenant over it and the proposed new build appears to be in breach of the covenant;
- Incorrect information in terms of ridge heights for Number 9 Serpentine Road;
- Have an unduly overbearing proximity when seen from the rear habitable rooms and garden of 9 Serpentine Road;
- Reduce natural light to the garden and rear habitable ground and first floor rooms of 9 Serpentine Road;
- Adversely affect the outlook, private character and use of the rear garden of 9 Serpentine Road;
- The proposed dwelling is also adversely impacts the street scene on Bayham Road given its squat and stubby proportions consequential to its now lowered ridgeline;

Group Manager Planning Services - Appraisal

Principal Issues

Design, Scale and Bulk – Impact on Street Scene

- 24 Policy SP1 of the Sevenoaks District Core Strategy states that all new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated.
- 25 Policy EN1 of the SDLP states that the form of proposed development should be compatible in terms of scale, height and density with other buildings in the locality. The Sevenoaks Residential Character Area Assessment SPD states that in proposing new development within the Bayham Road Character Area:
- Regular building lines to the street should be respected;
 - The harmonious palette of ragstone, yellow and red brick or white render and original slate roof should be respected;
 - The rhythm of repeated gable ends, window and door openings should be retained;
 - Where off street parking is proposed within front curtilages, boundaries with neighbouring properties should be retained and enhanced and the maximum length of front boundary retained to help enclose the road space, define the boundary between public and private space and help reinforce the character of an area;
- 26 The Inspector Report (under Appeal Reference APP/G2245/A/12/2173717) concluded that “I find that the proposed dwelling would not harm the street scene on Bayham Road”. In addition the Inspector specifically stated that “despite the small size of its plot, I do not consider that the proposed house would appear as a cramped over development of the site”.
- 27 As stated in the *Description of Proposal* section the only design alteration to the scheme has been to reduce the height of the dwelling by 1.5 metres (thus removing the second floor element of the property). Despite the lower nature of the dwelling it is still considered that the property achieves a harmonious visual transition between No.61 and No.7. It also considered therefore that for this reason, the resulting density of building is acceptable. It is also considered that the proposed height, despite being lower, retains a presence on the street scene which differentiates itself from the adjoining ancillary garage at No.61.
- 28 It is acknowledged that due to the retained frontage width of the proposed property it is considered that the assertions made by the Inspector under Appeal Reference APP/G2245/A/12/2173717 are still valid.
- 29 It is recognised that the design of the building retains the architectural features of the originally proposed dwelling, incorporating a gable end and yellow brickwork with contrasting red brick quoins, both of which follow specific design advice set within the Sevenoaks Residential Character Area Assessment SPD.
- 30 Given the reasons outlined above in relation to the proposed amendments to the scheme (i.e. the height of the dwelling) and recognising the Inspectors conclusion under Appeal Reference APP/G2245/A/12/2173717, it is considered that the proposal is in accordance with Policy SP1 of the Sevenoaks District Core Strategy, Policy EN1 of the SDLP and the Sevenoaks Residential Character Area Assessment SPD.

Agenda Item 4.1

Residential Amenity

- 31 Policy EN1 of the SDLP states that proposed development should not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height and outlook.
- 32 Within Paragraph 10 of the Inspector Report, it was asserted that *“during my site visit I took particular care in assessing the effect of the proposed dwelling on No.9, whose owners have submitted detailed objections to it. I am much less concerned about any potential impacts upon No.61 Bayham Road, or upon dwellings further afield”*.
- 33 I therefore do not intend to challenge this view made by the Inspector, and will therefore focus the main attention of this report on the affects of amenity as a result of the proposal on the occupiers of No.7.
- 34 However it must be acknowledged that the amendments to the proposal may also affect the residents of the occupiers of No.7 and No.61 and concerns have been raised as such. Therefore for completeness I will also address the amendments and the potential affects on amenity in relation to No.7 and No.61.

Privacy - Dwelling

- 35 Whilst it is recognised that the proposal is for a new dwelling, the Residential Extensions SPD outlines a number of appropriate assessments in relation to residential amenity which are considered relevant in the determination of the acceptability of this scheme. Therefore the residential amenity section refers to the assessments in the following sections.
- 36 In this respect the Residential Extensions SPD states that in order to safeguard the privacy of neighbours, the introduction of windows in extensions which would overlook windows of habitable rooms in any adjoining property at a close distance and would result in an unreasonable loss of privacy will not be permitted. For similar reasons, a window overlooking the private amenity area immediately adjacent to the rear of an adjoining dwelling is also inappropriate. For reference the District Council normally calculates the private amenity area as a depth of 5 metres from the back of the property.
- 37 The proposed dwelling has been designed to ensure that there are no first floor flank elevation windows proposed which would certainly overlook the adjoining properties at No.7, No.9 and No.61. In addition, the two first floor rear elevation windows are outlined on drawing number COB/11/445/02C as being obscure glazed. However, due to the position of these windows it is considered reasonable to attach a condition on any approved planning consent which would also restrict the opening of these windows unless the opening is 1.7 metres above floor level.
- 38 It is not considered that the proposed ground floor windows will result in overlooking to the adjoining properties due to the proposed boundary treatment (which would be secured on any approved planning consent) and the low level nature of the windows.

Privacy - Intensive use of rear garden

- 39 It is acknowledged that the Town Council has raised concerns with regards to the increase in ‘intensive’ domestic activity in the rear garden as a result of the

proposed dwelling. This was also raised as a concern by the Inspector (in paragraph 11 of the Inspectors report).

- 40 However, it is considered that the amendments to the proposal now address these concerns, as the property is now smaller in size (i.e. two bedrooms and therefore it could be assumed that less people living at the property) and provides a buffer of landscaping (which would be conditioned on any approved planning consent). It is also considered that whilst the rear garden will be used more by the prospective owners of the proposed dwelling than the existing occupants of Number 7 Serpentine Road, one must remember that the existing use of the land is a rear garden and could be reasonably used by the current occupiers for domestic purposes anyway (intensive or otherwise).
- 41 It is also considered that the proposed rear garden is in no way in a closer proximity to the adjoining rear gardens of Numbers 7 and 11 Serpentine Road.
- 42 Despite this, it is recognised that if made smaller, the garden would be unreasonably small in scale. Given this, it seems reasonable to attach a condition which would remove permitted development rights at the property to ensure no further development will occur at the property.
- 43 For the reasons outlined above, it is considered that the proposal addresses previous grounds of concern in relation to 'intensive' domestic activity and will not reduce the private character of adjoining neighbouring gardens.

Daylight / Sunlight

- 44 The Residential Extensions SPD states that an extension should not cause any significant loss of daylight or the cutting out of sunlight for a significant part of the day to habitable rooms or private amenity space. A useful guideline to measure the likely impact of an extension on a neighbouring property is the 45 degree test. As detailed above private amenity space is calculated as a depth of 5 metres from the back of the property.
- 45 It is recognised that there a ground of refusal from the previously refused planning application SE/11/02670/FUL (and following dismissal at appeal) was the reduction in daylight and sunlight to the adjoining properties. I will therefore assess this element of amenity against the three properties most likely to be affected by the proposal as defined above.

Number 7 Serpentine Road

- 46 In terms of daylight, both elevation and floor plan assessment were undertaken. It was determined that the proposal passes both 45 degree tests in relation to habitable rooms and private amenity space. For these reasons, it is not considered that the erection of the dwelling will result in a loss of daylight. With regards to sunlight, it is noted that No.7 benefits from a west facing garden and is situated at the end of Serpentine Road. Given these reasons and given the bulk of the existing dwelling at No.61, it is not considered that the proposal will result in an exacerbated loss of sunlight to either the rear habitable rooms or private amenity space at No.7.

Agenda Item 4.1

Number 9 Serpentine Road

- 47 Under the previous planning application the proposal was refused on the basis that the development would reduce natural light to the gardens and the properties to an unacceptable degree. This assertion was supported by the Inspector who specifically stated that the proposal “*would reduce natural light to the garden, and albeit to a lesser extent, to certain habitable rooms and garden of No.9*”.
- 48 It has already been established that the height of the proposed dwelling will be reduced by 1.5 metres. As a result, this will reduce the height of the eaves of the proposed dwelling from approximately 5.5 metres to 4.6 metres.
- 49 In terms of daylight, both a floor and elevation plan daylight assessment has been undertaken. It is asserted that the proposal passes both of these assessments and therefore it is considered that the development will not cause a significant loss of daylight to habitable rooms or the private amenity space of No.9.
- 50 With regards to sunlight, it is highlighted that the No.9 benefits from a west facing garden but the proposal is to the west of this. Due to the orientation of the garden, the rear habitable rooms and rear garden currently only receive sunlight once the sun passes round No.7 before its sets behind No.61. Essentially therefore it is considered only appropriate to assess the effect of the dwelling on No.9 for the period of the day in which it will affect. It is also important to note at this stage that the property has been reduced in height by 1.5 metres.
- 51 Having undertaken a sunlight assessment it is considered that the amount of sunlight lost during the day to the rear of the property (i.e. both habitable rooms and private amenity) will not be significant enough to justify a refusal.

61 Bayham Road

- 52 To assess any potential impact on daylight to the occupants of No.61, both an elevation and floor plan 45 degree assessment has been undertaken. It is highlighted that the proposed dwelling passes both elevation and floor plan assessments and therefore does not result in a significant loss of daylight to justify a refusal.
- 53 No.61 is to the west of the proposed development and as such any loss of sunlight will only be experienced during the early part of the day. However, as this property is situated higher topographically than the proposed development and the absence of habitable room windows on ground floor flank elevation of No.61, it is considered that any loss of amenity in relation to sunlight will be within reasonable limits.
- 54 Therefore having undertaken daylight and sunlight assessments in relation to the three properties which may be affected by the proposal, it is not considered that the proposal will result in a significant loss of daylight or sunlight. It is therefore not considered that there is a sufficient ground to refuse the planning application in this regard.

Outlook

- 55 The Residential Extensions SPD states the District Council is primarily concerned with the immediate outlook from neighbours windows, and whether a proposal

Agenda Item 4.1

significantly changes the nature of the normal outlook. For example it would be unacceptable for the resulting outlook from a main window to be of a large, obtrusive and dominating extension. The Residential Extensions SPD is clear that the planning process is not able to protect a view from a private property.

- 56 As with daylight and sunlight, using the SPD as a guide, I will assess this element of amenity against the three properties most likely to be affected by the proposal as defined above.

7 Serpentine Road

- 57 The proposed dwelling will be positioned directly west from this property and will be approximately 14 metres away. It is accepted that the majority of the rear habitable rooms will look directly onto proposed dwelling and the development will be positioned higher topographically.
- 58 However, this property already looks out onto the detached garage and built form of No.61. It is considered therefore that despite being 2.5 metres higher than the existing garage, it is recognised that the building will still look out onto built form at No.61 (being that this dwelling is 3.5 metres higher still).
- 59 For the reasons outlined above it is considered that the proposal will not significantly change the nature of the normal outlook at No.61.

9 Serpentine Road

- 60 As previously stated within the report, the Inspector under Appeal reference APP/G2245/A/12/2173717 concluded that "*the new house would significantly harm the residential amenities of No.9 Serpentine Road, by reason of an overbearing proximity leading to a loss of light and outlook*".
- 61 It is accepted that the proposed position of the development will be on higher ground than No.9 and is larger in scale than the existing garage.
- 62 However, due to the reduced height of the proposed property (reduction in 1.5 metres), the amended design of the dwelling will now be lower in relation to the dwellings along Serpentine Road.
- 63 It is now considered that due to the reduced height of the development, the majority of the built form of the proposed dwelling is now encompassed by the bulk and built form of Number 61 Bayham Road when viewed from the habitable rooms at Number 9 Serpentine Road. It is also considered material that the proposed dwelling is not actually situated directly behind No.9 and positioned at an oblique angle to the development.
- 64 Therefore on balance, whilst it is accepted that the proposed dwelling is in a closer position than the existing garage, it is not considered that the proposal will not significantly change the outlook from these rear habitable room windows and is therefore in accordance with Policy EN1 of the SDLP and the Residential Extensions Supplementary Planning Document.

61 Bayham Road

Agenda Item 4.1

- 65 In terms of ground floor windows, No.61 will only have non-habitable rooms facing onto the proposed dwelling. For this reason it is not considered that there will be a loss of outlook from these rooms.
- 66 In addition, whilst there are two first floor room windows looking out onto the proposed development, it is considered that due to the difference in topography the outlook from these rooms will not be significantly altered.
- 67 Therefore having undertaken outlook assessments in relation to the three properties which may be affected by the proposal, it is not considered that the proposal will result in a significant loss of outlook. It is therefore not considered that there is a sufficient ground to refuse the planning application in this regard.

Highways /Parking

- 68 Concern has been raised by both local residents and the Town Council with regards to the proposed parking arrangements for the proposed dwelling. It is important to note that these proposed arrangements for the proposed dwelling are identical to the previous arrangements considered under planning reference SE/11/02670/FUL and Appeal reference APP/G2245/A/12/2173717).
- 69 Specifically, paragraph 12 of the Inspectors Report states that “...*there would be no significant change arising from the development, whether in the access arrangements or in the number of movements generated. Thus the new dwelling would not itself entail any harm to the safety and few flow of traffic using Bayham Road*”.
- 70 No objection has been raised by the Kent County Council Highways department again for the proposal (there was no objection to the previous scheme). Given this, and recognising the Inspectors comments above, it is considered that the proposed parking arrangements for the proposed dwelling will not cause any issues in terms for highway safety.
- 71 In terms of the parking on site at 7 Serpentine Road, as highlighted in the concluding paragraphs of the Inspectors Report (outlined under the *Appeal History* section above), it was considered that the “*the changed parking arrangements for No.7 Serpentine Road would undermine the safety of road users*”.
- 72 The previously proposed off-street parking for 7 Serpentine Road has now been removed from the proposal. In this respect, the development addresses the Inspectors previous grounds of refusal.
- 73 The proposal now however, does result in the loss of off-road parking for the occupiers of 7 Serpentine Road. However, due to the Town Centre location of the development, the fact that there are no on-street parking restrictions on either Serpentine Road or Bayham Road and that there are a number of properties along Serpentine Road without the benefit of off-road parking, I consider that the loss, whilst regrettable, is acceptable in highway terms and would not cause a significant issue in terms of highway safety or convenience. This is assertion is supported by Kent County Council Highways.
- 74 To conclude, it is considered that the proposal will not cause a detrimental impact on highway safety or convenience and is therefore acceptable on highway grounds.

Affordable Housing

- 75 Policy SP3 of the Sevenoaks District Core Strategy states that in order to meet the needs of people who are not able to compete in the general housing market, the Council will expect the provision of affordable housing in all types of residential development including specialised housing.
- 76 Further, the policy states that in residential developments of less than 5 units that involve a net gain in the number of units a financial contribution based on the equivalent of 10% affordable housing will be required towards improving affordable housing provision off-site.
- 77 An independent valuation figure for the property has been undertaken and a 10% off-site affordable housing contribution has been agreed via a Section 106 agreement.
- 78 It is therefore considered that the proposal is in accordance with Policy SP3 of the Sevenoaks District Core Strategy.

Sustainable Development

- 79 Policy SP2 of the Sevenoaks District Core Strategy states that the District will contribute to reducing the causes and effects of climate change by promoting best practice in sustainable design and construction to improve the energy and water efficiency of all new development and contribute to the goal of achieving zero carbon development as soon as possible. In particular the policy states that:
- 80 New homes will be required to achieve at least Level 3 of the Code for Sustainable Homes, progressing to Level 4 from 2013 and will be encouraged to achieve Level 6 by 2016.
- 81 The Planning Agent has not confirmed whether the development will achieve Code for Sustainable Homes Level 3. It is therefore considered reasonable to attach a condition on any approved consent requesting that the pre-construction and post-construction certificates are submitted to ensure that Code for Sustainable Homes Level 3 (or 4) is reached.

Other Issues

Outstanding Neighbour Comments

- 82 This section will address any outstanding issues raised by neighbour letters for completeness which were not outlined in the *Residential Amenity* section:
- The outlook and aspect of those properties opposite, particularly Number 20, 21 and 22 Bayham Road would also be badly affected. These properties currently enjoy panoramic views to the north, from the front windows on upper floors;
- 83 The planning process is not able to protect a view from a private property. In addition it is considered that these properties are of a sufficient distance from the proposed dwelling (approximately 26 metres) to not have a significant impact on outlook from these properties.

Agenda Item 4.1

- The amenity space for the proposed dwelling would still remain woefully insufficient relative to the size of the building and overall plot;
- 84 It is recognised that the proposed rear amenity space will be small in scale in relation to the neighbouring properties. However, it is considered that the size (approximately 56m) is acceptable given the size of the dwelling (two bedroom house) and the town centre location. As stated above permitted development rights will be removed at the proposed dwelling to restrict permitted development in the future.
- The space indicated for car parking at the front of the property is extremely tight for two vehicles;
- 85 Kent County Council Highways stated on 15 November 2012 that the forecourt or apron space is compatible with two standard marked out parking bays.
- 86 A condition would be attached to any approved permission requesting plans outlining specific dimensions of the car parking spaces.
- The plot of land in question has a covenant over it and the proposed new build appears to be in breach of the covenant;
- 87 It is accepted that there is a covenant on the land restricting development such as the proposal under consideration. However, it is noted that such a covenant is not a material planning consideration and is insufficient to justify a refusal.
- 88 It is therefore considered that remaining issues outlined above are not sufficient to justify a refusal of planning permission.

Water Supply

- 89 The applicant is advised to contact South-East Water to provide water supply, drainage and wastewater services to this development. This will be attached to any approved consent as an informative.

Conclusion

- 90 It is considered that the proposal is in accordance with the NPPF, Policies SP1, SP2 and SP3 of the Sevenoaks District Core Strategy, Policy EN1 of the SDLP, the Residential Extensions SPD and the Sevenoaks Residential Character Area Assessment SPD.

Background Papers

Site and Block Plans

Contact Officer(s): Neal Thompson Extension: 7463

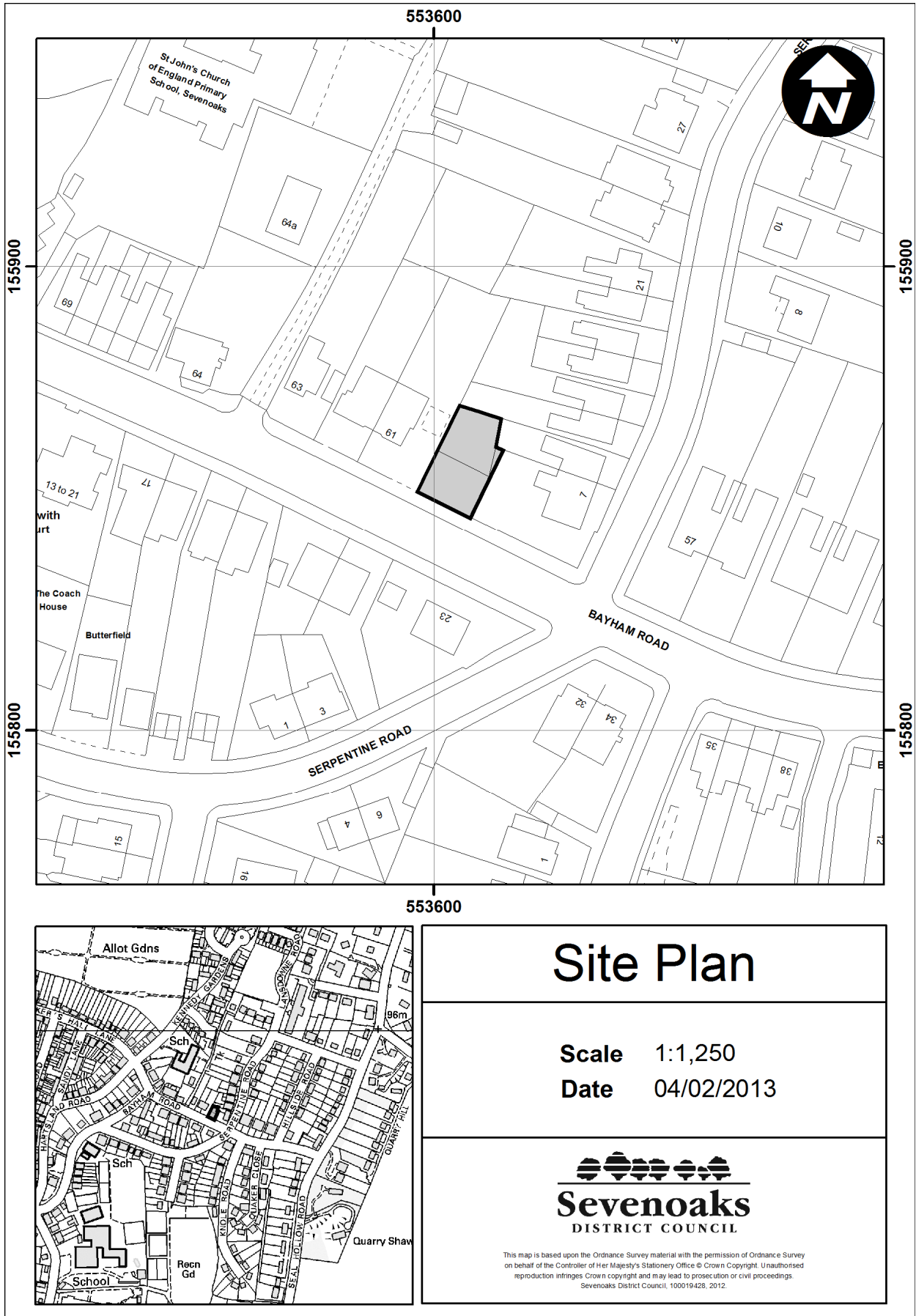
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MCA8Z7BK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MCA8Z7BK8V000>



BLOCK PLAN



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4.2 - SE/12/01819/OUT Date expired 18 December 2012

PROPOSAL: Outline application for demolition of the New Inn Public House and erection of 13 one bedroom units and one 2 bedroom unit with all matters reserved.

LOCATION: The New Inn, 75 St. Johns Hill, Sevenoaks TN13 3NY

WARD(S): Sevenoaks Town & St Johns

ITEM FOR DECISION

The application has been referred to Development Control Committee by Councillor Ann Dawson who is concerned with regard to the effect of the development on the amenities of the neighbourhood in relation to parking in an already over-parked area and would wish this to be discussed at committee.

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

The proposed development, by virtue of its scale, would have a detrimental impact upon the character and appearance of the street scene, as it would dominate the vicinity and not be in harmony with the adjoining buildings. The proposal is therefore contrary to the provisions of Policy EN1 of the Local Plan and SP1 of the Core Strategy.

The proposal development would, by virtue of its height, scale and position of windows, have an overlooking impact that would be detrimental to the privacy of the occupiers of residential properties at the rear (Nos. 1, 3 and 5 St James Road) and 54-64 Goldings Road. The proposal is therefore contrary to the provisions of Policy EN1 of the Local Plan and SP1 of the Core Strategy.

The applicant has failed to finalise a legal agreement providing the adequate number of on site affordable units with no provision of affordable units. The proposal is not in accordance with the Policy SP3 of the Core Strategy.

Description of Proposal

- 1 It is intended to demolish the public house and construct a three storey residential building (with accommodation in the roof space) comprising of 14 units, 13 one bed and 1 two bed flat set over four floors.
- 2 This is an outline application, with all matters are reserved.
- 3 The scale parameters of the development is indicated as height 11.2m, width 15.2m and length 16m. The site itself is approximately 300sqm.
- 4 There will be no on site parking provision.
- 5 N.B The application was initially incorrectly consulted with the description totalling 15 units rather than the correct 14.

Agenda Item 4.2

Description of Site

- 6 The application site is the New Inn public house sited on St Johns Hill in Sevenoaks.
- 7 The site is primarily neighboured by two storey residential (and commercial) properties to the rear and to the north, and by a petrol station to the south.

Planning History

- 8 12/01328/OUT. Outline application for demolition of the New Inn Public House and erection of 9 one bedroom units and 1 two bedroom unit with all matters reserved. Withdrawn

Policies

Sevenoaks District Local Plan

- 9 Policies- EN1A, VP1

South East Regional Plan,

- 10 Policies - CC6, CC2, CC4

Sevenoaks Core Strategy

- 11 Policies - SP1, SP2, SP3

Other

- 12 National Planning Policy Framework

Representations

- 13 Nine letters of objection have been received, which are summarised as follows:
- It is unthinkable in this day and age to even consider a new residential development with no parking provision.
 - Surrounding roads are already grossly overcrowded with cars parked by residents.
 - The building will be totally out of keeping and out of scale with the surrounding properties. The Residential Character Survey would have not considered this to be in keeping.
 - Where are the residents to park?
 - Where will the public house locals go?
 - I have concerns about the position of the French Windows at the rear, they appear to point in the direction of our house and others and will have an impact upon privacy.

- The development seems to include land which is not currently associated with the New Inn.
- The development will overlook the properties along Golding Road.

Consultations

Sevenoaks Town Council

- 14 Sevenoaks Town Council recommended approval subject to the provision of 15 parking spaces to serve the proposed flats.

Following re-consultation: Sevenoaks Town Council recommended approval.

KCC Highways

- 15 “Thank you for inviting me to comment on this planning application. This development fronts directly onto the A225 with no rear access and is sandwiched between a petrol filling station and a row of shops. There is also a bus stop immediately to the north of the site. The proposal includes full demolition of the pub and construction of 4 stories to accommodate 15 residential units. On an engineering basis considering the constraints of the site I would consider that demolition and construction will be technically challenging. Whilst the application is outline it is considered that the construction type, method and plant requirements should be assessed. The scale of development proposed is significantly greater than that proposed at The Castle which comprises partial demolition and conversion.

In terms of traffic generation and vehicular access the proposal, comprising no car parking, negates these highway issues. Again whilst this is an outline planning application, it is considered that an on street car parking assessment of the surrounds should be undertaken, the views of the District's own parking services should be sought and the possibility of permit provision in nearby off street car parks should be determined.

These are material considerations that in my view need to be established and understood further in order to enable an informed view of impacts to be made.

I hope the above is helpful but if I can be of any further assistance, please do not hesitate to contact me”.

Following discussions with the applicant:

- 16 “Following this consultants estimate to the applicant to undertake these surveys, the applicant rang me to say that they could not afford them but I advised that they may be a worthwhile investment if planning approval is sought.

I note the applicants own communication and survey of activities associated with the pub.

In essence from Kent Highways point of view zero parking would only be of consideration if we felt that that in turn would have road safety implications. In this instance I do not feel that this is the case and would therefore have no objection to the application. However, any expected increases to on street parking, most notably in a residential context in the evenings, may have an

Agenda Item 4.2

amenity impact and I do feel that night time parking surveys to the method proposed would be helpful to give members and officers a measure of any expected impacts”.

Following submission of a parking assessment:

- 17 “I read this survey report and Transport Statement with interest yesterday and personally I feel that this report is comprehensive and conclusive. Following my e-mail of Wednesday I consider that there are no safety impacts to zero parking associated with this application. I also agree with the consultants comments regarding the loss of the current crossover with the A225 here adjacent to a bus stop, in that this would be a road safety improvement.

Please do not hesitate to contact me if you wish to discuss further but I would conclude that there are no highway grounds to recommend refusal to this application”.

Environmental Health Officer

- 18 “I have looked at the outline details submitted for the above application, including the amendments submitted 28th September 2012.

Whilst I have no adverse comments to the principle of the application, I have concerns about the noise and contaminated land implications for the site.

- 19 Noise: My concerns are to protect the development from noise; particularly from traffic noise and noise from the neighbouring commercial properties on St Johns Hill. The applicant should be required to submit a scheme of acoustic works to protect the residents, particularly from road traffic noise. Such a scheme may include but is not limited to, the installation of enhanced acoustic glazing and alternative acoustic ventilation.
- 20 Contaminated Land: While the existing property has been largely unchanged for some considerable period, it is a commercial property. The proposed development is residential and the site should be surveyed to assess the level of threat posed to the proposed buildings.
- 21 I request that the following conditions are attached to any permission granted.
- Noise: Before development commences, details of acoustic measures to protect the residential units against noise shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented before first occupation of the development and maintained as such thereafter.
- Contaminated land: No development to be commenced until a site investigation has been undertaken to determine the nature and extent of any contamination. The results of this investigation, together with an assessment by a competent person and the details of a scheme to contain, treat or remove any contamination, as appropriate, should be submitted to and approved in writing by the local authority.
- 22 Prior to the occupation of the development or any part of the development permitted, the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied.

- 23 The scheme should include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development and should include a requirement to notify the Local Planning Authority of the presence of any such contamination.
- 24 A certificate shall be provided to the local planning authority by a responsible person stating that the remediation has been completed and the site is suitable for the permitted end use. Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

Following the submission of a Soil Contamination Report:

- 25 I have had a look at the desk top study and spoken to the author, unfortunately despite getting the appropriate environmental data from one of the normal environmental information companies he was unaware of the fuel leakage and subsequent recovery operation at the adjacent petrol service station.
- 26 Therefore if you are minded to approve the application a condition requiring further intrusive investigation will be required with appropriate remediation or protection measures where necessary”.

Group Manager Planning Services - Appraisal

- 27 The main considerations of this proposal are:
- The policy provision for the site
 - Layout/ density
 - Impact upon street scene
 - Impact upon neighbouring residential amenity
 - Contaminated land issues
 - Affordable Housing contribution
 - Parking provision

Whether the proposed use is acceptable

- 28 The site is a public house located next to a shopping frontage identified in the Local Plan as a local shopping area (policy S3A of the Local Plan)
- 29 As the public house is located within the town there is no district policy protection for its retention, unlike for public houses in rural villages which is protected by policy L07 of the Core Strategy.
- 30 The National Planning Policy Framework supports sustainable development in the context of housing applications and encourages the effective use of land by reusing land that has been previously developed (brownfield land). However para 70 of the NPPF states that decisions should guard against the unnecessary loss of valued facilities.

Agenda Item 4.2

- 31 No specific reasons have been put forward for the loss of the pub (i.e viability), however given its urban location, there are alternative pubs in the vicinity, for example the Rifleman on Camden Road.
- 32 In terms of principle therefore, the change of use of the site to residential is considered to be acceptable.

Layout/density of the proposal

- 33 Policy SP7 of the Core Strategy states that within the urban areas of Sevenoaks, Swanley and Edenbridge new residential development will be expected to achieve a density of 40 dwellings per hectare.
- 34 The proposed site provides for 14 units on a plot of 300m² approx, which gives a density of 466.6 dwellings per hectare.
- 35 Given that the site is located within an urban area within Sevenoaks Town, it is not considered that the density is excessive, given the built up character of the surrounding.
- 36 This is subject of course to the impact of the height and scale of the building upon the street scene, which is discussed later in this report.
- 37 In terms of layout, the proposed building, centrally sited within the plot and in line with the frontage of the neighbouring units is considered acceptable.

Access arrangements

- 38 The access arrangements are reserved; however the submitted information states that the building will be accessed by foot from the front of the property, similar to the existing public house.
- 39 No parking provision is proposed and the existing vehicular access off the highway is not needed. The KCC Highways Officer agrees with the submitted transport statement (Dec 2012), in that the loss of the current crossover with the A225 here adjacent to a bus stop, in that this would be a road safety improvement.
- 40 It is considered therefore that it should be possible for acceptable pedestrian access arrangements to the site to be agreed at reserved matters stage, as the details submitted indicate no harm.

Impact upon the wider street scene

- 41 Policy EN1 of the Local Plan states that the design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard.
- 42 Policy SP1 of the Core Strategy states that 'all new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated. In areas where the local environment lacks positive features new development should contribute to an improvement in the quality of the environment. New development should create safe, inclusive and attractive environments that meet the needs of users, incorporate principles of sustainable development and maintain and enhance biodiversity.

Agenda Item 4.2

- 43 The existing public house is a traditional two storey structure with a hipped roof and single storey side addition. The building is located between a two storey terrace (with commercial ground floor) and a petrol station.
- 44 The Supplementary Planning Document 'Sevenoaks Residential Character Area Assessment' states that, with regards to this area:
- The scale of buildings becomes more domestic in the southern section of St. John's Hill with less sense of enclosure. The buildings are generally set close to the road, following the Victorian pattern of development.*
- Orange brick and hanging tiles and white render are the most commonly used materials. There are a number of commercial properties in this section of road although the signage is limited and restrained, respecting the mix with residential uses. The design of buildings is varied dependant on the period of development. The hipped roof of the 1930s parade of shops and the art deco frontage to the former cinema are typical of their periods.*
- 45 In proposing new development within the St John's Hill Character Area:
- Individual buildings should be of a high standard of intrinsic design quality
 - The listed building and its setting should be protected
 - The character of the townscape feature of terraced cottages should be retained
 - The views of the North Downs should be protected
 - Signage and advertising should be limited and restrained
 - The setting of the adjoining Hartslands Conservation Areas should be protected or enhanced.
- 46 The site is not located in a position that would have an impact upon the listed building nor the nearby Hartslands conservation area, given the distance (135m to the listed building - 128-140 St Johns Hill, and 300m approx. to the Conservation Area). The advice given above states that the 'design of buildings is varied' along this part of St Johns Hill, however, in accordance with Policy EN1 of the Local Plan and SP1 of the Core Strategy, it states that individual buildings should be of a high standard of 'intrinsic design quality'.
- 47 It is unclear from the information submitted how tall exactly is the existing public house, but as stated above, it is a traditional two storey hipped roof structure, which is in keeping with the adjoining two storey terrace. The proposed four storey building would be substantially taller.
- 48 The proposed replacement residential building (as stated in the parameters outlined in the Design and Access Statement, and in scale on the indicative elevations) will extend up to 11.2m in height (and 7.7m to eaves).
- 49 Whilst the submitted plans are clearly indicative at this stage, the proposed height, compared to the existing building, lends itself to a massing that, despite the adjacent petrol station, would dominate the vicinity to the detriment of the street scene.

Agenda Item 4.2

- 50 There is a tall building, which is currently a warehouse, further up St John's hill (between 61A and 63). This structure is the former cinema identified in the SPD above (with an art deco frontage). Whilst similar in height, it is not considered that the proposed structure, in its position, is comparable, especially given the bland indicative design, which will appear as an incongruous addition out of scale with its immediate surroundings.
- 51 It is therefore considered that the proposed residential building conflicts with Policy EN1 of the Local Plan and SP1 of the Core Strategy and fails to ensure that the design is in harmony with adjoining buildings.

Impact upon neighbouring residential amenity

- 52 Policy EN1 of the Local Plan states that that the proposed development should not have an adverse impact on the privacy and amenities of a locality.
- 53 The submitted block plan sites the development centrally within the plot, the front elevation in line with the frontage of the adjacent terrace (Carlton Parade), and extending to approx. 1.2m from the rear boundary (thanks to the rear gable projection).
- 54 The site is neighboured directly to the rear by a small parcel of land, currently unused and overgrown. This parcel of land measures approx. 16m wide and 3-7.5m depth.
- 55 Immediately to the rear of this land is the rear garden of No 1 St James Road, sited 7.3m from the rear gable.
- 56 It should be noted that these rear gardens, that of No 1, 3 and 5 St James Road and the gardens of 54 to 64 Goldings Road at the rear, are overlooked at present, from their immediate neighbours and from the first floors of Carlton Parade.
- 57 However given the height of the proposed building, which has 4 storeys of fenestration there will be considerable increase in the overlooking to the rear. This level of overlooking is considered to be in excess of the existing situation (due to the height and level of fenestration) and will lead to a sense of loss of privacy for these properties at the rear, which are all sited within 22m approx. of the development.
- 58 The height of the building leads to an amount of fenestration that leads to excessive overlooking. Given the amount of fenestration it is not considered that it is possible or practical to use conditions (obscure glazing) to mitigate this harm. Consequently it is considered that the development is contrary to Policy EN1 (as stated above) in this regard.
- 59 The proposed building also includes a number of windows on both side elevations.
- 60 The northern side faces the Carlton Parade units. This side elevation has two small windows on each elevation (serving kitchens), sited towards the centre of the building.
- 61 Given that the side elevation of No 1 Carlton Parade has a first floor window, and the windows are secondary windows it is considered that they should be

Agenda Item 4.2

conditioned as obscure glazed to prevent unacceptable overlooking, both of this window and for the third storey at least, the rear amenity area of this property.

- 62 The fenestration on the southern side faces the petrol station and is not therefore considered to have a detrimental overlooking impact. Any overlooking towards the rear would be oblique and not of a level that would be detrimental.
- 63 The proposal would therefore cause harm to No.s 1, 3 and 5 St James Road and No.s 54 to 64 Goldings Road and would be contrary to Policy EN1 of the Local Plan.

Contaminated land issues

- 64 Given the siting of the building immediately adjacent to a petrol station, and the proposed change of use to residential, there are possible contamination issues with the proposed development, especially given the history of the site where there has been previous leakage issues.
- 65 A Soil Contamination Report was submitted on the request of the Environmental Health Officer, however this was considered to be incomplete (and did not specifically address the past leakage issues). A condition requiring a further comprehensive report is suggested, and this is considered necessary and appropriate given the proposed use. Given that mitigation measures would be possible, it is not considered that this information is necessary at this stage.

Affordable Housing contribution

- 66 Policy SP3 of the Sevenoaks District Core Strategy states that:
- “In residential developments of 10-14 dwellings gross 30% of the total number of units should be affordable”
- 67 The applicants initially indicated that the adequate level of on site provision was acceptable; however, (following full details of KCC requirements) a draft agreement was sent to the owners solicitors on the 31st December with no acknowledgement or subsequent correspondence.
- 68 It is therefore considered that the proposal is contrary to the provisions of this policy as no agreement complying with the above requirement has been finalised.

Parking Provision

- 69 Policy EN1 of the Local Plan states that proposed development should not ‘create unacceptable traffic conditions on the surrounding road network and is located to reduce where possible the need to travel.’
- 70 Policy VP1 of the Local Plan states
- Vehicle parking provision in new developments will be made in accordance with the KCC adopted vehicle parking standards. The Local Planning Authority may modify these standards in order to:
- 1 Reflect lower provision appropriate in town centres or elsewhere if a site is well served by public transport routes;

Agenda Item 4.2

- 2 Ensure the successful restoration, refurbishment and re-use of listed buildings or buildings affecting the character of a conservation area;
 - 3 Allow the appropriate re-use of the upper floors of buildings in town centres or above shop units;
 - 4 Account for the existing parking provision (whether provided on or off-site) already attributed to the building's existing use when a redevelopment or change of use is proposed and for the use of existing public car parks outside of normal working/trading hours by restaurants and leisure uses
- 71 The existing public house provides for two off street parking spaces, accessed via a dropped kerb directly from St Johns Hill.
- 72 As stated above, the development makes no provision for on site parking.
- 73 The Kent County Council Highways Officer initially stated that in policy terms, zero parking for the proposed development would be acceptable if there were no road safety implications. This is not considered to be the case however the highways officer did raise concern that the increased on street parking, especially in the evening, may have an impact upon the amenity of neighbours.
- 74 Subsequently, a Parking Assessment (from Paul Mew Traffic Consultants limited) was then submitted, which was found to be comprehensive and conclusive. This assessment included a parking inventory based on 200m radius of the site and surveys taken between 6-7pm on a typical weekday evening, and between 12:30am-5:30am on two separate week nights.
- 75 The survey indicated that there are 69 unrestricted car parking spaces within the identified area, 18 restricted parking bays and 70 kerb side parking opportunities on single yellow line space which can be parked on outside of the specific hours of control.
- 76 In addition to this the St James Road public car park and the St Johns Hill public car parks have been included in this study, as they are both within 200m of the site.
- 77 These provide an additional 87 parking spaces (66 in St Johns Hill and 21 in St James Road). These are operated by the Council and provide residents permits.
- 78 The KCC Officer found the survey to be comprehensive and conclusive.
- 79 The survey recommends that in order to mitigate any potential impact of the development on the adjoining road networks, that the developer provides each flat with a one year parking permit for these car parks.
- 80 The Council's own Parking Officer finds this arrangement to be acceptable, but suggested that this is restricted to the larger St Johns Hill car park only.
- 81 The KCC Officer reiterated his opinion that the lack of parking provision had no detrimental safety impact, and states that the loss of the existing cross over adjacent to the bus stop outside the site would lead to an improvement in highway safety.

Agenda Item 4.2

- 82 The site is located in an accessible and sustainable position, to the north of the town centre but adjacent to a local shops and the protected St Johns Local Shopping frontage. The site is also located within 500m of Bat & Ball train station and is well served by bus services.
- 83 In this instance therefore it is considered that, given the lack of objection from KCC Highways or the Councils Parking Officer, the proposed development is, on balance, considered to have an acceptable impact upon highway safety and amenity in this regard.

Other Issues

- 84 The KCC Highways Officer also requested a construction plan via condition due to the engineering challenges and constraints of the site. It is considered that a condition requiring these details are necessary and appropriate.
- 85 Given the siting of the development on a busy highway, between a petrol station and commercial units, then there is also potential for some major noise implications.
- 86 Policy EN1 of the Local Plan states that development should ensure 'a satisfactory environment for future occupants'
- 87 The Environmental Health Officer has therefore requested a condition relating to a scheme of acoustic works to protect the residents, particularly from road traffic noise. This condition is considered to be necessary.
- 88 Notwithstanding the above, nine letters of objection was received, the issues relating to which have been addressed above. With regards to the land at the rear, this is not included in the red-line boundary and with regards to the public house locals, it is not considered that this is a material planning consideration. As stated above, the principle of the change of use of considered acceptable.

Conclusion

- 89 In summary, it is considered that the proposed outline application for the demolition of the New Inn Public House and erection of 13 one bed units and one 2 bed unit would, by virtue of its scale, height and massing have a detrimental impact upon the character and appearance of the street scene. The proposal would also, again, by virtue of its height and scale, have an overlooking impact that would be detrimental to the privacy of the occupiers of residential properties at the rear (Nos. 1, 3 and 5 St James Road) and 54-64 Goldings Road. The proposal is therefore contrary to the provisions of Policy EN1 of the Local Plan and SP1 of the Core Strategy.
- 90 The applicant has failed to finalise a legal agreement providing the adequate number of on site affordable units. Consequently the proposal is also not in accordance with the Policy SP3 of the Core Strategy.

Recommendation

That planning permission is refused.

Agenda Item 4.2

Contact Officer(s): Ben Phillips Extension: 7387

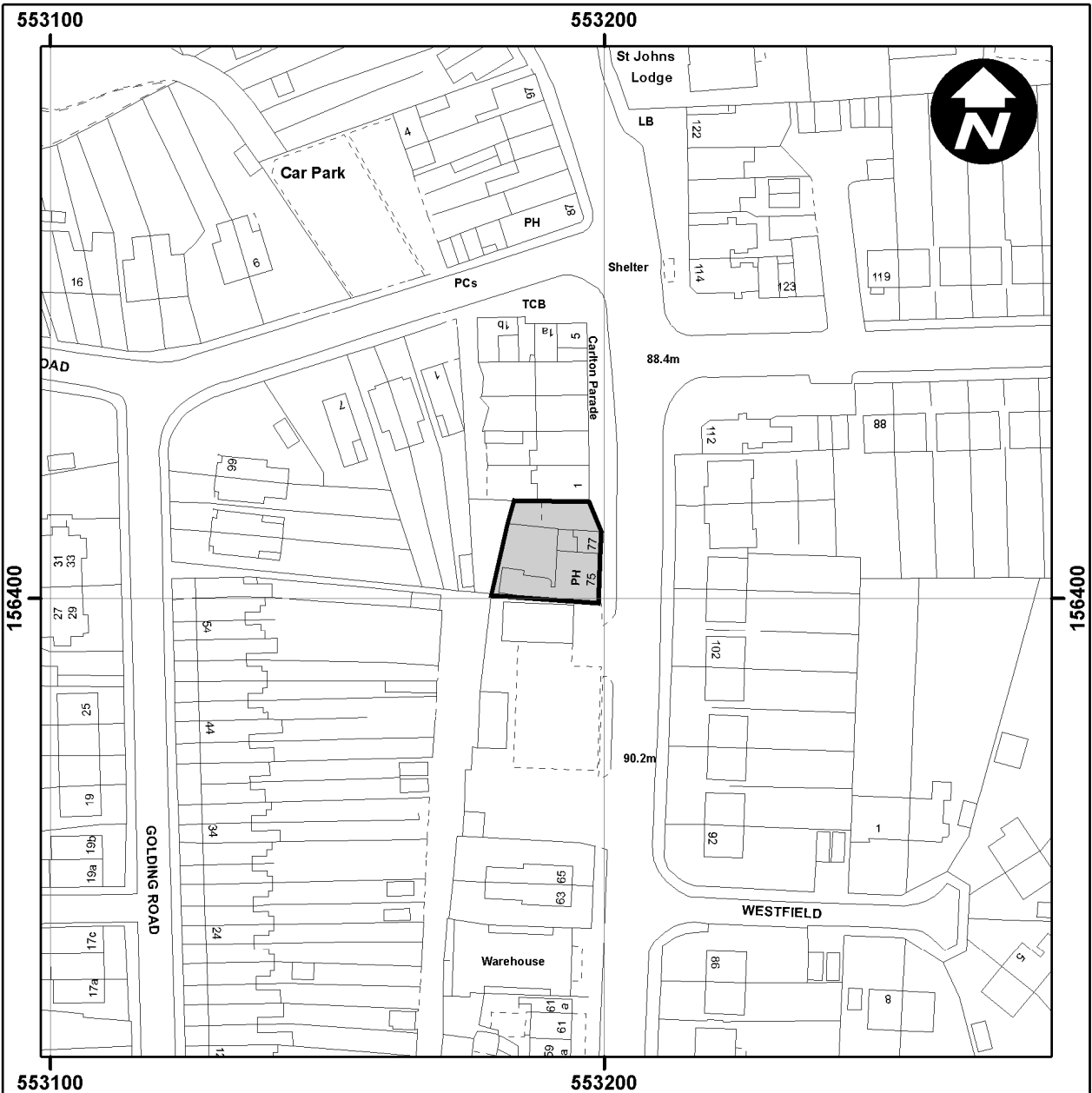
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=M6XNHGBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=M6XNHGBK8V000>



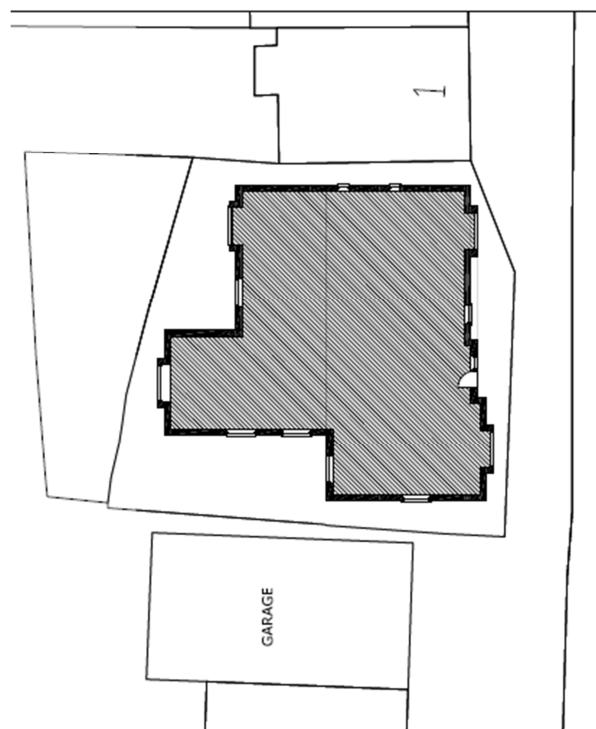
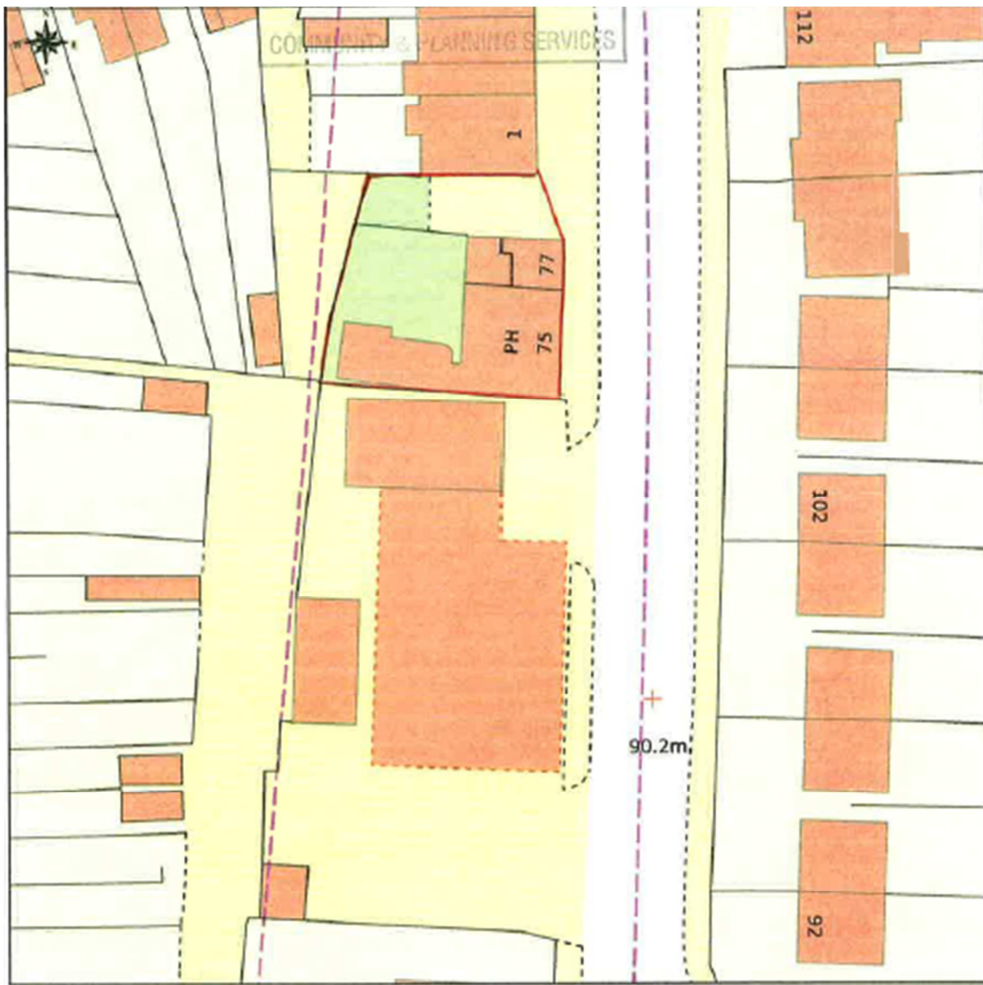
Site Plan

Scale 1:1,250
Date 25/01/2013



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Sevenoaks District Council, 100019428, 2013.

BLOCK PLANS



4.3 SE/11/01874/FUL Date expired 11 October 2011

PROPOSAL: Conversion of barn to residential use, with demolition of some associated structures as amended by plans received 5 December 2011.

LOCATION: The Red Barn, Stack Road, Horton Kirby, Dartford DA4 9DP

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

ITEM FOR DECISION

This application has previously been considered by the Development Control Committee and is being referred back to consider the specific items of the contribution to affordable housing.

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

The application makes no undertaking in relation to an affordable housing contribution contrary to policy SP3 of the Core Strategy and H3 of the South East Plan, and the Council's Supplementary Planning Document: 'Affordable Housing'.

Informatives

- 1) The applicant was informed/advised how the proposal did not accord with the development plan, that no material considerations are apparent to outweigh these matters and was provided with the opportunity to amend or resubmit the application or provide further justification in support of it.
- 2) The applicant was informed of our concerns and was also informed of their right to appeal.
- 3) Was updated on the progress of the planning application.

Background

- 1 Application SE/11/01874/FUL was submitted to the Council and validated on 16 August 2011. It sought permission for the following:-
Conversion of barn to residential use, with demolition of some associated structures
- 2 At the request of Cllr McGarvey, the application was referred to Development Control Committee having been recommended for refusal on other grounds.
- 3 On 19 January 2012 the Development Control Committee of Sevenoaks District Council resolved to grant planning consent for the conversion of Red Barn, Stack Road, Horton Kirby, Kent for residential purposes. That resolution was subject to appropriate provision for an affordable housing contribution in accordance with Core Strategy Policy SP3 and the Supplementary Planning Document relating to Affordable Housing. In particular Members resolved to grant planning permission subject to the following:-

Agenda Item 4.3

“That delegated authority be given to the Head of Development Services to grant planning permission subject to the imposition of appropriate planning conditions and subject to the completion of a satisfactory Section 106 obligation to secure an affordable housing contribution, such obligation to be completed within 6 months of the Committee's decision.

- 4 No Section 106 agreement has been completed because the applicant has not been willing to make an acceptable housing contribution. The committee resolution does not authorise a refusal of planning permission, and therefore the application is referred back to committee for a decision.
- 5 The applicant has made extensive representations to support his claim that the proposal is not viable and that no affordable housing contribution should be paid.

This addendum report covers:

- An update on how the proposal should be assessed against the NPPF, which came into force in March 2012, after the date this application was last reported to Committee; and
- Sets out the discussions that have taken place about the affordable housing contribution, including the policy position, the applicant's case and the Council's comments and conclusions.

The original committee report is appended to this document.

NPPF policies and the implications for this proposal

- 6 The site and the buildings around it appear to remain unchanged since the application was originally determined at committee. The main change between the original report and now is the fact that all government planning policy guidance/statement notes have been deleted and the National Planning Policy Framework (NPPF) has been brought into force. The paragraphs below set out how the NPPF applies to this proposal as set out in the original report

Impact of the development on the Green Belt-

- 7 The original report assessed the proposal against PPG2. This former guidance states that in such locations the conversion of existing buildings can be permitted subject to satisfying a number of criteria. It specifically stated that buildings should be capable of conversion without major or substantial reconstruction that and the development in should be keeping with the surroundings.
- 8 The report concluded that the proposed development went beyond what was considered to be a conversion and would amount to major reconstruction due to the extension. The report concluded that the proposal conflicted with policy GB3A of the Sevenoaks District Local Plan, and the advice contained within PPG2 and is inappropriate development in the Green Belt. There were also no very special circumstances to clearly outweigh their harm.
- 9 The National Planning Policy Guidance relating to Green Belt is now set out in paragraphs 80 of the National Planning Policy Framework. 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

Agenda Item 4.3

general presumption against inappropriate development, where the openness of the countryside/landscape would be adversely affected.

- 10 This document states that other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:-

The re-use of buildings provided that the buildings are of permanent and substantial construction.

- 11 The NPPF does not in my view bring in any significant changes that would affect the Council's position on the proposal. In this respect the previous recommendation was to raise objection to the proposal on Green Belt grounds, but this was not accepted by Members.

Impact of the development on the street scene

- 12 The proposal was originally assessed against PPS1.
- 13 It was previously concluded that the proposal would not undermine the character and style of the building and the proposal was considered to be acceptable.
- 14 The National Planning Policy Framework advocates the need for good design and states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 15 It is considered that the NPPF does not change the Council's position on the scheme.

Highway Implications

- 16 No objection was raised to the proposal on highway grounds, and it is considered that the NPPF does not change the Council's position on this.

Impact on protected wildlife within the dwelling

- 17 Another key issue in respect of this application is whether the activities proposed can take place without undue harm to the potential wildlife within the application site.
- 18 The proposal was originally considered under PPS9 and circular 06/2005. This guidance originally stated "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".
- 19 The previous committee report, suggested that the proposal was acceptable subject to conditions.
- 20 In terms of the natural and local environment, the NPPF expects similar protection.-
- 21 In terms of the NPPF, it is considered that that proposal does not affect the original conclusions of the report in terms of the impact on protected wildlife. If

Agenda Item 4.3

Members are minded to approve the application, the conditions recommended by consultees would be required to comply with guidance in the NPPF.

Impact on the amenities of neighbouring properties

- 22 The original report raised no objection to the proposal on neighbouring amenity grounds. The NPPF is not considered to raise any further objections.

Affordable Housing

- 23 The impact on the NPPF of the proposal is discussed in paras 94-102 below.

Planning Policy: Affordable Housing

- 24 Policy SP3 of the Sevenoaks District Council Core Strategy states the following:

‘Provision of Affordable Housing’

In order to meet the needs of people who are not able to compete in the general housing market, the Council will expect the provision of affordable housing in all types of residential development including specialised housing. The location, layout and design of the affordable housing within the scheme should create an inclusive development.

The level and type of affordable housing required in any residential development will be assessed against the following criteria:-

- 1 *In residential developments of 15 dwellings or more gross 40% of the total number of units should be affordable.*
- 2 *In residential developments of 10-14 dwellings gross 30% of the total number of units should be affordable*
- 3 *In residential developments of 5-9 units gross 20% of the total number of units should be affordable*
- 4 *In residential developments of less than 5 units that involve a net gain in the number of units a financial contribution based on the equivalent of 10% affordable housing will be required towards improving affordable housing provision off-site*

Where an element of affordable housing is required at least 65% of the affordable housing units should be social rented, unless the Council is satisfied that an alternative mix meets a proven need.

In exceptional circumstances where it is demonstrated to the Council’s satisfaction through an independent assessment of viability that on-site provision in accordance with the policy would not be viable, a reduced level of provision may be accepted or, failing that, a financial contribution towards provision off-site will be required.

Permission will be refused where the size of the development is artificially reduced to fall below the threshold requiring provision of affordable housing.’

Agenda Item 4.3

- 25 In this instance the proposal is for one dwelling and a financial contribution is required. The preamble to the policy states 'permission will be refused for development that makes no contribution or inadequate contribution to affordable housing where provision could reasonably be made under the terms of the policy.'
- 26 The Core Strategy identifies that the need to provide affordable housing is important for two main reasons; firstly to enable people who cannot afford to rent or buy on the open market to live in a home that is suitable for their needs and that they can afford, and secondly to provide housing for people working in different aspects of the local economy, thus underpinning economic activity.
- 27 The NPPF requires that Local Planning Authorities should set policies for meeting affordable housing need (paragraph 50).
- 28 The South East Plan identifies a series of sub regional housing markets and that Sevenoaks District, together with Tonbridge and Malling and Tunbridge Wells, lies within the West Kent Housing market area. A West Kent Strategic Housing Market Assessment has been completed in accordance with Government guidance. It shows a high level of need for affordable housing across the housing market area and a shortfall in comparison with existing provision.
- 29 The provision of affordable housing is not just important in responding to housing need, it is also important to the economy. The West Kent Area Investment Framework identifies lack of affordable housing as a factor contributing to labour supply shortages. It is therefore important to increase future supply.
- 30 The Council's Supplementary Planning Document (SPD) 'Affordable Housing' which was formally adopted in October 2011 provides advice on how the Council's affordable housing policy, as set out in the Core Strategy, is to be implemented. It states that 'the requirement for affordable housing will be applied to the conversion and change of use of any building, whether or not it is already in residential use, where that change results in a net increase in the number of units.' (paragraph 4.4)
- 31 The SPD states that planning permission will be refused for development that makes no contribution or inadequate contribution to affordable housing, where provision could reasonably be made under the terms of the policy without making the development non viable (paragraph 6.3)
- 32 The SPD states that developers and landowners are 'expected to consider the overall cost of development, including the required planning obligations and any other costs prior to negotiating the sale or purchase of land or an option. A nil input of grant should be assumed. Early consultation with the Council is therefore encouraged (paragraph 8.2).
- 33 It goes on to state that 'where a developer or landowner considers that there are significant constraints affecting a development that would be sufficient to jeopardise or prevent them from meeting the Council's affordable housing policy targets, this will need to be demonstrated to the Council by the submission of a suitable financial appraisal. The Council will adopt an 'open book' approach to this assessment and the developer / landowner will be expected to provide all relevant financial and other information behind the appraisal to enable the Council and/or independent valuer on the Council's behalf to assess the nature, extent and impact of the constraints upon the viability of the scheme. It is

Agenda Item 4.3

recommended that this information is submitted as part of any pre-application discussion and discussion will be encouraged to facilitate a clearer understanding of the issues and the ability to reach a suitable resolution.’ (paragraph 8.3)

34 It concludes that ‘if, following such an appraisal and based upon all available evidence, the Council concludes that the scheme is economically viable and if the affordable housing requirement is not met this could lead to the application being refused planning permission.’

35 At paragraph 8.7 the SPD states:

‘If, following the appraisal process it is considered that genuine economic constraints have been demonstrated in providing the required level of affordable housing, or financial contribution, the Council will expect the developer to fully explore options available to either achieve economic viability or to make a reduced housing/financial contribution. Such options could include: a variation in tenure, variation in size and type of units provided, reduction in affordable units on site, an alternative to on-site provision, or a financial contribution. Early consultation with the Council is encouraged if this situation is apparent.’

Viability and the affordable housing contribution

36 The Applicant has sought to demonstrate using a financial appraisal that a financial contribution cannot be made as the scheme is unviable.

As outlined above, the SPD states that if there are ‘*significant constraints affecting a development that would be sufficient to jeopardise or prevent them from meeting the Council’s affordable housing policy targets, this will need to be demonstrated to the Council by the submission of a suitable financial appraisal.*’

37 Currently the valuation of the development by the Council’s consultants has been set at £800,000. There have been checks of the applicant’s data. The appended table (See Appendix 1) summarises the applicant’s data, carried out by the Council’s Consultants. Two independent appraisals were undertaken. The first was based on the theoretical costs of the development, as if the applicant was a developer and would be selling the property on. The second appraisal was undertaken based on the actual costs that the applicant would incur on the basis that the dwelling is to be used as his own home.

38 In this case, the Council considers that it is not appropriate to include the theoretical costs as an assessment of whether the proposal is viable, as these are not costs that will be incurred and therefore, they are not ‘genuine economic constraints’.

39 The applicant argues that the costs of acquiring the land, the build costs, the professional fees, the marketing and letting and sales agent and sales legal fees, the cost of finance, and the profit should be taken into account, even if they have or will not actually be incurred, and has concluded that no affordable housing contribution would be required.

40 The requirement for an affordable housing payment, based on the SPD would be:

- Open Market Value = £800,000
- Residual land value percentage calculation = $800,000 \times 0.388 = £310,400$

Agenda Item 4.3

- Calculate 15% of residual land percentage = $310,400 \times 0.15 = \text{£}46,560$.
- Add the 15% figure to the residential land value = $\text{£}46,560 + \text{£}310,400 = \text{£}356,960$
- $\text{£}356,960 \times 0.1 = \text{£}35,696$ payable for affordable housing contribution.

41 Policy SP3 of the Core Strategy requires the full contribution of $\text{£}35,696$ for affordable housing. The SPD sets out the expectation for payment on commencement. Any alternative payment schedule needs to be justified. Paragraph 8.7 of the SPD refers to concerns about viability. The Council will take into account 'genuine economic constraints' that make it difficult to provide the affordable housing contribution.

42 The viability study submitted by the applicant argues that no contribution is required.

43 The conclusion of the applicant's viability study is as follows:-

"We have costed the project as if we were commercial developers undertaking the development for profit, including appropriate allowances for acquisition of the site, professional fees, development costs, abnormal costs and scale costs. It is appropriate to do this since otherwise there would not be a fair comparison between ourselves as individual developers on the one hand and commercial developers seeking to undertake the development for profit. It is unreasonable and unfair that we should be penalised by way of paying an additional social housing contribution cost for (for example) marketing costs of the project once built when we are not actually looking to sell the land.

The estimated costs of acquiring the site and undertaking the development shows that in commercial terms the project is unviable, with the costs of exceeding the estimates value once developed by more than $\text{£}500,000$ "

44 The Officer's concerns with the viability studies included the following:-

- The residual land value of the site has been submitted, which shows the land value at $\text{£}150,000$. There was no evidence of any land transaction with this sum paid, apart from a statement to this effect. There is evidence of $\text{£}50,000$ paid for a land transfer.
- The build cost for the proposal is shown as $\text{£}1,775$ per sqm. This has been queried as this is extremely high. The Council would expect build costs to be anywhere in the region of $\text{£}800 - \text{£}1,100$ per sqm. It has not been sufficiently demonstrated that build costs at this high level are justified or why they are considerably above the norm. A general allowance of $\text{£}1,200$ per m^2 has been used in the reviews of the viability appraisal undertaken by the consultants on behalf of the Council.
- Some additional costs are not standard construction costs, for example the solar panels, ground source heat pump and rainwater harvesting. Council policy encourages best practice in sustainable design and construction but does not require these measures, unlike the affordable housing contribution. These are non-essential and should not be used against the need to supply the affordable housing contribution. The build costs of

Agenda Item 4.3

£1200 per m² are considered adequate to build to Code for Sustainable Homes level 3. The total value of the cost of these non essential items is as follows:

- Solar panels	- £12 000
- Ground Source heat Pump	- £35 000
- Rainwater harvesting	- £6000
- TOTAL COST:	- £53 000

- The document stated that there would be a fee of £13,050 for estate agency fees. The dwelling is known to be planned as a family home for the applicant and therefore there would be no costs involved in selling the property.

45 The appraisal of the site by the Council's consultants that considers the theoretical costs, looks at the costs that a developer would incur such as Agents fees, legal fees and stamp duty on the purchase of the land and sales fees and legal fees on the sale of the property. The appraisal also includes profit at 15% of the sales price. This appraisal gives a residual land value of £62,147 which when compared to the land value of £150,000 shows that the scheme is not viable. This appraisal is not relied on as it includes costs that will not be incurred by the applicant and are not therefore genuine economic constraints.

The second report by the Council's consultants shows the actual situation based on the actual costs that will be incurred whereby the "theoretical costs" have been removed as the applicant has not bought the property on the open market and is building the house for his own use and does not intend to sell the completed property. This appraisal has removed the costs associated with the agent's fees, legal fees and stamp duty on the purchase of the land, the sales fees and legal fees on the sale of the property and the profit element.

46 This appraisal gives a residual land value of £185,647 which shows that the scheme could support a financial contribution of around £35,000 and still remain viable when compared to the site value of £150,000.

47 The Council's position is that the report, which shows the removal of theoretical costs, is the correct approach that should be taken for the site, in accordance with the SPD.

48 Both the reports referring to theoretical costs and actual costs incurred assume that all of the costs of the development would need to be financed at a rate of 6% interest. The costs of the development as a whole are £567,680. The value of the mortgage taken out by the applicant in 2008 was for £593,970 at an interest rate of 4.88%.

The Applicant's Case

- 49 The applicant argues that the Actual Costs Report is erroneous.
- 50 He is of this view, as he considers that it ignores site acquisition costs of £50,000 paid in May 2010. (Note comments on this in the Group Manager's appraisal – see para 71 below).
- 51 The applicant has advised that the National Planning Policy Frameworks is relevant as it provides:
- A presumption in favour of sustainable development (paragraph 14) and in particular that consent should be granted without delay.
 - That development should support a prosperous rural economy, especially supporting the development of agricultural businesses through conversion of existing buildings and otherwise (paragraph 28). Noting that the aim of the conversion is to support an existing farming business and enable it to continue in the long term.
 - That a financial contribution need not be sought if it can be robustly justified that none should be paid (paragraph 50).
 - Authorities should normally approve planning applications for residential use (paragraph 51)
 - Plans should provide that contributions (including social housing contributions) sought from landowners requires careful attention to cost and viability and must allow a willing landowner and willing developer to deliver the project. (paragraphs 173 and 174)
 - That where planning obligations are being sought, authorities should be sufficiently flexible to prevent planned development being stalled. (paragraph 205).
- 52 The applicant also refers to the following:
- 1 The applicants have produced evidence that they had engaged their architect in connection with the site as far back as 2006.
 - 2 The applicants have produced evidence of pre-planning consultation with the Council in June 2009 – the mortgage was taken out in December 2008 and the site acquired in May 2010. The applicants submitted a planning application relating to the site in 2010: SE/10/01790/FUL. (*officers note: this application was refused permission on 12.8.10*).
 - 3 The applicants cannot proceed without borrowing. So even if the mortgage were unrelated to the development, finance would be required, and the cost of that finance would be approximately the same if not significantly higher than the costs of the current mortgage and would need to be taken into account in the financial assessment.
 - 4 Since December 2008 the applicants have held the proceeds of the 2008 mortgage in bank accounts to meet the costs of the development. They could repay the 2008 mortgage and take a new loan to raise a new

Agenda Item 4.3

mortgage the cost of which would be allowable in the financial appraisal. This artificial manoeuvre should not be necessary in the light of paragraphs 186, 187 and 205 of the National Planning Policy Framework.

- 5 It is not relevant that the mortgage is not secured on the development site. The loan will finance the development costs and accordingly the interest costs are costs to be taken into account in the financial appraisal whether the loan is secured on the site, on other land or not secured at all. A site valued at £150,000 is not acceptable as security for a loan of £600,000, so the fact the site is not mortgaged is not surprising.
 - 6 It has also been suggested that since the site was acquired in May 2010, long before the current application was submitted, means that the acquisition costs should not be included in the financial appraisal. The submission of planning application SE/10/01790/FUL shows this argument too is unsustainable and site acquisition costs are allowable.
- 53 The applicant has also submitted copies of title to Langlands, Black Cottage, 1 and 2 Flint Cottage and Rabbits Farm. Reference to the AMC charge/mortgage is made as follows:
- Entries 6 and 7 of the charges register of title K700976 (Rabbits Farm);
 - Entries 1 and 2 of the charges register of K951081 (Black Cottage and Flint Cottages); and
 - Entries 3 and 4 of the charges register of title K676880 (Langlands, being the same as land to the east of Dartford Road).
 - Note the date of the charge (23 December 2008) being the same in all cases and a day after the mortgage offer.
- 54 The applicant has also advised in relation to a document about the transfer of land that the financing costs are such that consideration of the £50,000 cost of the land purchase is essentially irrelevant. In referring to the transfer, the applicant states that the benefiting land was (and is) not owned by the transferee (the applicant and his wife Louise, the applicants under the planning application) but by the applicants mother Sarah. It is stated that $\frac{1}{3}$ of the value of the property (i.e. Red Barn) transferred by the transferor (Sarah and applicant) was before the transfer owned $\frac{2}{3}$ by the applicant and $\frac{1}{3}$ by family trustees. The applicant paid £50,000 for that further $\frac{1}{3}$ interest of the trustees. The applicant has also advised that he is registered as the legal owner of certain other family land, including the retained land (as defined in the transfer), he is also the trustee of that land for other members of the family, and neither he nor his wife Louise have any economic interest in it.
- 55 In addition to the above and to address the Council's concerns, the applicants have stated they are willing to enter into a s106 agreement to the effect that if the developed site is sold outside the applicants' family within 10 years from the grant of a planning consent, the full social housing contribution of £35,648 will be payable.

- 56 Further information was submitted by the applicant to support his case, in the form of Counsel's opinions on the approach to assessing viability taken by the Council.
- 57 These opinions argue on behalf of the applicant that viability should be assessed objectively, using for example, an industry standard model and not on the basis of the particular circumstances of the applicant. Furthermore, it is argued that the assumptions that these models used should include provision for costs of acquisition, financing, profit and professional fees even if those costs have not been or will not be incurred.
- 58 The Opinions concluded that the approach taken by the Council, which looks at the costs that have been and will actually be incurred, is manifestly unreasonable and unfair.
- 59 The applicant's Counsel raises a number of key points, extracts of which are re-produced below.

"...The planning system seeks consistency and certainty, and it is for that reason that the industry has developed tools such as the HCA toolkit and the Three Dragons assessment. There is absolutely no warrant for considering the individual circumstances of any individual applicant because to do so will inevitably always lead to different results, and such unpredictability is itself an anathema to the planning process and it ignores the fundamental point that because planning permission runs with the land, it cannot be assumed that any given applicant will implement the development. The land could be sold many times over before it is developed.

The only proper, sensible and reasonable basis to approach assessments such as these is for the planning authority to assume that the site will be developed by a developer according to the industry wide assumptions contained in the standard packages referred to above and taking into account the development requirements of the site."

- 60 Reference is made to the RICS Professional Guidance titled "Financial Viability in Planning", including:

"Further, the Guidance Note defines financial viability for planning purposes as:

'An objective financial viability test of the ability of a development project to meet its costs including the cost of planning obligations, while ensuring an appropriate Site Value for the landowner and a market adjusted return to the developer in delivering the project'.

It goes on to state: 'In undertaking scheme specific viability assessments, the nature of the applicant should normally be disregarded, as should benefits or disbenefits that are unique to the applicant. The aim should be to reflect industry benchmarks in both development management and plan making viability testing.'

- 61 A further Opinion relates specifically to the Council's view that the scheme could be modified to reduce the costs of the development to provide the funds for affordable housing. It states:

Agenda Item 4.3

“...The viability assessment consideration must be based on the actual development for which permission is sought. In this case the development includes ground source heat pumps, rainwater harvesting and solar panels...”

More generally it seems that the Council is attempting to divert sums from the Applicants' proposed development budget to make a financial contribution to provision of affordable housing in Sevenoaks District. So far as I am aware there is no policy justification for this either in local or national planning policy or indeed on any other basis.”

- 62 In addition, further correspondence was received from the applicant emphasising the point referred to above and referring to what is considered to be the key NPPF and Core Strategy policies.

Group Manager Planning Services - Appraisal

- 63 On 23 October two final financial appraisals were submitted by Adams Integra and summarised the Council's policy position on the affordable housing contribution, based on those appraisals. As previously confirmed the actual costs report confirms that an affordable housing contribution should be paid for this application, to the value of £35,647.
- 64 The aim of the financial appraisal is to provide an objective financial viability test of the ability of a development project to meet its costs including the costs of planning obligations.
- 65 Officers remain of the opinion that the circumstances that have been outlined by the applicant are not genuine economic constraints which would make the scheme unviable and would therefore prevent the affordable housing contribution from needing to be paid.
- 66 The abnormal costs could be amended to make significant savings. These elements have not been justified by the applicant. The unnecessary abnormal costs alone for the solar panels, ground source heat pump and rain water harvesting amount to £53,000.
- 67 Whilst the applicant's mortgage was taken out before any prospect of gaining planning permission, the important consideration is that the viability appraisals assume that finance would need to be taken out to finance this project, and that even at a higher interest rate than that secured by the applicant, the project would be viable and the affordable housing contribution could be paid.
- 68 The mortgage taken out and the transfer payment made by the applicant, were made well in advance of any proposal submitted to the Council for a change of use and redevelopment of the site for residential purposes. In page 9 of the applicant's submissions of November 2012 the applicant states that since December 2008 they have held the proceeds of the mortgage in bank accounts. It would be reasonable to presume that this sum would raise further income in interest that could be put towards the financial costs of the scheme. The applicant has not referred to this option.
- 69 The applicants have clarified that the site was valued at £150,000. They paid £50,000 for $\frac{1}{3}$ of the site and were gifted the remaining $\frac{2}{3}$ of the site from a

Agenda Item 4.3

family member. Note that the appraisals by the Council's consultants refer to the higher sum of £150,000, as it is now known this sum was not paid, this alters the financial appraisal and allows for an additional financial cushion.

- 70 The applicants would consider delaying payment of the S106 contribution to a later date. The applicants have advised that they are willing to enter into a S106 agreement to the effect that if the developed site is sold outside the applicants' family within 10 years from the grant of a planning consent, the full social housing contribution of £35,648 will be payable. However the applicants stated intention is not to sell the property outside the family and it is most unlikely that a contribution would ever be received.
- 71 There is a genuine need for the contribution now, the scheme is viable and an affordable housing contribution is therefore justified to comply with policy. It has not been demonstrated that there are genuine economic constraints to providing it.
- 72 In addition if the Council were satisfied there were genuine economic constraints (which they are not) the applicant would be expected to explore all options to achieve economic viability and/or to pay a reduced contribution.
- 73 As the comparison table attached to this report shows, the assumed build costs are high and the costs for the provision of solar panels, ground source heat pump and rainwater harvesting could be reconsidered. The financial costs could be reconsidered to reflect this and the actual costs that will be incurred
- 74 There could have been no expectation at the time the mortgage was taken out of a grant of planning permission. There have also been many policy changes since that time that could have had an impact on the consideration of the proposal.
- 75 The Council's consultants have demonstrated that if the build costs are reduced to a more typical, but still very generous level, and the items for solar panels, ground source heat pump and rain water harvesting are deleted, then the scheme is viable. From January 2011 an affordable housing contribution has been required for schemes of this nature and the costs of the scheme should have been re-evaluated to address this as part of the latest application and any claim that the proposal is not viable, in accordance with the advice in the SPD.
- 76 In addition, there could be a further financial cushion if the site acquisition costs of £150,000 were not incurred in full. The finance the applicant has secured is also at a lesser rate (4.88%) than is allowed for in the consultants appraisals (6%) and thus the costs of the finance to the applicant would have been less in actuality. However, the applicant's submitted finance costs appear to include all the interest costs of the 25 year mortgage resulting in much higher finance costs than would be the case for a shorter term loan to fund construction. This argument is not supported by local or national policy or guidance. These costs would go far beyond what would be considered appropriate for a private individual or a developer. The finance required by the applicant was a mortgage taken out before the planning application was submitted. The mortgage was not secured on this scheme and the financing does not appear to cover the requirement for an affordable housing contribution. In considering the funding of a scheme it is standard practice to take into account all the costs of development including the need to fulfil any policy requirements such as affordable housing contributions.

Agenda Item 4.3

- 77 The independent financial appraisals robustly demonstrate that this proposal based on the actual costs incurred, is viable, and that the full affordable housing contribution can be paid in accordance with the policy.
- 78 Officers have reviewed the position following receipt of the Counsel's Opinions submitted by the applicant.
- 79 In assessing viability, officers have used an industry standard model. The difference between officers and the applicant relates in the most part to the information that has been put into that model. The theoretical version of the model referred to assesses the proposal as if the applicant is a developer and this is the version of the viability assessment the applicant supports.
- 80 In creating the theoretical version of the model to assess viability, some of the financial data that is needed for the assessment would not have been or will not be incurred. For example, in this case, that would include the fees that would normally be incurred for the sale of a property on completion, and the developer's profit.
- 81 It is generally understood that the developer's profit is there to cover the risks to the developer and those financing the scheme. On this basis the level of profit varies between schemes and developers based on that level of risk. Therefore, one of the difficulties with a model where theoretical data is input is which values to use. Profit is not required for this scheme as the proposal is to be retained as a home for the applicant, so allowing for a developers profit of 15% or more is not considered to reflect the actual circumstances of this development.
- 82 Officers consider that using a model with financial data that is inaccurate as fictional values will have to be input, is not the most appropriate way to assess viability in this specific case. The SPD on affordable housing expects applicants to demonstrate that there are genuine economic constraints to providing the level of affordable housing required. If fictional values are being used, to make an assessment of a proposal look like it is from a developer when it is not, it is hard to see how this concurs with a need to demonstrate 'genuine economic constraints'.
- 83 The SPD also expects a developer to fully explore the options available to achieve economic viability or to make a reduced housing contribution.
- 84 The applicant argues that he should be treated as a developer for the basis of the financial appraisal but that in addition, it would be inappropriate "to divert sums from the applicants' proposed development budget to make a financial contribution to provision of affordable housing in Sevenoaks District", as would be required by a developer in accordance with the SPD.
- 85 In reviewing the issues raised by the applicant officers are of the view that the equitable way to deal with viability issues is to apply the industry standard models of viability, but to depart from these where there is clear evidence to do so.
- 86 The RICS Guidance referred to by the applicant, outlines the types of developer that that the guidance mostly relates to. None of these cover the scenario we have for this case, where someone is not a developer, and where the development is proposed for themselves, where many of the costs you would normally expect to be incurred will not be, such as professional fees for the sale

of the property. The RICS Guidance also states that in undertaking scheme specific viability assessments the nature of the applicant should normally be disregarded.

- 87 As in this case the circumstances surrounding the financial costs of the development are different from those a developer would incur, and the proposal is not by a developer, there is an argument to place more weight on the scheme specific aspects of the proposal when assessing viability. The RICS Guidance does not state that scheme specific viability assessments will always be inappropriate. If the Council is to assess whether there are 'genuine economic constraints' that apply in this case, in accordance with the SPG test, the fairest way of doing so for the applicant, in the Council's view, in comparison to other viability assessments that are submitted, is to use an industry standard model, but using financial data based on the costs that will be or have been incurred.
- 88 The applicant makes the claim that we are being unfair and treating him differently from a developer. If we look at actual costs for a developer and theoretical costs for a private individual as suggested by the applicant, in officer's view this does not appear to be a fair approach either. If the circumstances of the case changed and the site was sold to a developer, there is an option for them to amend the Section 106 based on the specific circumstances at that time. Whilst Counsel is correct in that the planning permission goes with the land, in line with SPD, it is clear that in assessing viability it is necessary to look at the actual figures for each specific case.
- 89 When we assess a scheme using the industry standard model, the actual costs to a developer are input, not theoretical costs. It would not be a fair approach for a developer to have to use actual costs and for private individuals to be treated as a developer but, thereby having to use fictional values as some of their costs would be theoretical. If the circumstances of the case changed and the site was sold to a developer, there is an option for them to amend the Section 106 based on the specific circumstances at that time. Whilst Counsel is correct in that the planning permission goes with the land, in line with SPD, it is clear that in assessing viability it is necessary to look at the actual figures for each specific case, and whether there is scope to modify the scheme to provide the affordable housing contribution.
- 90 The advice and guidance in the NPPF is also relevant. The applicant refers to it in detail as justification for his case. For clarity, key paragraphs are referred to below. Paragraph 50 states:-
- "To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:
- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);
 - identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and

Agenda Item 4.3

- where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.”

91 The Core Strategy and Sevenoaks District Local Plan (saved policies) include policies that address the above issues.

92 Paragraph 51 states:-

“Local planning authorities should identify and bring back into residential use empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, acquire properties under compulsory purchase powers. They should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.”

93 This paragraph should not be read in isolation and account also needs to be taken of requirements in other parts of the NPPF such as the provision of affordable housing in accordance with adopted policies.

94 Paragraph 173 states:-

“Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.”

95 There was an Affordable Housing Viability Assessment carried out for the Core Strategy and Policy SP3. The findings of this assessment are on the Council’s website and summarised in paragraph 5.3.8 of the Core Strategy. The Council is satisfied that Policy SP3 and the evidence base that underpins it comply with paragraph 173 of the NPPF. This is supplemented by the guidance in the affordable housing SPD.

96 The NPPF highlights the importance of providing affordable housing. It also highlights that importance of viability. In this case, as stated above it is the Council’s view that the applicant has been unable to demonstrate that there are significant genuine economic constraints that would render the scheme unviable and that all options have been explored to establish if the scheme could be made viable or a reduced contribution be offered.

- 97 The applicant puts great emphasis on paragraph 187 of the NPPF which states that “Local authorities should look for solutions rather than problems, and decision-takers...should seek to approve applications for sustainable development where possible.”
- 99 In this case, we have had lengthy and extensive discussions on the information submitted by the applicant. The applicant has not demonstrated that the proposal is acceptable having regard to the affordable housing policy. It is the applicant’s responsibility to demonstrate that there is justification for non-compliance with this policy. Decisions made by the applicant about the scheme prior to the imposition of the affordable housing policy in January 2011 or the decision not to modify the high costs of the build, are part of the applicant’s risk.

Conclusion

- 99 Planning policy at local and national level accepts that financial contributions to social housing may be waived if a development is rendered unviable by imposition of a financial contribution.
- 100 In the case of the Red Barn site, the applicant has not in the Council’s view demonstrated that the scheme is unviable or that there are genuine economic constraints to providing the required affordable housing contribution.
- 101 Whilst the applicants are a farming family, no evidence has been submitted to justify this proposal as an agricultural dwelling or as an essential diversification project for the farm. The applicants do not work in agriculture and there is no agricultural justification for waiving the contribution. The Council can therefore give little weight to the stated benefit of supporting an existing family business.
- 102 The Council have entered into protracted discussions with the applicants to seek to clarify all the financial aspects of the scheme and enable the applicant to make his case. The applicant has provided a wealth of information to support his case, but has not addressed the fundamental concerns outlined in this report about the build costs, abnormal costs and actual costs that have been incurred, to demonstrate that he has explored all options to seek to make the scheme (more) viable and that there are genuine economic constraints involved.
- 103 As it stands, an affordable housing contribution of £35,647 is due. The applicant has not agreed to this payment, payable upon commencement, as is expected. The applicant has only offered payment under a caveated agreement that would not comply with the Council’s policy and would not ensure a timely payment, if any payment at all, as payment was only offered if the developed site is sold outside the applicants’ family within 10 years from the grant of a planning consent
- 104 Accordingly the proposal is contrary to policy SP3 of the Core Strategy and the Affordable Housing SPD.
- 105 The SPD makes it clear that non-payment of the affordable housing contribution can only be justified if there are genuine economic constraints that apply and that then all options have been explored to make the scheme viable or to provide a reduced contribution. Whilst the applicant has been advised of this, none of these justifications have been demonstrated and on the basis of the information we have been provided with, it is not considered that any such justification exists

Agenda Item 4.3

in this case, if the proposal is assessed on the basis of the actual costs that will be incurred.

106 There is no affordable housing contribution proposed in accordance with Policy SP3 of the Core Strategy and the SPD and no legal agreement in place. The NPPF supports the Council's view that provision for affordable housing should be made when there is no justification that the proposal is unviable.

107 Accordingly, the application is recommended for refusal.

Background Papers

Site and Block plans

Contact Officer(s): Vicky Swift Extension: 7448

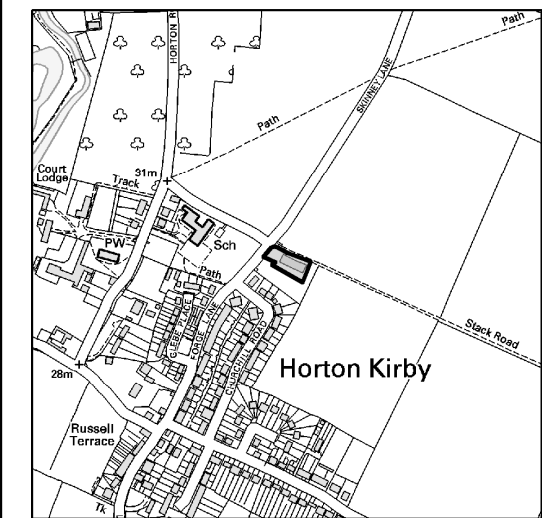
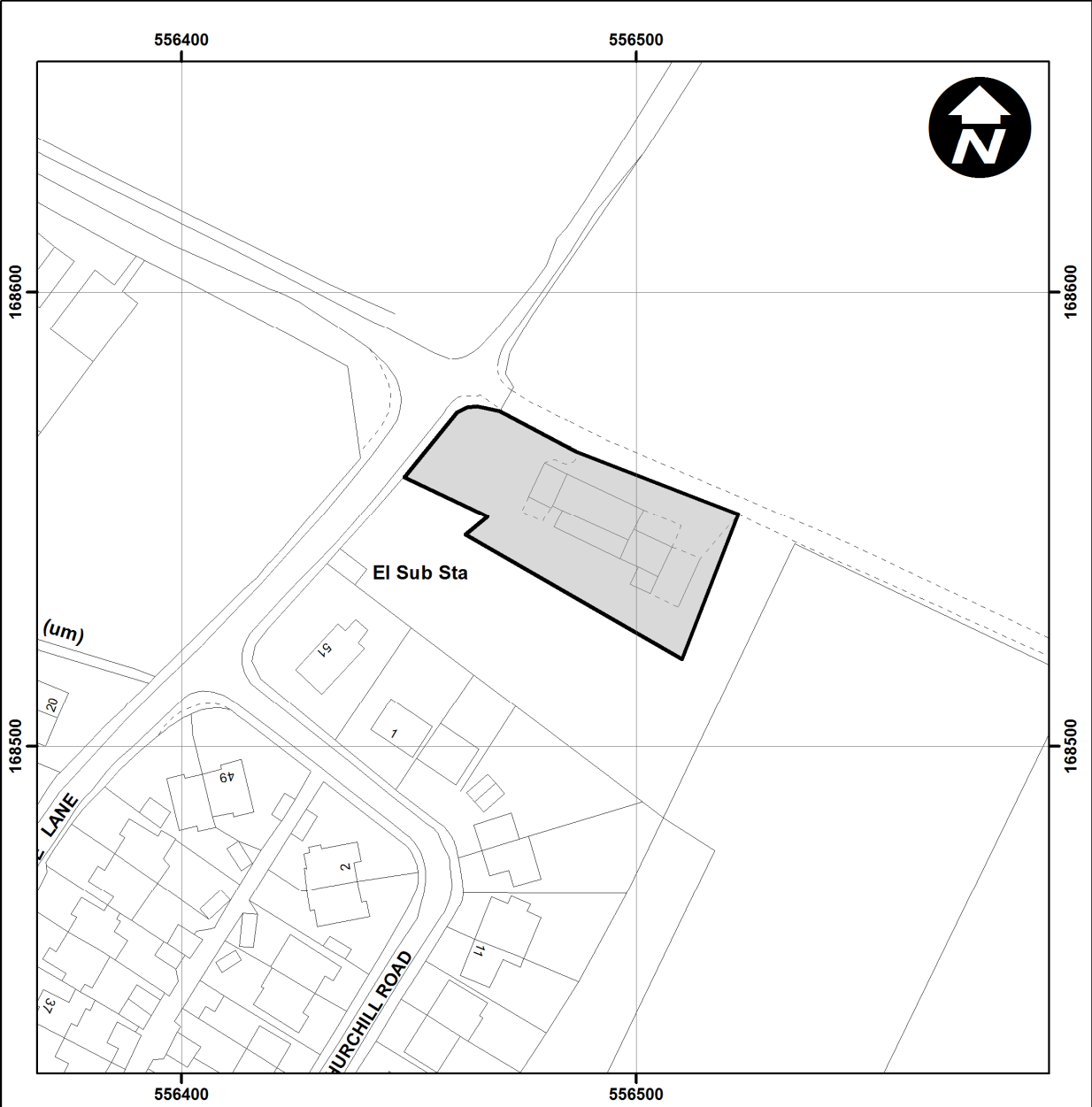
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LOOX0KBKOCRO0>


Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LOOX0KBKOCRO0>



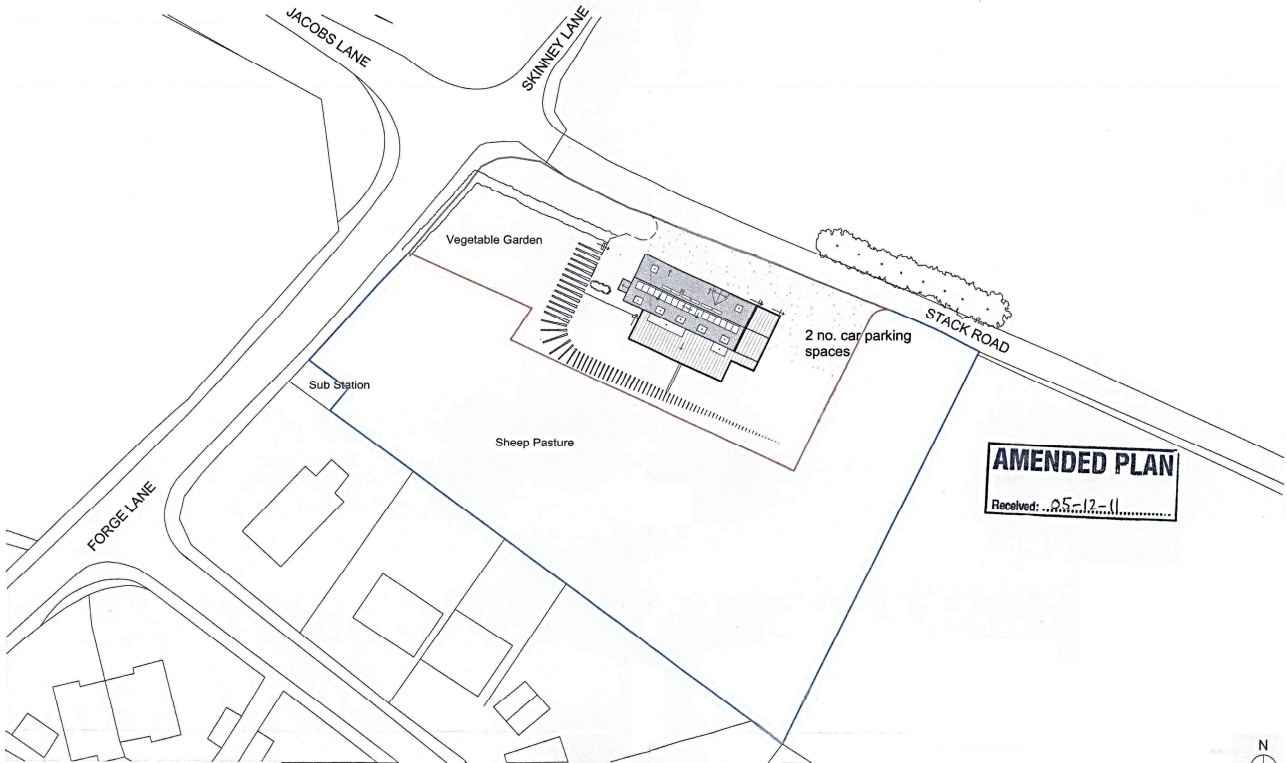
Site Plan

Scale 1:1,250
Date 23.11.2011



Sevenoaks
DISTRICT COUNCIL

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Sevenoaks District Council, 100019428, 2011.



Agenda Item 4.3

APPENDIX 1

Comparison of Costs

ITEM	COSTS CLAIMED BY APPLICANT	CONSULTANTS REPORT – THEORETICAL COSTS	CONSULTANTS REPORT – ACTUAL COSTS	SDC COMMENTS
Site acquisition costs	May 2010 £50 000 paid for 1/3 share of site. Remaining 2/3 of the site gifted to applicants from a family member.	Existing use value of £150 000.	Existing use value of £150 000.	Says site was acquired at £150 000 it was valued at. No evidence to confirm this. There is evidence to confirm that £50 000 was paid and the remainder gifted.
Financing costs	May 2012 annex refers to net advance for mortgage of £593 970 (July 09 completion statement). 19 June 2012 email refers to financing cost for mortgage of £439 716. Nov 12 submission refers to mortgage costs of £442 869	Assumes finance for whole cost of project.	Assumes finance for whole cost of project.	This mortgage was arranged in 2008 and was secured on a number of properties, none of which was the application site. First quarterly payment due 1.3.09. Secured on other properties known as Langlands Farm, Rabbit Farm, Black Cottage, 1 & 2 Flint Cottages that are owned by another person.
Sales values	Para 3.2 of applicants May 2012 submission quotes £725 000.	£800 000	£800 000	Sales values amended to £800 000 when more accurate information available.
Build costs	£1775 per metre squared	£1200 per metre squared considered acceptable.	£1200 per metre squared considered acceptable.	No evidence of why build costs are so high. SDC Consultants have allowed for a generous build cost above the average due to the circumstances of the case.
Other costs	Claimed costs of solar installation, ground source heat pump or rainwater harvesting.	Not included solar installation, ground source heat pump or rainwater harvesting.	Not included solar installation, ground source heat pump or rainwater harvesting.	
Profit levels	Where referred to uses 17.5%	15%	0%	The applicant has advised that the home would be for him to live in and is not a development project. Accordingly, there would be no need for a profit.
Other assumptions		5% of build costs for contingency. 10% of build costs for professional fees.	5% of build costs for contingency. 10% of build costs for professional fees.	
Interest rates	4.88% payable quarterly.	6%	6%	
Other	Includes sales & legal fees, agents fees, stamp duty.	Includes sales & legal fees, agents fees, stamp duty.	Excludes sales & legal fees, agents fees, stamp duty.	Excluded fees are those that will not be incurred.
Notes	Claims solar panels, ground source heat pumps and rainwater harvesting as abnormal costs.	Not accepted as not required to gain code level 3.	Not accepted as not required to gain code level 3.	

Conclusion	No affordable housing contribution can be paid.	No affordable housing contribution can be paid.	Affordable housing contribution of £35 647 can be paid.	
Other comments	Have offered a S106 to confirm that if applicants family sell site within 10 years from consent the full contribution of £35 648 will be payable.	Costs input as if the scheme was being carried out by a developer but as this scheme is not, many of the costs would not be incurred.	Costs input to reflect the actual costs involved. Still a query over the £150 000 site acquisition costs.	The test is 'are there genuine economic constraints' and if there are, have they explored all options to achieve economic viability/ a reduced contribution.

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

5.05 – SE/11/01874/FUL Date expired 11 October 2011

PROPOSAL: Conversion of barn to residential use, with demolition of some associated structures as amended by plans received 5th December 2011.

LOCATION: The Red Barn, Stack Road, Horton Kirby, Dartford DA4 9DP

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

ITEM FOR DECISION

This application has been referred to Development Control Committee at the request of Councillor McGarvey, on the grounds that the proposal would have no greater harm on the Green Belt and that the proposal would represent a visual improvement to the site.

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

The land lies within the Green Belt where strict policies of restraint apply. The proposal by virtue of the extent of reconstruction work/new extensions would be inappropriate development harmful to the maintenance of the character of the Green belt and to its openness. This conflicts with policy GB2 of the Sevenoaks District Local Plan, policy SP5 of the South East Plan, policy L08 of the Sevenoaks Core Strategy and the government advice contained within Planning Policy Guidance Note 2.

This submission provides no affordable housing contribution contrary to policy SP3 of the Core Strategy and H3 of the South East Plan.

Description of Proposal

- 1 This application seeks permission for the conversion of an existing barn to residential use, with demolition of some of the associated structures. It is proposed that the new residential dwelling would contain four bedrooms. In addition to this it is also proposed that the building would contain the main farm office and a music room for one two one music tuition.
- 2 It is proposed that the following works are proposed:-
 - To remove the corrugated iron staging at the south of the building
 - Remove the Dutch Barn structure at the east end of the building
 - Remove the corrugated iron structure at the south east end of the building
 - Expose the traditional brickwork of the historic barn

(Item No 5.05) 1

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

- Reuse the lean to structure on the south side of the existing building, improving its appearance
 - Add an extension to the existing brick barn within the existing footprint of the Dutch Barn.
- 3 It is proposed that vehicular access to the site will be gained from the private road that runs to the north of the barn as existing. 2 parking spaces will be provided to the east of the barn providing space for personal and farm vehicles. A small private garden is proposed to the west of the barn.
- 4 There are also a number of solar panels proposed on the rear of the building.

Description of Site

- 5 The application site relates to a large agricultural building located on the corner of Stack and Forge Road. The site lies in a semi rural location on the edge of the village of Horton Kirby and South Darenth. The site is accessed off Stack Road which is a private right of way.
- 6 The application site relates to three main elements. The first is a 19th century two storey masonry barn building. The building is constructed from yellow stock brick with a purple slate roof. In addition to this the building has a number of later precast agricultural extensions/lean-tos. The building to the east of this is a 1950s precast agricultural shed extension. There is also a two storey timber extension to the west gable and a lean to extension to the south elevation. The building was used in hop production in particular hop picking and drying. It appears that it is still used for agricultural purposes today.
- 7 The building forms part of Court Lodge Farm a large family run farm with a variety of operations. The farming operations remains diverse producing hops, lavender, wheat and also farms sheep.
- 8 The site is located in the Metropolitan Green Belt and the Area of Local Landscape Importance.

Constraints

- 9 Metropolitan Green Belt

Policies

South East Plan

- 10 Policies – SP5, C3, C4, NRM5

Sevenoaks District Local Plan

- 11 Policies – EN1, GB3A

Sevenoaks Core Strategy

- 12 Policies– LO8, SP1, SP11

(Item No 5.05) 2

Agenda Item 4.3

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

Other

- 13 Planning Policy Guidance 2

Planning History

- 14 10/01790/FUL Conversion of barn to mixed residential and business use.
REFUSE 12/08/2010.

Consultations

Parish/Town Council

- 15 The Parish Council supports this revised application on the grounds that the proposed architectural detailing is in keeping with the existing barn and the impact on the green belt will be less as parts of the barn are to be demolished and the floor plate will be less. Many of the existing materials such as the slates will be re-used.
- 16 The Parish Council endorses this development because it is a 'betterment' of the current situation where the existing barn is in a very dilapidated condition. The proposal will result in an improvement to the street scene.

KCC Highways have made the following comments:-

- 17 No highway objection subject to an appropriate condition being attached requiring the applicant to install appropriate wheel wash facilities during construction to prevent materials being deposited on the highway.

The Environment Agency have made the following comments:-

- 18 We have no objections to the proposal so long as the following two planning conditions are imposed to any planning permission granted.

Drainage

- 19 We understand from the application documents that the foul drainage from the site will pass to a main sewer. We have no objections to this. Any surface water drainage from the new buildings (such as roof water) may be able to drain to soakaway provided that there is no discharge direct to groundwater, and that there is no discharge to land affected by contamination (including made ground). The downpipes for the soakaways should be sealed at ground level to prevent any potentially contaminating spillages from entering the system.
- 20 Condition one: No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Reason: To ensure that site drainage does not present a risk to groundwater. The site is underlain by head deposits over the Seaford Chalk formation. This situation represents a secondary aquifer over a principal aquifer. The site also

(Item No 5.05) 3

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

lies within the Source Protection Zone for the Horton Kirby public water abstraction. The site is consequently in a highly vulnerable location with regard to groundwater.

Land Contamination

- 21 Condition two: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for a remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure development is in accordance with PPS 23: Planning and Pollution Control. The site is underlain by head deposits over the Seaford Chalk formation. This situation represents a secondary aquifer over a principal aquifer. The site also lies within the Source Protection Zone for the Horton Kirby public water abstraction. The site is consequently in a highly vulnerable location with regard to groundwater.

Storage of fuels/chemicals

- 22 Informative: Care should be taken during and after construction to ensure that all fuels, oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/ unauthorised discharge to ground. The areas for storage should not drain to any surface water system.
- 23 Informative: Where it is proposed to store more than 200 litres (45 gallon drum = 205 litres) of any type of oil on site it must be stored in accordance with the Control of Pollution (oil storage) (England) Regulations 2001. Drums and barrels can be kept in drip trays if the drip tray is capable of retaining 25% of the total capacity of all oil stored.

KCC Ecology have made the following comments:-

- 24 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.
- 25 Planning Policy Statement 9: Biodiversity and Geological Conservation states that "the aim of planning decisions should be to prevent harm to biodiversity".
- 26 Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System 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

(Item No 5.05) 4

Agenda Item 4.3

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

otherwise all relevant material considerations may not have been addressed in making the decision.'

- 27 Natural England has published Standing Advice on protected species and Ancient Woodland. When determining an application for development that is covered by the Standing Advice, Local Planning Authorities must take into account the Standing Advice.
- 28 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.
- 29 We are satisfied that the Ecological Assessment report has adequately considered the potential for impacts on protected species as a result of the proposed development; the potential for impacts on bats, breeding birds and badgers have been identified and the report makes several recommendations (discussed below).

Bats

- 30 The emergence surveys have identified that bats are roosting within the building. The survey has suggested some mitigation however sufficient detail has not been provided with in the report. A detailed mitigation strategy must be submitted for comment.

Badgers

- 31 An active outline badger sett was identified on the site and as a result the proposed development will result in the loss of the badger sett. Sufficient information has not been submitted on the proposed mitigation - a detailed mitigation strategy must be submitted for comment.

Birds

- 32 Suitable habitat is present on site for breeding birds. The mitigation detailed in paragraph 5.2.2 and 5.2.3 must be carried out.

Enhancements

- 33 The key principles of PPS9 are not only to avoid, mitigate or compensate for harm to biodiversity but also to incorporate ways to enhance and restore it. An ecological enhancement strategy must provide details on the enhancements to be incorporated in to the proposed development. Suggestions for enhancements include the use of native local species in any landscaping or sections of rough grassland around the edge of the site.

Representations

- 34 1 letter of objection has been received in connection with this application, the main objections include the following:-

Impact on the Green Belt

(Item No 5.05) 5

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

Impact on the countryside

Precedent the proposal would set

Head of Development Services Appraisal

Principal Issues

- 35 The principal issues relate to;
- Principle of re-use
 - Impact of the development on the Green Belt-
 - Impact of the development on the street scene
 - Highway Implications
 - Impact on protected wildlife
 - Impact on the amenities of neighbouring properties

Principle of re-use

- 36 The most relevant up-to-date advice for re-using rural buildings is contained within PPS7. In addition PPG2 and GB3A of the local plan set out the criteria for assessing such proposals. PPS7 states that Govt is supportive of the re-use of appropriately sited and suitably constructed buildings in the countryside, that re-use for commercial purposes is preferred, but that residential conversions may be more appropriate in some locations and for some types of building.
- 37 With regard to the above it is clear that the re-use of rural buildings in the countryside and green belt can be an appropriate form of development and is encouraged by Government, subject to the impact of the proposed use on the local environment.

Green Belt

- 38 The proposal seeks permission for the conversion of the existing building including an associated shared curtilage for the building. The site is located within the MGB where strict policies of restraint apply.
- 39 New buildings within the Green Belt are considered as inappropriate development and by definition harmful. PPG2 however does state in such locations the conversion of existing buildings can be permitted subject to satisfying a number of criteria. PPG2 accepts conversion of existing buildings subject to no greater impact on the openness, and control over extensions and new buildings. Buildings should be capable of conversion without major or substantial reconstruction and the development in keeping with the surroundings.

(Item No 5.05) 6

Agenda Item 4.3

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

- 40 Policy GB3A permits the re-use of buildings within the Green Belt providing that the proposed new use will not have a materially greater impact than the present use on the openness of the Green Belt.
- 41 Criteria 2 of policy GB3A states that buildings should be of permanent and substantial construction and capable of conversion without major or substantial reconstruction. In addition to this policy GB3A states that the conversion of existing rural buildings to dwellings will not be permitted where such buildings are unsuitable for conversion without re-building and/or extension, or extensive alteration.
- 42 PPS7 is also relevant to this application, it states that new house building should be strictly controlled and isolated new dwellings require special justification. In addition to this it also supports the reuse of existing buildings where this would meet sustainable development objectives. Re-use for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations, and for some types of building. The landscape should be preserved or enhanced.
- 43 In the application case, the brick built building is considered to be of some architectural merit as it has some character/charm and the other buildings are utilitarian appearance, not uncommon to many 20th Century farm buildings. Such buildings are these are normally accepted as functional agricultural buildings required to aid agriculture despite the impact they have (in this instance) on the openness of the Green Belt. It is important to highlight that the buildings are appropriate within the Green Belt.
- 44 The first criteria is whether the new use would have a materially greater impact than the use of the present building.
- 45 As stated above notwithstanding their appearance and current form, it is important to highlight that the existing buildings are appropriate development in the Green Belt.
- 46 As stated above, it is proposed to convert the existing building to residential use. Two lean two elements are to be removed, so there will be a reduction in the overall footprint, however these elements are not considered to be suitable for conversion, given their current form.
- 47 The policy states that the building has to be of permanent and substantial construction and would be capable of conversion without major or complete re-construction.
- 48 The structural statement states the following:-
Main Barn
- 49 As stated above, the main brick built barn is a late 19th century barn building. The building is constructed from yellow stock brick with a purple slate roof.

(Item No 5.05) 7

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

- 50 The structural survey concludes that the main barn structure is a well built robust structure typical of buildings of its age and type. The report confirms that once the sources of movement are have been addressed it would only require some minor straight-forward masonry repairs. The report states that the loadbearing masonry walls need to be stitched with a Helibar type repair where cracks are apparent. It is considered that the existing footings arrangements are adequate and will not require further strengthening due to the changed of use.
- 51 In view of the conclusions from the structural survey, the brick built element of this building is considered to be capable of conversion.
- South extension*
- 52 The report states that the existing timber structure of the southern lean to is to be retained and re-used. The infill block work will also be retained as far as is possible and insulation standards allow. The corrugated iron, plastic and fibrous cement panels cladding and roofing this structure are not fit for insulated domestic enclosure and will be replaced with a stained horizontal timber board cladding to reflect the local agricultural and domestic vernacular, which can be insulated to the required standard. This approach of highly insulated timber clad timber frame construction will also be adopted for the east extension. These two structures will be further unified with standing seam metal roofs, which will suit the lower pitch of the lean to roof and make them apiece in contrast to the materials of the original barn.
- 53 The structural survey states in relation to this element of the scheme that the existing frame will require some repair and replacement of decayed and damaged elements. In both the walls and roof, the existing framing will be augmented with additional frame members within the existing envelope to provide support at close centres for the insulation and finishes required for the domestic purposes and to suit proposed opening arrangements. All of the main existing frame elements will be retained and reused.
- 54 It also states that the ground floor level will be raised with a new slab cast on top of the existing on insulation to meet the levels within the main building.
- 55 In view of the above I consider that it would be possible to convert the south extension.
- 56 The report also sets out how the integrity of the building would be affected, after the proposed alterations had taken place and concludes that this will be acceptable. In conclusion the structural report also confirms that the existing structures to be retained are in fair condition for buildings of their age and type although they will inevitably require some minor repair and maintenance works in order to bring them up to current standards.
- 57 As stated above, it is considered that sufficient information has been submitted with regards to the brick element and rear extension to establish that these particular elements of the building can be satisfactorily converted without major reconstruction.

(Item No 5.05) 8

Agenda Item 4.3

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

- 58 In addition to the elements that are being converted the existing machinery shelter is being removed and a new element is proposed on the side of the building. The new eastern wing would measure, approximately 3.6 metres by 9.2 metres.
- 59 Policy GB3A of the Sevenoaks Local Plan, states that the conversion of existing rural buildings to dwellings will not be permitted where an extension is proposed. Given the size and scale of the new wing on the eastern elevation, it is considered that the proposal would conflict with the goals and objectives of policy.
- 60 Although it is acknowledged that some elements of the building are to be removed such as the machinery shelter and the element to the west, the current structures are deemed appropriate development in the Green Belt and so by definition are accepted agricultural development that does not harm its openness as they are intrinsic to it. There is little to be gained from taking away structures that are appropriate and potentially re-constructing new elements that are in policy terms inappropriate in the Green Belt. Proposals that involve domestic extensions would be inappropriate development in the Green Belt and therefore more harmful in principle and to openness.
- 61 In view of the above, I consider that taken as a whole, the proposal involves major reconstruction of key elements of the proposed new use through the proposed extension even though the main barn could have potential for conversion. As the submitted scheme depends on the space provided by the elements that would involve major re-construction through the proposed extension, the scheme as a whole cannot comply with the requirements of GB3A or PPG2 and is therefore inappropriate development in the Green Belt harmful to its openness.

Impact on the Openness of the site

- 62 PPG2 confirms that the most important aspect of Green Belts is their openness and the fundamental aim of Green Belt Policy is to maintain the openness of the land. It states that the open character must be maintained as far as can be seen ahead. At the same time the visual amenities of the Green Belt should not be injured by development proposals.
- 63 As stated above one aspect of a scheme like this is the impact from the creation of a residential curtilage. In some cases, it is considered that a curtilage could harm the open character of the land due the maintenance of the land which would result in a change in its character (which is considered to be harmful to the open character of the land) and the associated residential paraphernalia which results with a residential use of this nature (such as tables and chairs, washing lines, play equipment – which the council would have no control over). It is considered that the use of planning conditions would not control satisfactory control the harm.
- 64 In this particular case the building is located on a prominent corner location at the end of Stack Lane. The size of the curtilage has however been reduced in size to mitigate any visual harm. In this respect the size and shape of the curtilage is considered to be acceptable.

(Item No 5.05) 9

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

- 65 The final element of the policy GB3A of the Sevenoaks District Local Plan is that the form, bulk and general design of the buildings should be in keeping with their surroundings and respect local building styles and materials. The form, bulk and general design of the buildings are in keeping with their surroundings and respect local building styles and materials.
- 66 The proposed external changes to the brick built structure are considered to be acceptable and are considered not to adversely undermine the integrity of the existing agricultural building.
- 67 The west wing is also considered on balance to be visually acceptable. The new extension would be built in different materials to the existing building and would contrast with the existing brick built structure. With appropriate material conditions, it is considered that an extension of this nature would work from a visual perspective as it would appear as separate element in contrast to the existing built structure.
- 68 I have concerns over the visual impact of the rear elevation of the building. The south extension has been designed with a number of windows and doors within it that are considered to be at odds with the character and style of the existing building. On balance given there location in the new extension at ground floor level, they are not considered to undermine the character and style of the building significantly to warrant an objection on planning grounds.
- 69 Revised plans have now been sought which reduces the number of solar panels and the number of roof lights on the rear elevation. On balance given the reduction in the number of opening and solar panels within the roof space, the proposal is considered to be acceptable. A balance has to be struck in this case, with the desirability of utilising sustainable energy and the need to maintain the character and integrity of the agricultural building. I am of the view that a balance between the number of solar panels and the visual impact of the building has been met.

Very Special Circumstances

- 70 PPG2 states that, 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. The applicant refers specifically to the following:-
- The family owns substantial land in Horton Kirby, currently farmed by my mother and me in partnership. My mother is approaching 70 years old and while likely to carry on for some time will not be around forever. I believe her current plans are that she will bequeath the current farmhouse to my brother and the land to me. I hope and plan to carry on farming the land after my mother dies but to do that we need a farmhouse. I do not believe that, following any sale, a new owner or owners (likely to be a commercial landowner and/or land speculators), will consider the interests of the village in the same way we do.
 - The overall openness of the Green Belt is increased by reason of the substantial reduction in both footprint and volume of the buildings and

(Item No 5.05) 10

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

structure present at the site if the development proceeds, increasing views across the Green Belt. Another way of making the same point is, in the words of paragraph 3.8 of PPG2, that the impact of the site on the openness of the greenbelt as a whole is reduced if the development proceeds. The development actually increases the openness of the greenbelt, which is the aim of the Green Belt policy.

- As well as reducing the bulk of the buildings and structures at the site, the proposals improve the appearance of an otherwise undistinguished locality by removal of ugly corrugated iron structure and reinforced concrete agricultural structures on the one hand and by and exposing the historic brick barn in the context of a sympathetic modern development on the other.
- That improvements to the overall openness and appearance in the Green Belt are capable of being very special circumstances is shown in the appeal decision for Kennels Farm, Otwood Lane, Otwood, Tandridge. In this particular case the application sought permission for the for the conversion of a disused agricultural building.
- The development if it proceeds will make a net contribution of carbon free energy to the national grid, over and above electricity consumed by the development.
- The redevelopment of the buildings for use ancillary to the family farm materially assists in securing the family farming operation (including in particular the specialised hop operation historically associated with Kent) and associated employment.

- 71 An assessment of whether these circumstances are very special, and if they are, whether they clearly outweigh the harm in principle to the Green Belt and any other harm, will be made later in this report, once all of the potential areas harm have been considered and assessed.

Affordable Housing

- 72 Policy SP3 of the Core Strategy additionally indicates that the Council will expect the provision of affordable housing in all types of residential development. In the case of development that result in the net increase of less than five units 'a financial contribution based on the equivalent of 10% affordable housing will be required towards improving affordable provision off-site'. The Council's Affordable Housing SPD gives guidance on the calculation and delivery of the necessary contribution. Policy SP3 itself is adopted for the purposes of decision making and, on several occasions, the Council has been found on appeal to correctly be giving weight to its contents.
- 73 The applicant has submitted no agreement or an affordability appraisal to establish money required for the affordable housing contribution at the current time.

(Item No 5.05) 11

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

- 74 As no contribution has been offered at the time during the duration of the application I am of the view that this should form a separate reason for refusal.

Highway Issues

- 75 The access is already in situ, in view of this and the existing use of the site, I consider that there would be no adverse access issues to warrant an objection on planning grounds.

Ecological Issues

- 76 Another key issue in respect of this application is whether the activities proposed can take place without undue harm to the potential wildlife within the application site.
- 77 Section 40 of the Natural Environment and Rural Communities Act (2006) states that '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'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.
- 78 PPS9 and circular 06/2005 are also critical 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".
- 79 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.*"
- 80 Policy NRM5 of the South East Plan 2009 and policy SP11 from the Sevenoaks Core Strategy are applicable. These policies specifically states that the Local Planning Authority will "ensure that site evaluation is undertaken to establish the nature conservation value of proposed development sites"
- 81 As KCC Ecology have confirmed that it would be appropriate in this case, if the application were to be approved, to impose a conditions requesting that a bat mitigation strategy would need to be approved by the LPA prior to works starting. In this strategy they have said that it would need to provide details of the methodology proposed to carry out the works and details of replacement roosts. In addition to this a badger mitigation strategy detailing the methodology and timing for the loss of the sett would also be required.

(Item No 5.05) 12

Agenda Item 4.3

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

- 82 In view of KCC comments, the proposal complies with the above aforementioned policies and is considered to be acceptable.

Impact on neighbouring amenity

- 83 Policy EN1 from the Sevenoaks District Local Plan states that the proposed development including any changes of use does 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.
- 84 The nearest residential properties are 51 Forge Lane and 1 and 3 Churchill Road. There is approximately 47 metres between these and the application site. Given this distance it is considered that there would be no adverse impact to warrant an objection.
- 85 In this respect the proposals would not adversely affect that amenities of neighbouring occupiers or the street scene and I therefore consider it would comply with policy **EN1** of the SDLP.
- 86 No other properties are considered to be affected by the proposal.

Very Special Circumstances

- 87 PPG2 states that 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. The applicants refers to the following:-
- The family owns substantial land in Horton Kirby, currently farmed by my mother and me in partnership. My mother is approaching 70 years old and while likely to carry on for some time will not be around forever. I believe her current plans are that she will bequeath the current farmhouse to my brother and the land to me. I hope and plan to carry on farming the land after my mother dies but to do that we need a farmhouse. If we are not able to get one it we will have to reconsider our plans, and as Cllr McGarvey says a sale at some point most certainly cannot be ruled out. I do not believe that, following any sale, a new owner or owners (likely to be a commercial landowner and/or land speculators), will consider the interests of the village in the same way we do.
- 88 The personal situation of the application is acknowledged but the issues raised are not considered to be unique, or moreover, considered to overcome the harm to the openness of the Green Belt, bearing in mind the harm in principle and harm to the openness and character of the Green Belt that would be caused by this proposal, especially considering that there may be potential for the conversion of the main barn, without the need to include elements that involve major reconstruction.
- The overall openness of the Green Belt is increase by reason of the substantial reduction in both footprint and volume of the buildings and

(Item No 5.05) 13

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

structure present at the site if the development proceeds, increasing views across the Green Belt. Another way of making the same point is, in the words of paragraph 3.8 of PPG2, that the impact of the site on the openness of the greenbelt as a whole is reduced if the development proceeds. The development actually increases the openness of the greenbelt, which is the aim of the Green Belt policy.

- As well as reducing the bulk of the buildings and structures at the site, the proposals improve the appearance of an otherwise undistinguished locality by removal of ugly corrugated iron structure and reinforced concrete agricultural structures on the one hand and by and exposing the historic brick barn in the context of a sympathetic modern development on the other.

89 It is acknowledged that some elements of the building are to be removed such as the machinery shelter and the element to the west, (the ground floor area of the wing is 48 metres squared). The current structures are however deemed appropriate agricultural development in the Green Belt and so by definition are accepted development that does not harm its openness as they are intrinsic to it. There is little to be gained from taking away structures that are appropriate and potentially re-constructing new elements that are inappropriate in the Green Belt. Proposals that involve major re-construction would be inappropriate development in the Green Belt and therefore more harmful in principle and to openness. The same argument can however be made for the visual impact of the proposal. The buildings are agricultural in their character and are appropriate within the landscape in which they sit, and as such I do not consider that this in itself would outweigh the harm to the Green Belt.

- That improvements to the overall openness and appearance in the Green Belt are capable of being very special circumstances is shown in the appeal decision for Kennels Farm, Otwood Lane, Otwood, Tandridge. In this particular case the application sought permission for the for the conversion of a discussed

90 The applicants have drawn attention to the following appeal decisions:-

Other appeal decision, which include:-

Application at Kennels Farm, Outwood Lane, Outwood

I have read the decision on these. It is however considered that they do not set a precedent.

For the appeal at Kennels Farm the inspector concluded that "I have little doubt that the milking barn is of permanent and substantial construction". In this case, the proposal did not involve construction of an extension, and as such the case cannot be used as a direct comparison.

91 Case law/previous decisions are not normally a very special circumstance, as it is rarely possible to replicate very special circumstances applicable

(Item No 5.05) 14

Agenda Item 4.3

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

elsewhere on a different site, in a different location, with a different set of circumstances and policies.

- The development if it proceeds will make a net contribution of carbon free energy to the national grid, over and above electricity consumed by the development.
- 92 Many applicants try to argue that the net contribution to the national grid would be a very special circumstance. As this is something that could be put forward across the District, I do not consider that it would be a very special circumstance that would overcome the harm to the Green Belt.
- The redevelopment of the buildings for use ancillary to the family farm materially assists in securing the family farming operation (including in particular the specialised hop operation historically associated with Kent) and associated employment.
- 93 As concluded with the first point the personal situation of the application is acknowledged but the issues raised are not considered to be unique, or moreover, considered to overcome the harm to the openness of the Green Belt, bearing in mind the harm in principle and harm to the openness and character of the Green Belt.
- 94 In this case I consider that the very special circumstance case presented does not overcome the harm to the Green Belt.

Other Issues

- 95 There are considered to be no other issues that need to be addressed.

Conclusion

- 96 In conclusion it is considered that the proposed development, goes beyond what is considered to be a conversion and would amount to major reconstruction due to the extension. Therefore the proposal conflicts with policy GB3A of the Sevenoaks District Local Plan, and the advice contained within PPG2 and is inappropriate development in the Green Belt. There are no very special circumstances to clearly outweigh their harm.

Background Papers

Site and Block Plans

Contact Officer(s): Vicky Swift Extension: 7448

Kristen Paterson
Community and Planning Services Director

(Item No 5.05) 15

Agenda Item 4.3

Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LOOX0KBK0CR00>

Link to associated documents

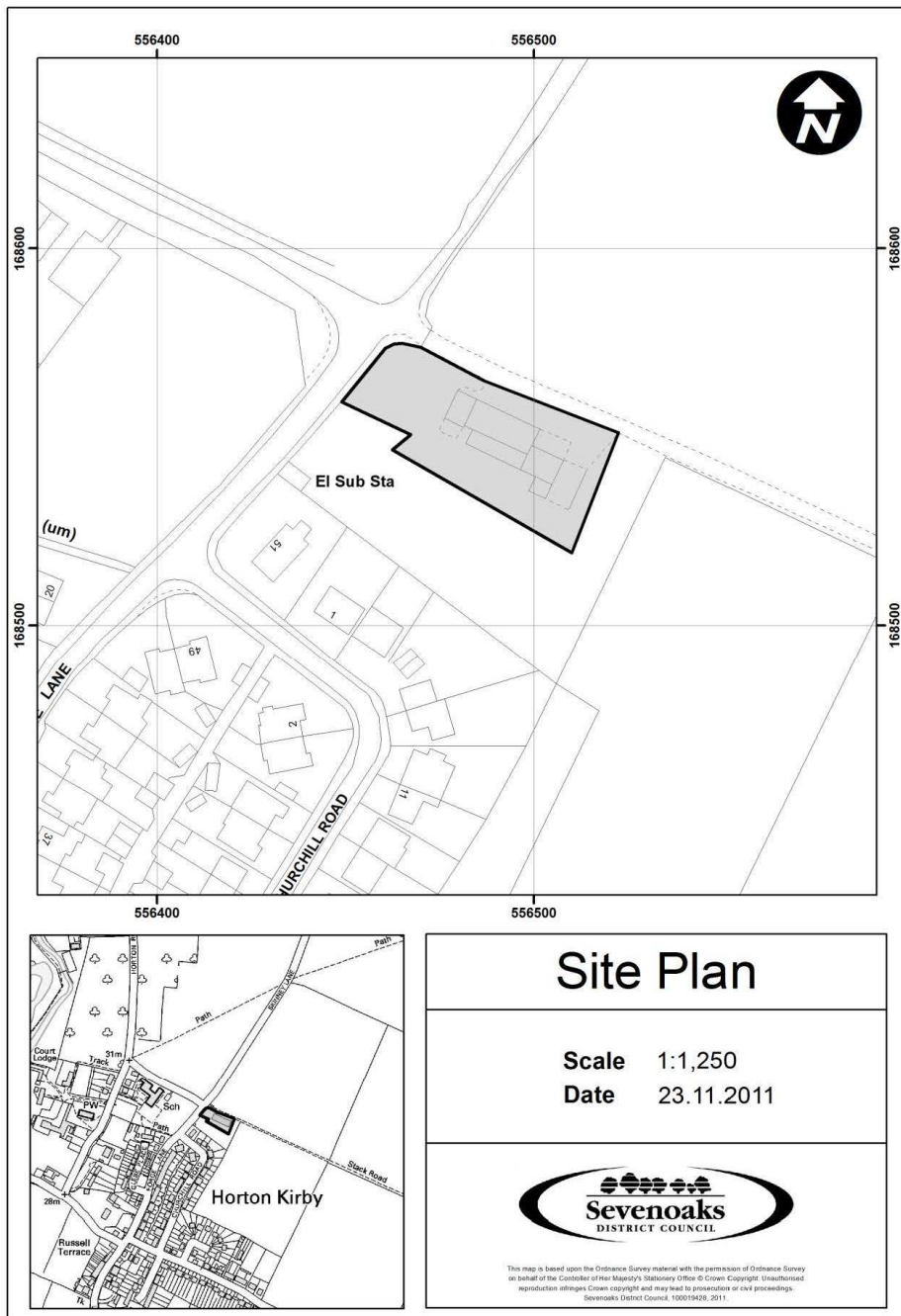
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(Item No 5.05) 16

Agenda Item 4.3

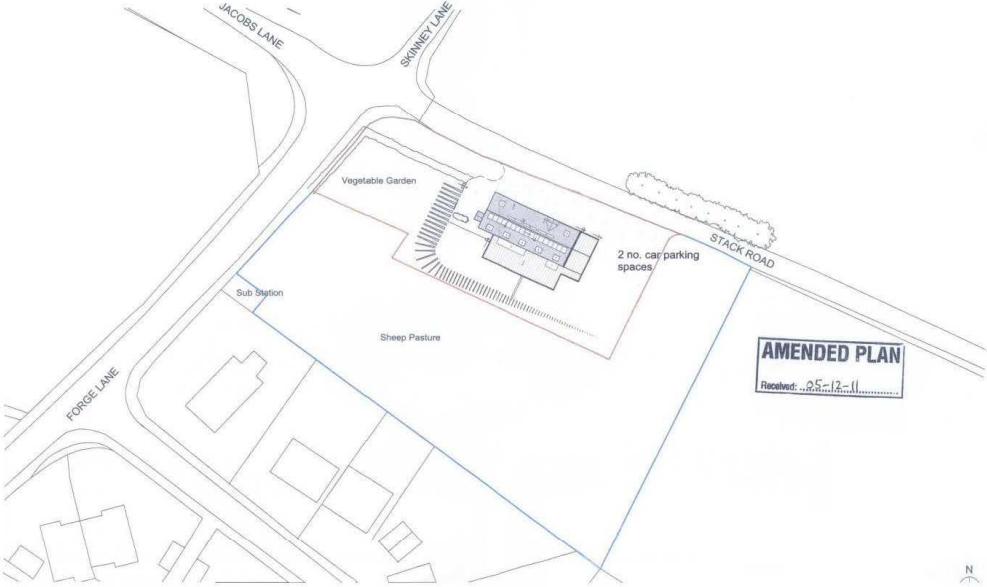
Development Control Committee: 19 January 2012

SE/11/01874/FUL Item No. 5.05



(Item No 5.05) 17

Development Control Committee: 19 January 2012
SE/11/01874/FUL Item No. 5.05



(Item No 5.05) 18

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4.4 SE/12/03108/FUL Date expired 14 January 2013

PROPOSAL: The proposal involves the siting of 2 no. steel storage containers located to the rear of the store - The containers are to be used for Christmas stock and firework storage during the period of November through to February.

LOCATION: Asda Stores Ltd, London Road, Swanley BR8 7UN

WARD(S): Swanley White Oak

ITEM FOR DECISION

Councillor Ball has referred this application to Development Control Committee with regard to the visual impact of the proposal upon the visual amenity of the 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) The temporary storage containers hereby permitted shall be sited in accordance with the approved plan no. LP01 Rev. D. The containers will only remain on site during the period of 01 November to 31 January annually and outside that period, the temporary storage containers and all associated equipment shall be removed on or before 01 February each year. The temporary storage containers hereby permitted shall be used for ancillary storage purposes in connection to the main retail use of the site.

To safeguard the character and appearance of the area and in accordance with the aims and objectives of the National Planning Policy Framework and Policy EN1 of the Local Plan.

3) The development hereby permitted shall be carried out in accordance with the following approved plans: LP01 Rev. D, SP01 Rev. C, BP01 Rev. B, SK01, SK02, SK03, SK04, SK05 and 1 unnumbered 1:1250 scaled location plan.

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:

The South East Plan 2009 - Policies CC6

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 not have an unacceptable impact on the residential amenities of

Agenda Item 4.4

nearby dwellings.

The potential impact upon the visual amenity can be satisfactorily mitigated by way of the conditions imposed to ensure the harm as identified is limited.

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

The proposal would assist in maintaining the viability and vitality of the existing Town Centre.

Description of Proposal

- 1 It is proposed to temporarily site two shipping containers on site during the months of November to February on an annual basis. The containers would be used for ancillary storage purposes to the main retail use of the site.
- 2 The containers would be sited to the southern end of the site:
 - One 20ft container located to the southern delivery ramp-way;
 - One 40ft container located adjacent to the existing home delivery canopy to the northern end of the eastern car park.

Description of Site

- 3 The site lies within the urban area of Swanley, in the heart of the Town Centre. Vehicular access to the store can be gained from the adjacent orbital road into two car parks that are located on the east and western sides of the main store. There is also a delivery entrance to the site independent of the car parks.
- 4 Approximately 30m to the east of the site are residential properties. The main orbital road divides these properties from the application site.

Constraints

- 5 Area of Special Control of Adverts

Policies

South East Plan

- 6 Policies- CC6, T4

Sevenoaks District Local Plan

- 7 Policies - EN1, VP1

SDC Core Strategy

- 8 Policies - SP1, L05

Other

- 9 National Planning Policy Framework (NPPF) Paras: 14, 23

Planning History

- 10 A large number of planning applications have previously been submitted relating to the application site but the latest one is directly relevant to the consideration of this application.
- 11 SE/12/02100 - The siting of 2 no. steel storage containers located to the rear of the store, to be used for Christmas stock and firework storage during the period of November through to February – REFUSED, as the location of the 40 ft container would lead to the loss of a tree that has a high amenity value.

The container is now in a different location in this application.

Representations

- 12 Neighbours – One comment received, neither objecting or supporting the application relating to the positioning of the containers.

Consultations

Swanley Town Council

- 13 *“The Town Council objects to this application as the proposal would be detrimental to the visual character and appearance of the street scene and is contrary to policy EN1 of the Local Plan and will also lead to a further loss of parking at the site”*

SDC Tree Officer

- 14 *“No trees affected by this application, therefore no further comment.”*

SDC Environmental Health Officer

- 15 No objections raised

Kent Fire and Rescue Service

- 16 No comment received

Ward Members

- 17 Cllr George – Supports the application
- 18 Cllr Sargeant – *“I fully support this application to be passed, it is clearly a requirement for this Supermarket to be able to store the extra stock of food required over the Christmas and New Year period, if the Supermarket is not able to store enough food then the bigger picture is that a lot of residents and visitors of Swanley are going to be very disappointed, for a store not to be able to supply stock this has a knock on effect in our area. People will then have to travel to another area.*

Where these two containers are going to be positioned does NOT mean a loss of parking spaces, neither can these containers been seen from the street, so they do not alter the street scene.”

Agenda Item 4.4

Group Manager Planning Services - Appraisal

19 The main considerations for this proposal are as follows:

- Retail policy;
- Impact on the living conditions of neighbouring dwellings;
- Impact on highway issues; and
- Impact on the character and appearance of the area.

Retail Policy

- 20 The general thrust of the National Planning Policy Framework (NPPF) sets a presumption in favour of sustainable development as a new policy designed to ensure that the planning system as a whole focuses on opportunities. The presumption, in practice, means that significant weight should be placed on the need to support economic growth through the planning system and Local Planning Authorities should plan positively for new development and approve all individual proposals wherever possible. Furthermore, Local Plans should meet development needs, approvals should be promptly given and, where plans are silent, out of date or unclear on relevant policy, approval should be granted. But development should not be allowed if it would undermine the key principles for sustainability in the Framework. The NPPF makes clear that the policies should apply 'unless the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits'.
- 21 The NPPF builds upon the Government's 'Plan for Growth' which was published in March 2011. The overall theme of this document is to support long term sustainable economic growth and job creation in the UK. This is set out as a clear and current Government objective (and accordingly should attract significant weight). Consistent with that objective, the application proposal should ensure the effective and most efficient use of land and buildings, and they will also promote the vitality and viability of the town centre and will promote prosperity. In relation to the vitality and viability of the town centre, the NPPF requires planning policies to be positive and promote competitive town centre environments. This includes recognising town centres as the heart of the community, defining a network of centres and setting policies to be clear on which uses will be permitted.
- 22 Paragraph 23 of the NPPF seeks to protect the existing vitality and viability of existing rural, local and town centres and the promotion of encouraging a wide range of services in an accessible environment to all.
- 23 The application site is in a Town Centre location, the proposal is for the siting of two shipping containers for use as temporary storage for a three month period on an annual basis. The proposal is not creating any additional retail floorspace.
- 24 The 2 no. temporary containers are required to meet the stores operational requirements over the Christmas trading period. The existing supermarket experiences very high levels of demand during this time of year and therefore turns over a higher level of stock. The additional storage space reduces the risk of the store running out of stock and consequently improves consumer satisfaction. Asda is a key retailer in the locality, the proposed storage facilities are required to

meet customer expectations and in turn contribute to enhancing the vitality and viability of the area.

- 25 In summary, the proposal would not have an adverse impact on the vitality and viability upon Swanley Town Centre. No further retail floorspace is being created. The proposal seeks to maintain in-store availability of stock to meet customer demand/expectation. Ensuring the availability of product in-store, would consequently have a positive impact upon the vitality of the area by ensuring customer expectations are met and less likely to travel to another shopping destination. Therefore this proposal would comply with the aims of objectives of Section 2 of the NPPF.

Impact upon residential amenity

- 26 Policy EN1 of the local plan requires development not to have an adverse impact on an amenity of an area due to the creation of noise and disturbance.
- 27 The proposed siting of the containers are located over 30m from the boundaries of the adjacent dwellings in Birchwood Park Avenue. It is considered that this distance is sufficient not to have a visual impact nor a material increase in noise and disturbance to any significant degree. Equally the southern car parking area is for the parking of cars to which by its very nature generates noise and disturbance. Moreover other noise sources that contribute to the back ground noise of the area include store deliveries by lorries and vehicular traffic using the main orbital road that separates Birchwood Avenue and Asda. SDC Environmental Health Officer raised no objection to the proposal. Therefore to refuse this application on this matter would not be justified.

Loss of car parking spaces

- 28 The Town Council has raised an objection that the proposal would lead to the loss of car parking spaces that serve the customers of Asda. In this regard, the siting of the containers would lead to no loss of parking spaces, as one container is sited upon the ramp-way to the delivery/warehouse area and the other located adjacent the Home Delivery area, where there are no existing customer car parking spaces.
- 29 The siting of both containers would not cause any obstruction to pedestrians or vehicular traffic, nor not impede any access to and from the existing car parking spaces/delivery ramp to the eastern side of the site.
- 30 Upon considering the above, no objection can be raised on this ground. The proposal would not affect existing accesses and there will not be any loss of parking. This proposal complies with Policy EN1 of the Local Plan and KCC Highways do not raise an objection to this proposal.

Impact on the character and appearance of the area

- 31 Policy EN1 of the Local Plan requires development to be compatible in scale, height, and coverage of other buildings in the locality therefore an assessment has to be made in regard to their impact.
- 32 The proposed containers would be in a position where they would be partially screened by existing walls that form part of the delivery ramp-way to the retail unit and the boundary wall of the car parking area. These physical features provide

Agenda Item 4.4

partial screening from views from Bartholomew Way. In addition, due to the location of the containers, with them being sited upon raised levels, higher than the roadside, this also minimises their impact upon views from Bartholomew Way.

- 33 From views from within the eastern car parking area, the container adjacent the Home Delivery Area would be visible and set against a backdrop of the car park wall, and existing store. This also provides additional screened view for the 20' container sited upon the delivery ramp, as well as an intervening boundary wall. Although the containers are not sympathetic additions to the immediate area, it should be acknowledged that the temporary nature of both containers, for 3 months each year over the Christmas period, will mean that their visual impact upon the street-scene is limited. As it is proposed that the containers remain on-site for three months, it would be reasonable and necessary to impose a condition to ensure that they are only on-site for the period specified and allows for the Local Planning Authority to take further action for breach of planning control if the containers are on-site outside the permitted period.
- 34 It noted that the location of the 40' container would be sited near to an existing 5m London Plane Tree that has amenity value. In a previous application SE/12/02100, the 40' container was proposed to be sited in a position that would result in the loss of this tree and was the basis for a reason for refusal in the previous application. This application has now considered this issue and the proposed location of the container has been moved to ensure that the London Plane tree is unaffected. Consideration has been given to the impact of the location of the container upon this tree and the SDC Tree Officer considers that there is sufficient distance between the tree and its location to not affect it in a detrimental way.
- 35 In summary, whilst there is some identified harm by the siting of one of the containers in the parking area, as the harm would be limited and there is a justified need for them, the harm can be outweighed by other material planning considerations being the maintenance of the vitality and viability of the Town Centre in accordance with the aims and objectives of the NPPF. As such no objection is raised on this ground.

Other issues

- 36 One neighbour representation has been received in relation to the positioning of the containers. However at the time of the comment being made the containers were not sited in the positions proposed as they were only just delivered to the store. The impact of the proposed siting is addressed in this report.

Conclusion

- 37 As previously mentioned, whilst some harm has been identified in terms of the visual impact of the development, due to the harm being limited and their importance in making a contribution to the vitality of the area, this consideration outweighs the identified harm as the development would conform to the aims and objectives of the NPPF.

Background Papers

Site and Block plans

Contact Officer(s): Sean Mitchell Extension: 7349

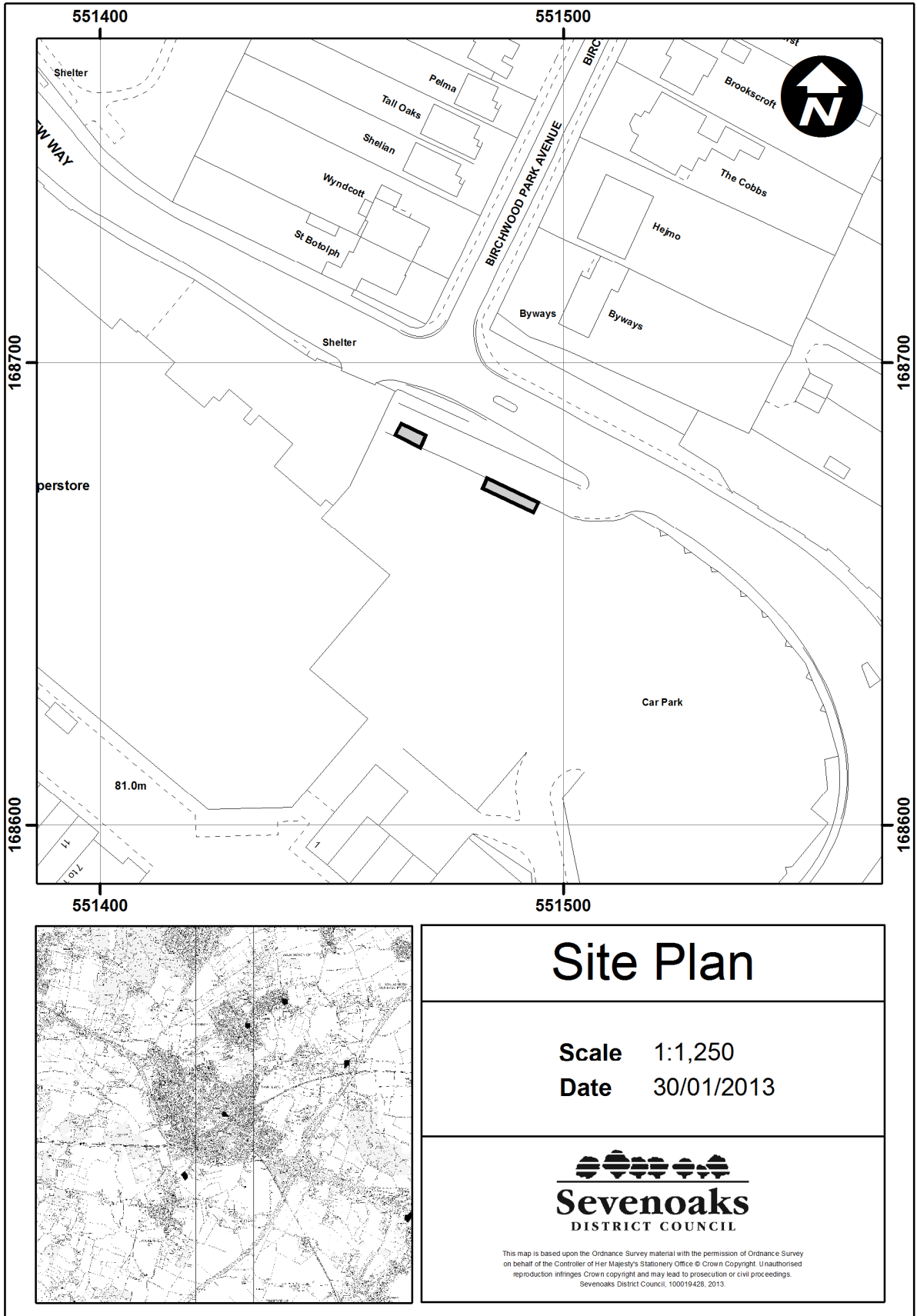
Kristen Paterson
Community and Planning Services Director

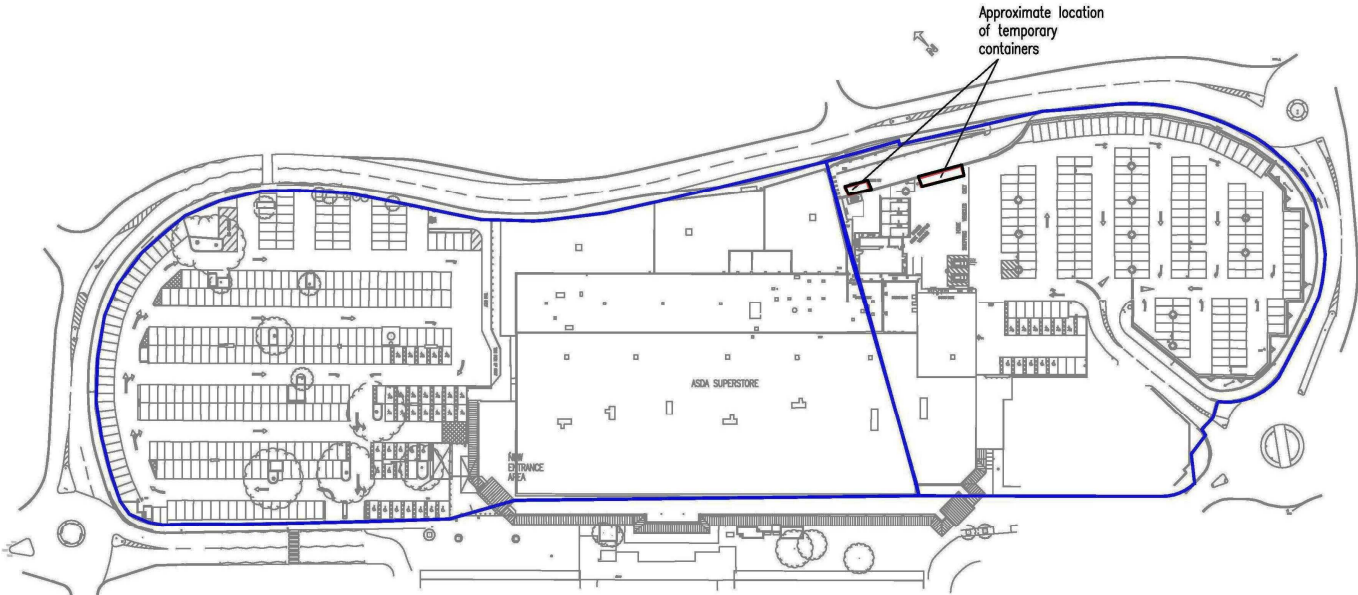
Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MDQ6BJBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MDQ6BJBK8V000>





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4.5 SE/12/02566/FUL Date expired 5 February 2013

PROPOSAL: Creation of new access on Pembroke Road to flats above and new rear access to retail unit.

LOCATION: Fingz , 143C High Street, Sevenoaks TN13 1UX

WARD(S): Sevenoaks Town & St Johns

ITEM FOR DECISION

This application is referred to Development Control Committee as a member of 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) The development hereby permitted shall be carried out in accordance with the following approved plans: 12-20-02

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:

The South East Plan 2009 - Policies CC6, LF1

Sevenoaks District Local Plan - Policies EN1

Sevenoaks District Core Strategy 2011 - Policies LO3, 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 would not have an unacceptable impact on the residential amenities of nearby dwellings.

Description of Proposal

1 Planning permission is sought for alterations to the shared access to the flats above no.143c High Street, a vacant A1 unit. The development consists of the creation of a doorway on the Pembroke Road (north) elevation (approximately in the position of the existing phone box), the creation of a corridor through part of the existing stock / staff area of the shop with a new external staircase to the rear with trellis screening. A new door would be formed to the rear (south) elevation to

Agenda Item 4.5

allow separate access to the shop unit. The proposal results in a separate dedicated access for the flats.

Description of Site

- 2 The application site consists of a three storey flat roof brick building to the south-west corner of the junction of Pembroke Road and the High Street. The building is occupied at ground floor level as an A1 retail unit (last occupied by 'Fingz') and the first and second floors are occupied as self-contained dwellings.

Constraints

- 3 The site is within the Town Centre area of Sevenoaks, but not within the Sevenoaks High Street Conservation Area. The building is not listed. The building is not included as part of the Primary Frontage (either road frontage).

Policies

South East Plan

- 4 Policies – CC6, LF1

Sevenoaks District Local Plan

- 5 Policy – EN1

Sevenoaks Core Strategy

- 6 Policies – SP1, L03

Other

- 7 National Planning Policy Framework

Planning History

- 8 08/01641/FUL - Conversion of existing 3 bedroom flat into two self-contained flats – Granted
- 99/01690/FUL - Conversion of maisonette to two single bedroom flats. – Granted
- 94/01490/HIST - Conversion of maisonette to two single bedroom flats. - Granted
- 92/01778/HIST - Conversion of maisonette to two single bedroom flats – Refused – Appeal Allowed
- 92/00812/HIST - Change of use from A1 Retail to A3 Restaurant of ground floor - Refused

Consultations

Sevenoaks Town Council

- 9 Sevenoaks Town Council recommended approval subject to consent being given by BT and the freeholder

Representations

- 10 One letter of representation has been received which objects to the proposed development on the grounds that the new access door will be positioned next to a toilet window at the adjoining Wilkinsons and that this will lead to a loss of privacy.
- 11 Comments have also been received regarding Freehold interests in the land.

Group Managers Planning Services - Appraisal

Principle of development

- 12 The site is located within the built urban confines of Sevenoaks where development is considered to be acceptable in principle. With regards to the relevant policies of the Development Plan, the main considerations in this case are the acceptability of the conversion of the small part of the rear of the shop to a communal residential area and the visual impact of the development.
- 13 The proposal involves the creation of a 1.5m wide corridor to the rear of the retail unit to be used as an access corridor for the flats. Policy LO3 of the Core Strategy recognises that a mix of uses including retail and residential shall be retained within the Town Centre area. The proposal will enhance the access to both the retail and residential units. The shop has a fairly large footprint and the proposed alterations at the rear would not affect the viability of this unit.

Proposed external alterations

- 14 The external alterations to the building are minimal. The only alteration to the elevations which are viewed from the road is the insertion of a new access door to the Pembroke Road elevation. This opening would not significantly affect the appearance of the building as a whole. The building itself is of no particular architectural merit. The new doorway and access stairway to the rear would be small scale and to the rear and would not, in my view, materially affect the appearance of the building as a whole.

Impact upon amenity

- 15 The proposal would have no significant impact upon residential amenity (the raised walkway access to the rear remains unaltered). A representation has been raised regarding the positioning of a window which serves the toilet at the adjoining Wilkinsons Opticians and the proposed new south elevation access door to the development (this window does not serve a room or property currently in residential use at the ground floor). The representation states that such is considered to result in a loss of privacy to the users of said toilet.
- 16 In terms of the existing use at the site, views are currently afforded of the existing toilet window at Wilkinsons via the existing external staircase and small courtyard area to the rear. This matter will remain unchanged by the proposal. The toilet window itself appears to be constructed of some form of obscure glazing with internal blind. Whilst the insertion of a door within the south elevation of the property will undoubtedly result in use of this door at ground floor level, it is not considered that its use will result in a detrimentally worse situation based on the use of existing stairs and rear hardstanding area at the site. It is therefore

Agenda Item 4.5

considered that the proposals will not represent a significant level of harm to the point where planning permission would be refused.

17 Additionally, the current external staircase exhibits no screening whereas trellis is proposed to the new staircase being considered as part of this application. This will too provide for a lower level of disturbance in terms of overlooking than the situation currently experienced.

18 For these reasons stated above, the proposal is considered to be acceptable.

Removal of telephone box

19 The removal of the phone box is a matter to be agreed with BT and is not a material planning consideration.

Neighbour representation

20 In terms of the matters raised regarding Freehold interest, such are not a material planning consideration. These are matters which will be dealt with civilly between the Applicant and the Freeholder.

Conclusion

21 The proposal is considered to comply with the policies of the Development Plan and I therefore recommend approval of the application.

Contact Officer(s): Helen Tribe Extension: 7136

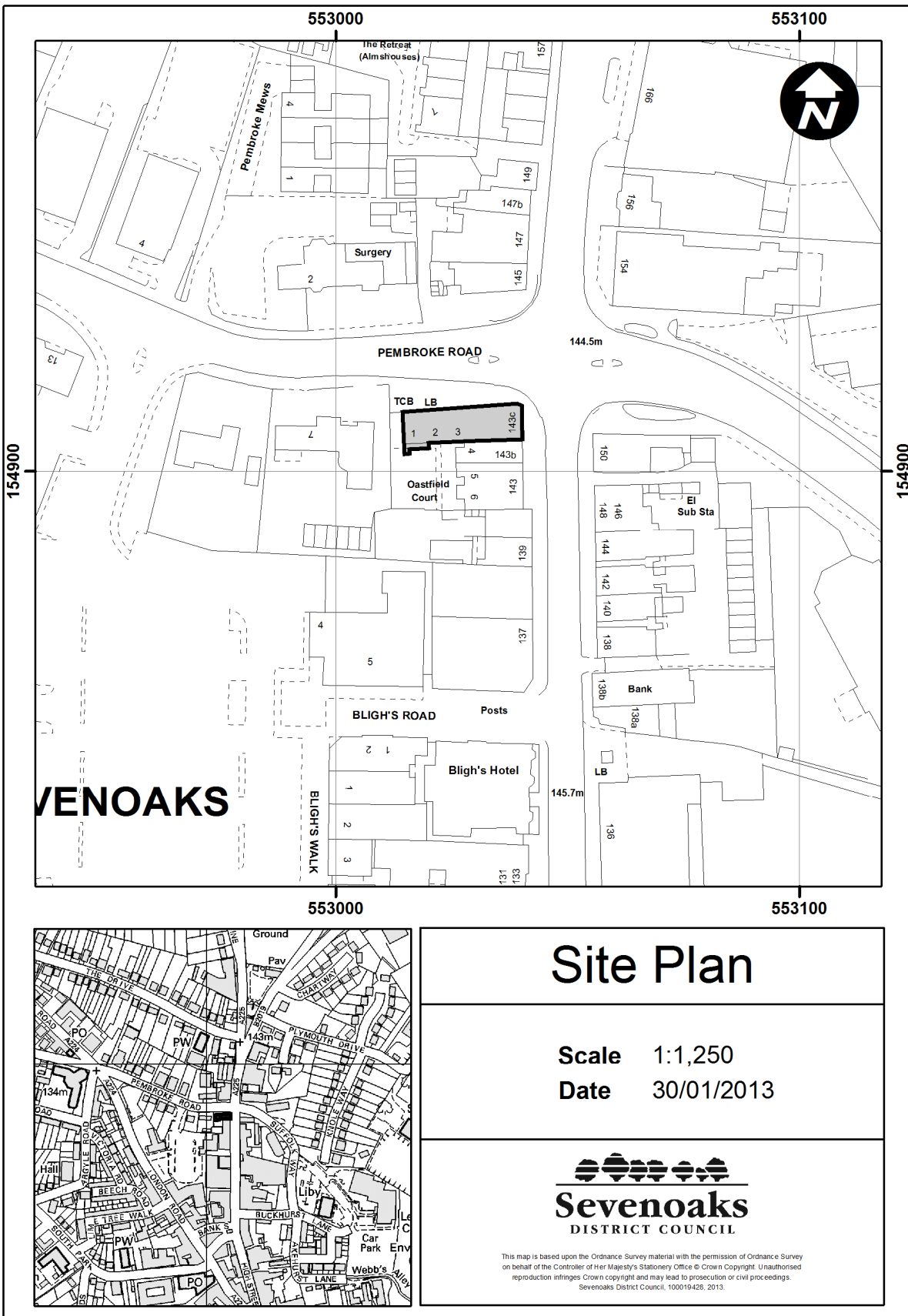
Kristen Paterson
Community and Planning Services Director

Link to application details:

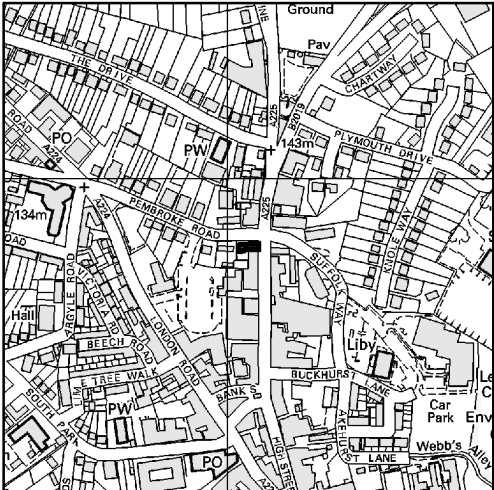
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Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MB7CTEBK8V000>



SEVENOAKS



Site Plan

Scale 1:1,250
Date 30/01/2013



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