

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 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, 30 September 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.

Agenda Item 4.1

approved outbuildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved details.

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

7) The development hereby permitted shall not be used or occupied until the 2.4 x 50 metre visibility splays as shown on the approved plans are provided. Such splays shall be subsequently maintained free from any obstruction above 1 metre in height at all times. (This 1 metre height shall be measured relative to a point on the centre line of the new access road and 2.4 metres back from the stop line).

In the interest of highway safety, in accordance with Policy EN1 of the Sevenoaks District Local Plan.

8) No development shall be carried out on the land until a scheme and timetable for the relocation of the telephone box has been submitted to and approved in writing by the Local Planning Authority. The telephone box shall be relocated in accordance with the approved details prior to first occupation of the development, unless otherwise agreed in writing by the Local Planning Authority.

In the interests of highway safety and the retention of a community facility, in accordance with Policies EN1 of the Sevenoaks District Local Plan and SP1 of the Sevenoaks Core Strategy.

9) No development shall take place until details of the layout and construction of the access road has been submitted to and approved by the Local Planning Authority. The details shall include the connection to the High Street, gradients, surfacing materials and road markings. The development shall be constructed in accordance with the approved details.

In the interest of highway safety, in accordance with Policy EN1 of the Sevenoaks District Local Plan.

10) No development shall take place until details of the layout and construction of areas for the parking of cars including garage spaces and means of access have been submitted to and approved in writing by the Local Planning Authority. The parking areas approved shall be provided and kept available for parking in connection with the use hereby permitted at all times.

In the interest of highway safety, in accordance with Policy EN1 of the Sevenoaks District Local Plan.

11) Notwithstanding the submitted plans, no development shall be carried out on the land until details of the proposed boundary treatment and any means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out using the approved details.

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

12) Apart from any means of enclosure described in the details approved pursuant to

condition 11, no boundary walls, fences or other means of enclosure shall be erected on the site boundary, despite the provisions of any Development Order.

To safeguard the rural character of the area, in accordance with policy EN1 of the Sevenoaks District Local Plan and SP1 of the Sevenoaks Core Strategy.

- 13) The development shall only be undertaken in accordance with the Flood Risk Assessment (FRA) by Monson Engineering Ltd and addendums (most recent addendum dated 7 March 2012), and the following mitigation measures detailed within the FRA:
- i) The surface water drainage strategy shall be undertaken in accordance with the FRA and addendums
 - ii) The access road and car parking area shall be constructed with permeable paving (with a minimum depth of porous sub base of 300mm) and a cut off trench at the western site boundary.
 - iii) The surface water discharge to the adjacent ordinary watercourse shall be limited to a rate of 1.5 l/s (Appendix A, Drawing No. 5164/02 C, ' Proposed surface water flood drain').
 - iv) A surface water management plan shall be implemented to ensure that the scheme is effective year round for the lifetime of the development, the details of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
 - v) The surface water drainage scheme shall take into account exceedance events to ensure that surface water runoff is safely routed away from the dwellings.

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, in accordance with the National Planning Policy Framework.

- 14) The finished floor levels of the dwellings hereby permitted shall be set no lower than 30.9 m above Ordnance Datum (AOD) as detailed in the Addendum to the Flood Risk Assessment by Monson Engineering Ltd dated 7 March 2012, and on the Site Plan drawing numbered 1027627/20 Rev B.

To reduce the risk of flooding to the proposed development and future occupants, in accordance with the National Planning Policy Framework.

- 15) There should be no lowering of ground levels where the existing site level is less than 30.75m AOD, as identified on the Site Plan drawing numbered 1027627/20 Rev B.

To reduce the risk of flooding to the proposed development and future occupants by ensuring that site levels will be above the modelled 100 year plus climate change flood level, in accordance with the National Planning Policy Framework.

- 16) No development shall be carried out on the land until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority. Those details shall include:
- planting plans (identifying existing planting, plants to be retained and new planting);
 - written specifications (including cultivation and other operations associated with plant and grass establishment);
 - schedules of new plants (noting species, size of stock at time of planting and proposed number/densities where appropriate); and
 - a programme of implementation.

The landscape works shall be carried out in accordance with the approved details. If within a period of five years from the completion of the development, any of the trees or

Agenda Item 4.1

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

17) No development shall be carried out on the land until a Construction Management Plan has been submitted and approved in writing by the Local Planning Authority. The plan should include the provision of on site parking and loading, and wheel washing facilities. The development shall be carried out in accordance with the approved plan.

In the interests of highway safety and visual amenity as supported by policy EN1 of the Sevenoaks District Local Plan.

18) No development shall take place until details of further ecological mitigation and enhancement measures have been submitted to and approved in writing by the Council. These details shall include all the mitigation measures detailed in the Thomson Ecology reports dated July 2011 and October 2011, and details of the design of any external lighting proposed, and shall include measures to ensure that the building works do not disturb protected species, and all enhancement measures proposed therein. The approved mitigation and habitat enhancement measures shall be implemented in full, in accordance with the approved details.

To ensure the long term retention of protected species on the site as supported by the National Planning Policy Framework.

19) 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 Local Planning Authority. 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, in accordance with the National Planning Policy Framework.

20) The first floor window in the north-east facing side elevation of unit 1 (as shown on the proposed plans drawing numbered 1027627/13 Rev K) shall be obscure glazed and fixed shut at all times.

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

21) 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.

Achievement of the Code levels and BREEAM standards must include at least a 10% reduction in the total carbon emissions through the on-site installation and

implementation of decentralised, renewable or low carbon energy sources.

In the interests of environmental sustainability and reducing the risk of climate change as supported by the National Planning Policy Framework and policy SP2 of the Sevenoaks District Core Strategy.

22) There should be no ground raising within the floodplain of the Medway/Eden rivers, as indicated on Drawing 1027627/20 B ('Site plan and existing levels).

To prevent the loss of flood storage which may otherwise increase the flood risk to the surrounding land, in accordance with the National Planning Policy Framework.

23) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

To ensure that features of archaeological interest are properly examined and recorded, in accordance with Policy EN25A of the Sevenoaks District Local Plan.

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

Sevenoaks District Local Plan - Policies EN1, EN23, T9, VP1

Sevenoaks District Core Strategy 2011 - Policies L01, L08, SP1, SP2, SP4, SP7, SP11

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

The development would be likely to result in some adverse impacts upon the character and appearance of the Penshurst Conservation Area, the setting of Forge Garage as Grade II listed building, and the landscape within the High Weald Area of Outstanding Natural Beauty. However such impacts are considered to be limited and when balanced against the benefits of providing local needs affordable housing, are not overriding under Policy SP4 of the Sevenoaks Core Strategy. The development has been assessed to cause less than significant harm to the Penshurst conservation area and Forge Garage as designated heritage assets and, in applying the advice within the National Planning policy Framework, this harm is considered to be outweighed by the public benefits of providing local needs affordable housing. In reaching this conclusion, and in accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority has paid special regard to the desirability of preserving the surrounding listed buildings and the character or appearance of the Penshurst Conservation Area.

The development would not cause harm to the setting of other listed buildings in the surrounding area.

The development would provide affordable housing to meet local needs as identified through the Penshurst Rural Needs Survey.

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

Agenda Item 4.1

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

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by;

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line (www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp),
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Was updated on the progress of the planning application.
- 2) The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Background

- 1 This application proposes to erect 6 affordable dwellings on land known as Forge Field. Members will recall that a previous application for identical development was presented to the Committee on the 4 July 2012 and 18 October 2012, under reference SE/11/02258/FUL. The planning permission granted following the October Committee has been challenged in the High Court under the Judicial Review process (JR) by a group known as the Forge Field Society (The Claimants).
- 2 This application proposes a development which is identical to the one permitted under SE/11/02258/FUL. The applicant explains the reasons for the submission of this application as follows -

Agenda Item 4.1

- 3 *“The applicant, West Kent Housing Association is very keen to progress with this much needed development following the previous approval. However, it recognises that the current application for Judicial Review submitted by a group of objectors will have the effect of significantly delaying their ability to take this project forward.*
- 4 *As such, they have decided that the best course of action is to resubmit the application with further explanatory information (as set out in the accompanying (Planning) Design and Access statement) to address some of the issues identified within the application for Judicial Review. In doing so, this will also provide the Council with the opportunity to review the proposal in light of the identified grounds for Judicial Review.*
- 5 *Submitting this application is felt by West Kent Housing Association to be the best way of delivering vital affordable housing in the Parish.*
- 6 *The funding that West Kent Housing Association has allocated to this scheme forms part of a central government programme that comes to an end in March 2015. To guarantee these funds can be allocated to this project building works need to commence by March 2014, or the funds will be allocated to another project.*
- 7 *That is not to say that, if the deadline passes, West Kent Housing association will abandon the project. They are committed to providing affordable homes in rural areas so will explore all funding options available at that time to ensure the project is completed.*
- 8 *It is worth noting that this application maintains the number of homes at six. Four years have now passed since the need was established in Penshurst and we expect that need has only increased in the intervening time, as no further properties have been built in the Parish. The Association is confident of letting the six homes in line with the restricted lettings policy applied to new rural homes.”*
- 9 *The detail of the Court proceedings is not relevant to the consideration of this planning application. The officer’s report on the application that follows is based on additional information and includes additional analysis to address concerns raised through the Court process.*
- 10 *As planning permission SE/11/02258/FUL is subject to a legal challenge members should approach the determination of the application as if this were the first time they have seen it. Members are specifically warned **not** to approach the task of determination with consistency with previous decisions at the forefront of their minds.*
- 11 *Members will also note that the consultation and neighbour responses listed below are those submitted in respect of this current application. However, given the significant public interest in this development, it is considered appropriate in this instance to include the full list of comments that were raised under the former application. For fairness, this approach includes comments made both against and in favour of the scheme. This way, the Council cannot be criticised for failing to consider any issues raised.*

Agenda Item 4.1

Description of Proposal

- 12 The application seeks to erect 6 x 2 bedroom dwellings on the site. The dwellings would be two storeys high and split into two blocks of three, arranged side by side with a gap of 2.5 metres between the two blocks. The dwellings would be built and occupied as local needs affordable housing units.
- 13 The blocks would be set back from Forge Garage, with a parking area providing 14 spaces to the front of the dwellings. A separation distance of 11.5 metres would exist between the dwelling attached to the rear of Forge Garage and the flank wall of the nearest unit. A strip of land providing access to the field to the rear of the site would be accommodated in this gap.
- 14 The dwellings have been designed with a ridge height of 9 metres above ground level, and each block contains a gable feature projection to the front. The dwellings would be constructed in brick at ground floor level with decorative tile hanging in bands at first floor level, and a clay tiled roof. Each block would measure approximately 17.2 metres in length and 8 metres in depth.
- 15 Access to the site would be via a new entrance onto the High Street. Existing boundary hedging by the proposed access would be removed and a new hedge planted behind the highways visibility line alongside the access. An existing telephone box in the corner of the site and adjacent to Forge Garage would be relocated slightly further into the site.

Description of Site

- 16 The site consists of a grass field on the edge of Penshurst village, known as Forge Field. The site and Penshurst village itself falls wholly within the Metropolitan Green Belt and the High Weald Area of Outstanding Natural Beauty. In addition the site and surroundings fall within the Penshurst Conservation Area.
- 17 The site slopes downhill from the High Street in a southerly direction. It is bounded on the road frontage by a hedgerow. Access into the site is currently via a field gate from the car park at Forge Garage.
- 18 The site is located next to Forge Garage which, as the name suggests, was formerly a forge, then a garage, and is now partly a village shop. A dwelling is attached to the rear of the property. Forge Garage is a Grade II listed building. Penshurst primary school is located opposite the site, and slightly further to the south west is Star House, a Grade II* listed building.

Constraints

- 19 Metropolitan Green Belt
- 20 Within the High Weald Area of Outstanding Natural Beauty
- 21 Conservation Area
- 22 Adjacent to a listed building and within the setting of other listed buildings

Policies

- 23 Section 38(6) of the Planning and Compulsory Purchase Act 2004 adopts a planned approach to decision making. It states that “*if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise*”. Section 70 of the Town and Country Planning Act (1990) states that “*when determining a planning application, a local planning authority shall have regard to the development plan and any other material considerations*”. For the purposes of the above, the relevant development plans and specific policies are as follows -

Sevenoaks District Local Plan

- 24 Policies – EN1, EN23, T9, VP1

Sevenoaks Core Strategy

- 25 Policies – LO1, LO8, SP1, SP2, SP4, SP7, SP11

Other

- 26 The National Planning Policy Framework
27 The Penshurst Conservation Area Appraisal
28 The High Weald AONB Management Plan (2nd Edition adopted 2009)

Planning History

- 29 SE/11/02258 - Erection of Six Affordable Dwellings with associated access and landscaping works – Approved but as stated the subject of a legal challenge.

Consultations

Penshurst Parish Council

- 30 Support

Kent Highways

- 31 I have no objection to the application (as shown on site plan 1027627/17 Rev C) on any highway grounds provided that:
1. The permission, if granted, is subject to a condition that at the exit from the development, 2.4 x 50 metre visibility splays are to be provided and maintained at all times; i.e. a driver waiting to enter the High Street and 2.4 metres from the stop line, should be able to see vehicles approaching at 50 metres distance to left and right, and no obstruction higher than one metre to be permitted on the highway verge within the splays. The visibility splay to the right is to be measured to the nearside kerb of the High Street, the visibility splay to the left is to be measured to the centre-line of the High Street. (Note that the one metre height is to be measured relative to a point on the centre line of the new access road and 2.4 metres from the stop line; this point may be lower than the verge.) Reason: highway safety.

Agenda Item 4.1

2. The permission, if granted, is subject to a condition or agreement under which the Applicant will move the telephone box in accordance with details to be agreed with the Highway Authority, unless subsequently agreed with the Highway Authority that technical difficulty or other issue raised by the owner of the phone box or other utility company makes this impractical. Reason: to improve inter-visibility between drivers of vehicles about to enter the High Street from the new development and from Forge Garage (i.e. highway safety);
3. The permission, if granted, is subject to a condition that the pedestrian and vehicular access routes into the development are built according to details to be agreed with the Highway Authority. Reason: to ensure acceptable connections with the High Street, to agree gradients, road markings etc, and in the interests of highway safety.
4. The applicant pays a contribution of £3500 to the Highway Authority by a section 106 agreement for the provision of yellow line waiting restrictions in the vicinity of the exit of the proposed development. The waiting restrictions would be subject to a Traffic Regulation Order and public consultation. Reason: highway safety.
5. Standard condition to prevent mud, grit, dust etc being brought onto the highway by vehicles leaving the site during construction. Reason: highway safety.

Informatives:

- a) Due to the proposed steep gradient, it is unlikely that the access road into the proposed development would be adopted by the Highway Authority, with the possible exception of the entrance onto the High Street.
- b) A pedestrian route no steeper than 1-in-12 should be provided, to comply with guidelines for inclusive mobility.

English Heritage

- 32 Thank you for your letter of 7 June 2013 notifying English Heritage of the scheme for planning permission relating to the above site. Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion.

Recommendation

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

SDC Conservation Officer

- 33 This application is effectively a duplicate of SE/11/02258/FUL approved on 25 October 2012 on which I commented in detail on 30/12/2011, prior to changes to the site layout. I made further comments in relation to the revised layout. The scheme, as amended, was subsequently granted permission.
- 34 The difference between the approved scheme and the current application, as relevant to conservation, is that additional information has been submitted in

Agenda Item 4.1

respect of the possible impact on the setting of specific listed buildings. Since March 2012 the NPPF has of course replaced PPS5 (except for the associated Practice Guide) but essentially the guidance remains much the same.

- 35 Also of relevance is English Heritage's (EH) publication 'The Setting of Heritage Assets' October 2011. This pre-dates the NPPF and is currently under review. The following general statement in section 4 of the document is of great relevance 'Protection of the setting of heritage assets need not prevent change. Most places are within the setting of a heritage asset and are subject to some degree of change over time.'
- 36 Although a number of listed buildings in the village have been assessed by the agents in this context, I consider that only four might potentially be affected over and above any impact on the Conservation Area as a whole. The others are located in the densely built up village street, well away from the development site.

The four I am concentrating on are:

1. Grade I St John the Baptist church (long views of from Fordcombe Road)
2. Grade II Forge Garage (adjacent to the site)
3. Grade II star Star House (almost opposite the site)
4. Grade II Birches (further south in Fordcombe Road)

1. The church (the tower in particular) is of course highly visible on the approach to the village from the south. However, the development is to be set back from the road frontage and is of a high quality of design, respectful of the vernacular in the Conservation Area. Thus this view of the church tower would remain largely unchanged and uninterrupted by the new structures on the development site.

2. Built in 1891, Forge Garage was listed in February 2011 as ' The Old Smithy' and is located immediately adjacent to the application site. The cottage attached at the rear was added in 1911 and the whole building was described by English Heritage as ' an essay in the vernacular revival manner.' The building is also described as having architectural quality, symbolic interest and group value with Star House.

The Garage is set back about 6-8 metres from the road frontage (it is difficult to be accurate as the road curves at this point) where there is a hard surfaced forecourt with petrol pumps. The setting back of the nearest block of new housing to a front elevation line level with the rear wall of the listed building would mean that the whole of the side elevation of that building would be open to view across the frontage of the new dwellings.

Because of the above, and the fact that the intervisibility of the Garage and Star House would not be intruded upon, I do not consider that the setting of this LB would be substantially harmed. Also relevant in support of this judgment, I would point out that the garage has a function serving the village community, so being in the village, with other buildings either side of it would not be unexpected or out of keeping.

3. Star House is an imposing building on the opposite side of the road from the site and about 60 metres away from the nearest of the proposed new

Agenda Item 4.1

houses. It overlooks the open Forge Field from a higher level. The new dwellings would of course be visible from Star House, but this would be an oblique view with intervening hedging and landscaping. As the quality of the design and intended materials is high, I do not consider that the development would detract from the setting in the terms set out in the NPPF (paragraphs 129,131, 132, 134 and 135 in particular) and associated Planning Practice Guidance (section 5 in particular).

4. The new houses would be over 100 metres away from Birches, which is also on the other side of Fordcombe Road. It is of the early 19th C and is so well screened by trees and hedging that it is in fact easy not to be aware of its presence. Given the distance involved and the quality of the proposed new build, and the fact that here are two other dwellings in between, I do not consider that there would be any detrimental impact from the proposed development.
- 37 EH's 'The Setting of Heritage Assets' refers in section 2.4. to the fact that 'settings' have changed over time and in section 2.5 that with regard to the use of materials the design of new development is likely to 'make a more positive contribution if the same palette is utilised.' Section 3 of the document advises that guidance such as Conservation Area Appraisals should consider settings and views. This has been done in the case of Penshurst as detailed below. Of course the scheme has already been amended by the re-positioning of the houses, after consideration of the possible impact on the settings of listed buildings and the conservation area.
- 38 The Conservation Area Appraisal (2001) for Penshurst refers on pages 14-15 to views within the CA; open park and farmland when approaching from the north-west (this includes the view from Penshurst Place itself) and views across the river in the Rogues Hill direction to the south-east. Approaching from the Rogues Hill direction, the location of the village along its ridge within the rural landscape can also be appreciated. In these instances, both sides of the road are clear of development, which is not the case with the application site. Several important view points are shown on the Character Appraisal Map. Only one is possibly relevant here but it points eastwards across open land south of the application site.
- 39 Although the development would unavoidably encroach on an open field, beyond the present built up area on this side of the road, there would remain open views further to the south beyond. Furthermore, there is existing development on the other side of the road for a considerable distance beyond the village boundary. The situation is thus not the same as with the significant views referred to above.
- 40 In the light of my previous comments and of the additional comment set out above, I consider that the proposed development would not cause substantial harm or loss of significance to the Conservation Area or to the setting of any of the listed buildings in the vicinity of the application site. This is the 'test' set out in the NPPF and relevant legislation, policies and other guidance.
- 41 For the benefit of Members the comments made by the conservation officer under SE/11/02258 are listed below:
- 42 **Original Comments** - The site is within the designated Penshurst Conservation Area and adjoins the listed Grade II Forge Garage. Nearby and overlooking the

Agenda Item 4.1

site, is another listed building Grade II*, Star House. The latter dates from 1610 with 19th century additions and alterations. It is not a Victorian building, as stated in the DAS. There are a number of other listed buildings within the Conservation Area. Forge Garage was listed in February 2011 and one of the reasons given for designation is the 'Group value: with the Grade II* listed Star House, and as part of a larger, historically significant ensemble of revival buildings in the centre of Penshurst.'

- 43 The Planning (Listed Buildings and Conservation Areas) Act 1990 requires, in section 72, that local planning authorities should pay special attention to the desirability of preserving or enhancing the character of appearance of that area. This is the context in which this application needs to be assessed.
- 44 Further, PPS5 Planning for the Historic Environment, in paragraph HE7.5 states that Local Planning Authorities 'should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. 'This includes considerations of scale, height, massing, alignment, materials and use.
- 45 The amount of land made available within the field is tightly constrained such that there is little scope for any alternative layout to that proposed. Other constraints such as flooding, and highway requirements with regard to the provision of the access, visibility splays needed and parking and turning provision have also governed the layout. The steep drop in levels from the road would at least allow the buildings to be set into the slope and have ridge heights no more than 2-2.3 metres above the ridge height of the main part of the Forge Garage.
- 46 Inevitably any development on this very open site at the edge of the village would be highly conspicuous and alter the appearance and outlook at the approach to the village and views within it. Every effort seems to have been made to achieve a high standard of design of the houses themselves by taking inspiration from existing buildings in the village the blocks would have steeply pitched tiled roofs, clay tile hanging, timber window frames, open eaves and projecting jetties, all features reflecting existing buildings in the village. The materials would of course be the subject of later samples.
- 47 The two blocks of houses would be set back from the road frontage to behind the 'building line' to Forge Garage, thus minimising the obstruction of longer views along the High Street on the approach from the south. Closer to the site itself, Forge Garage and Star House at about 90 metres apart, are currently totally inter visible (subject to the height of the roadside hedge). The proposed new houses would be interposed between the two, reducing this inter visibility and inevitably changing the setting of both listed buildings.
- 48 The gable end wall at the south-western end of unit 6 does commendably include windows at ground and first floor levels to provide an interesting elevation, as this will be that most visible on the approach from the Fordcombe direction. However, rear gardens, with fencing, sheds etc would inevitably be noticeable from the highway.
- 49 It cannot be said that the proposed development would enhance the Conservation Area as the site and views across it are not unattractive at present and the scheme is in no way addressing any building or feature acknowledged as detracting from character. I do not accept that there is 'poor definition to the

Agenda Item 4.1

village boundary '(page 29 of the Heritage Statement/Assessment of Significance) as the built- up area stops abruptly at Forge Garage and there are no other buildings on this side of the road for some distance. The Conservation Area Appraisal adopted in 2001, of course long before its listing, refers to the Garage as having 'a certain attractive charm especially when viewed from the western approach into the village.' This view would be irrevocably altered by this development.

- 50 In considering any new development within a Conservation Area, the objective must be to preserve or enhance the character and I believe that considerable efforts have been made in the design to accommodate this. However part of the present character of the Conservation Area and of the setting of listed buildings would be lost. Thus my view is that this proposed development would neither preserve nor enhance the character or appearance of the Conservation Area or preserve the setting of nearby listed buildings.
- 51 Should planning permission be granted, notwithstanding the above comments, crucial to integrating the development into the village and the landscape will be the boundary treatments proposed and the landscaping, including a new hedge behind the visibility splay line. From a conservation and visual point of view the proposed stock fencing (post and rail?) is appropriate. Picket fencing is proposed to individual front garden areas and the height and finish treatment of these will be important. It is imperative that a planning permission ensures that no other type of fencing is erected and prevents any future change, for example, to close boarded fencing in any position visible from the public highway. Potential views of the development from the public footpath on the other side of the valley should also be considered and protected by suitable landscaping requirements.
- 52 Further **Comments** (dated 30/04/12) - This revised layout includes, as its major element, the setting back of the housing blocks on the site. This would enable views from the western approach to the village of the listed Forge garage to be largely retained. Also the settings of the Forge garage and of the nearby listed Star House would be better protected. In order to achieve this, the parking for the development has had to be positioned at the front. Although this will inevitably be conspicuous, it at least would not be obstructive to views and, given the amount of on street parking in the village positioned in front of buildings, would not be entirely out of character. The location is such that the development could not fail to alter the character of the village but every effort has been made to mitigate the impact. The proposed planting is rather urban and formal in its approach and should be adapted to suit the rural surrounding and AONB setting.

SDC Housing Policy

- 53 SDC Housing fully supports the proposed scheme which will provide 6 local needs homes and to this end, West Kent Housing Association's funding bid to the Homes & Communities Agency was also supported. The Section 106 Agreement will ensure the units remain available to meet local housing needs in perpetuity. The provision of local needs housing in the rural communities is a key objective of Sevenoaks District Council, as evidenced in the Council's Sustainable Communities Action Plan 2013 - 2028 and related Housing Strategy.

Environment Agency

- 54 *We have no objection to the proposed development as submitted, subject to the imposition of the conditions set out in our previous letter (KT/2011/113716/04-L01).*

Flood Risk

- 55 *The comments and conditions made in our previous letter dated 13th April 2012 (Reference: KT/2011/113716/04-L01) still stand with regards to this development.*

Most importantly, the set proposed floor levels stated in Addendum (3) dated 7th March 2012, submitted in support of this application, should be adhered to.

Biodiversity

- 56 *If the drain to the south of the site is to be managed as part of the development, then a management plan needs to be provided to the satisfaction of the local authority. If the drain is managed by the IDB or other landowners then we have no comments.*

High Weald AONB Unit

- 57 *The High Weald AONB Unit is a small specialist Unit who advise on the care and management of the High Weald AONB. The comments below are an assessment of the extent to which the proposals will impact on the objectives for the AONB defined by the High Weald AONB Management Plan 2004, adopted as Council policy in respect of the AONB. This statement contains the professional views of the Policy Manager and not the views of the High Weald AONB Joint Advisory Committee.*
- 58 *The Unit continues to have concerns regarding the assessment of the impacts of the proposal on the local area of outstanding natural beauty. It is accepted that overall the development is likely to have lesser impacts on long distance views to and from the site. It is not considered that the application takes into account the unusual height, roof pitches and mass of the buildings, in the assessment of both the local and (potentially) medium views as well. The six houses in two blocks have unusually high roof lines creating a greater mass than would be normally expected of residential development, and this scale may represent a more significant impact.*
- 59 *In regard to the local impacts, it is considered that the development will have a significant visual impact on the immediate landscape below the site, across and to the flood plain, and on the village and approaches to the village. Even allowing for the siting to retain the exposure of the Forge Garage, the scale and mass of the building will be the dominant feature on the approaches to the village (and this effect will be enhanced by the recent proposal to leave the gables un-landscaped). The development will present a strong visual impact from the lower river valley open landscape, extending the built form of the village into the current rural area, thus changing the experience of the village in its current landscape context. Overall this impact is considered to be significant at the local level.*

Agenda Item 4.1

- 60 Physically the development will have the effect of changing the character of the existing field from open rural agricultural use to that of relatively high density residential activity. The historic character and current use of the site will change and the historic boundary and area of the existing field will be altered and reduced proportionately. This will have the effect of the field losing its inherited character and qualities that identify it as part of the AONB. While the area of this change is relatively small, the impact is significant and represents the loss of major features or components of natural beauty identified by the High Weald AONB Management Plan. Overall accounting for scale, this is considered to be a moderate adverse impact on the AONB.
- 61 In regard to the siting, landscaping / planting and design it is considered that a planting scheme does not necessarily 'improve' the landscape setting. In the context of the character of the site as an open rural field, more landscaping and planting may alter and affect the area adversely rather than leaving the design and layout open. To retain the sites character, alternative approaches could be considered, for example, it may be that the site should be left open and exposed, rather than trying to soften it. Conserving and enhancing Natural Beauty is about how to retain or reinforce character and in this case, minimising change, by reference to the open field character, may be a more effective design approach.
- 62 The revisions to the landscaping scheme in the revised LVIA begin to reflect this approach, but need to do more than just leave a gap in the landscaping. Given the height of the building it is also of concern that the planting could be considered large enough to obscure buildings of this scale. Planting of this size and density could be a considerable impact in its own right on an otherwise open field character.
- 63 It is the historic and inherited character of the site that should inform decisions and judgements about the impacts and effects of the development on the location. The character of this site is an historic open field, part of a wider and larger pattern of small irregular fields, set within a shallow river valley, edging the flood plain. The impacts of the development have been assessed above in terms of how the development will change the experience and character of the site, in this context. This context also informs the design/layout and landscaping options. In the event of the development proceeding, that impact may be mitigated by making reference to the inherited character and retaining the open rural field character, maintaining openness and clear views.
- 64 Overall it is considered that the development will have a significant local visual impact and a moderate physical impact on the landscape itself, and will not in these terms conserve and enhance the AONB. If the development goes ahead, this level of harm will accrue to the AONB. Creative consideration of the design and landscaping, minimising the extent and level of planting, can help to moderate this impact by placing the development honestly within the landscape, and not by trying to hide and or obscure it by inappropriate and excessive landscaping and planting. The excellent work done on the physical design of the buildings themselves also deserves that recognition.

Natural England

- 65 Thank you for your consultation on the above dated 7 June 2013 which was received by Natural England on 12 June 2013.

Agenda Item 4.1

- 66 Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.
- 67 Natural England has previously commented on this proposal and made comments to the authority in our letters dated 21 May 2012, 21 March, 2012 and 11 January, 2011
- 68 The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.
- 69 The proposed amendments to the original application relate largely to further information submitted as part of the Judicial Review, and are unlikely to have significantly different impacts on the natural environment than the original proposal.
- 70 Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Kent County Council Ecologist

- 71 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 ecological impacts of a proposed development.
- 72 The National Planning Policy Framework states that *“the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible.”*
- 73 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 otherwise all relevant material considerations may not have been addressed in making the decision.”*
- 74 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. 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.
- 75 The surveys which have been submitted are the same surveys which were submitted as part of planning application SE/11/02258/FUL. We had some concerns that the ecological surveys were no longer valid as they were over two years old. However we have spoken to the SDC planning officer about this site

Agenda Item 4.1

and he has confirmed that the management of the site has not changed since the surveys were carried out.

- 76 As such, on this occasion, we are satisfied that the following comments are still relevant:

Comments provided for SE/11/02258/FUL:

- 77 We have reviewed the ecological surveys and we are satisfied that the proposed development has minimal potential to impact protected species. We require no additional information to be submitted.

Bats

- 78 The survey identified that there are trees on the boundary of the site which have some potential to be suitable for roosting bats - however the proposed development will not be directly impacting the trees.
- 79 As detailed in paragraph 4.6.2 (Reptile and Bat Survey) if the plans changed and the development or the construction compound are proposed to be located within 20meters of the trees emergence surveys will be required.
- 80 The lighting must be designed to have minimal impact on any roosting, commuting and foraging bats. We also advise that the Bat Conservation Trust's *Bats and Lighting in the UK* guidance is adhered to in the lighting design (see end of this note for a summary of key requirements).

Enhancements

- 81 One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around developments should be encouraged".
- 82 Paragraph 4.5.4 (reptile and bat survey) has suggested enhancements which can be incorporated in to the site. These must be included in the proposed development site. In addition consideration must be given to including bat bricks/tiles/tubes in to the new buildings, erection of bird boxes within the boundaries and the creation of a wild flower area.

Tree Officer

- 83 No objections but would expect to see a detailed landscaping scheme conditioned.

Representations

- 84 In respect of the current application, 52 letters have been received from 45 contributors. (some contributors have submitted more than 1 representation) Of these, 32 have been received in objection to the application. 13 have been received in support. 7 letters have solely raised issues relating to access to information on the Council website.
- 85 Objections raised
- Dangerous access, close to the school

Agenda Item 4.1

- The development would block views of the Eden Valley
- The proposed building is disproportionate to Forge Garage
- Any buildings should be single storey
- The previous permission should be revoked
- Close proximity to the flood plain
- The site is in the green belt, AONB and in a conservation area
- Genuine consideration has never been given to development at Becketts Field
- Loss of a hedgerow to facilitate the access
- The scheme does not have the support of local people
- Harm to listed buildings
- Lack of very special circumstances to develop in the Green Belt
- An alternative site at Becketts Field exists
- Concern relating to the safety of children at the school. The site access will exacerbate and add to existing problems of traffic, on a blind corner, inadequate parking, and limitations to the pavement
- Original plans included a dropping of point for children, but these are no longer part of the scheme.
- Removal of the hedge is likely to increase vehicle speeds
- Factual inaccuracies in the application
- This application is an admission that the previous application did not deal properly with the issues.
- The school already causes congestion when parent arrive to drop off / pick up their children
- This is a waste of public money
- Funding arrangements are not clear
- No reason why 6 houses have been applied for and not 5
- Development of Forge Field would end the “historically important ensemble of vernacular revival buildings” (English Heritage 2011) to which it is central.
- There are increasingly few beautiful landscapes and this would degrade one
- Public transport in Penshurst is limited
- If Localism is meant to mean anything then 72% of people in the village are opposed to the development of Forge Field
- Such plans have to have the support of the local community
- The rural character of the village would not be preserved through removal of this field with its vista.

Agenda Item 4.1

- The new houses will dwarf the Forge Shop and their pastiche style will look over-powering and architecturally clumsy.
- Impact upon setting of Forge Garage
- The design of the houses is not interesting and do not complement the houses
- Loss of landscape views from the school
- The garage provides a natural end to the village
- What would stop further development from taking place
- The Leigh scheme is not comparable to this one
- Impact upon tourist revenues for the village
- The properties would be unaffordable
- The original objections for this scheme still stand
- The Judicial Review process has highlighted many flaws with the application
- The relevant parties should join together to find suitable alternatives
- No community consultation has been undertaken
- The visual impact assessment is completely inadequate

86 Reasons for Support

- Only 2 social houses in the last 40 years have been built
- Most young people cannot afford to buy a property in Penshurst, and have to move away
- New young families would help reduce the further decline in facilities in Penshurst and the erosion of village life
- Comments that this scheme is not wanted by the majority of the parish are a distortion of the facts
- The proposed access would improve site lines, and double yellow lines would prevent the parking of cars on this bend.
- The S106 document means that only local people will be housed
- Other sites have been considered and all have been found unsuitable
- The design is in keeping with the village
- The new buildings will blend in
- The site is ideal and meets all government requirements
- Previous housing developments have been to the benefit of village life
- More young people are needed in the village
- The site is the best available for houses of this type
- It is a shame that this scheme has been so needlessly delayed
- There is an urgent need for social housing

- The affordable houses built in Leigh show how they can blend in
- They will become part of the village and add to the attractive view
- Forge Field is in the centre of Penshurst and is the best option
- The development is close to the school and services
- The change in the hedgerow will improve visibility
- No-one complained when Keymer Court, Latymers and The Glebe were built

87 The following reasons for objection and support were also made under the previous application.

Objections

- Building in this area is too intrusive of the character of this village
- The proposed dwellings are larger and more overbearing
- Dwellings will dominate the neighbouring and very important and prominent Grade II & Grade II* Listed Buildings, namely Forge Garage, Star House (Grade II*) & the Birches
- More hazardous to cross road especially for school children
- Houses will be built on a Flood Plain this area floods regularly
- Visually intrusive development
- Detrimental effect on the Conservation Area and AONB
- Important to keep the Conservation Area, AONB & Green Belt as they are designated
- Low cost housing built using low cost materials not appropriate in such a prominent village location
- Only visible open space in the village is this Forge Field site and should be kept
- Development sited on an unsighted bend opposite a Primary School
- This particular site is not appropriate for affordable housing to be situated
- Poorly thought out scheme
- Increased traffic in the village will be potentially hazardous
- Area already congested with school drop off/collection, development will only increase this congestion
- Totally inappropriate within the Green Belt
- New development will dominate the open view of the existing oak framed Forge building
- Dwellings will impact the area with their visual bulk, built form, they are substantial in terms of height, scale & mass
- Expansive area of hardstanding will be created to enable the site to accommodate on site residential parking

Agenda Item 4.1

- Application contrary to advice in National Planning Policy Framework and former PPS5
- Unacceptable development in a setting as described in Penshurst Conservation Area Appraisal
- Another more suitable site should be found
- Cost of renting affordable housing is too high far better to build outside of the village to keep cost down
- No Visual Impact Assessment was submitted with application
- Destroy the ancient and historic hedgerow along the Fordcombe Road frontage
- Detrimental to PPG2 (now National Planning Policy Framework) inappropriate development in the green belt
- Not in line with policy EN23
- Contrary to all policies relating to the Conservation Area, AONB & Green Belt
- Perspective hedge sketch shows the hedge to stay but the development proposal drawing appendix C shows it to be removed.
- Revised plans submitted received March 2012 do nothing to make this application acceptable
- The Visual Impact Assessment is inadequate rushed and poorly thought through and ignores some viewpoints which will be most affected
- The 'Landscape and Visual Impact assessment' is biased
- The 'Landscape and Visual Impact assessment' fails to illustrate the impact of the development on the conservation area
- Brownfield site now become available, 'Becket's Field', therefore proposed Forge Field is an unnecessary development in the AONB.
- Residents feel that the Parish Council are not representing them fairly and the residents views are being over ridden
- Recent proposal suggested by Beckett Trust to for up to 9 units at the top of Glebelands is a more suitable site and will have less impact on the village

In Support

- Design and location of the houses are elegant and sensitive to the image of the village
- Benefit to the community
- Villages were created by evolving to need, this is a need
- Mixing affordable housing within the existing village is a positive step
- Development is in keeping with the area
- Will not be visually detrimental to the village
- Agree that Penshurst should have affordable housing

Agenda Item 4.1

- Affordable housing within the village is so important to keep a community growing and for those on low income
 - Scheme well considered & planned to be discreet by scale & position within the proposed location
 - Design will enhance and compliment the village
 - Close to local amenities Post office, store, school, doctors and public transport
 - Village will adapt and grow to the new development
 - Without development such as this more young people that grew up in Penshurst will have to leave the village due to the lack of appropriate housing
 - Rural villages have to grow and adapt to be viable
 - A local need for local people
 - The amendments improve the proposal bringing everything more inline with the other existing properties and far less intrusive
- 88 Given the highly unusual circumstances of the Judicial Review challenge to the existing planning permission, the Council has made a draft copy of this committee report available to the public, and invited comments from anyone who felt that an important fact had been omitted, or that there was a material error in the draft report. Following this exercise, two submissions have been made.
- 89 The first submission received made comments on the planning merits of the scheme, namely –
- Visual harm to the character of the village and wider AONB
 - There should be no building on greenfield sites in a conservation area
 - The buildings would dominate the end of the village and reduce the importance of Forge Garage
 - The soft edge to the village would be lost and replaced by bulky buildings with high roofs
 - Views towards Rogues Hill and the church would be obscured
- 90 I consider that these points relating to the impact of the development are addressed in the appraisal below.
- 91 The second submission has been made by the solicitors acting for the Forge Field Society. This letter criticises the way in which the Council has handled this application, the main points being –
- That the Council has not assessed the application with an open mind and is only seeking to protect itself from the costs of the Judicial Review. Officer comment - The officers who have prepared and contributed to this report are professionally qualified and duty bound to provide an impartial objective assessment of the planning merits of this planning application.
 - That the Council has failed to acknowledge that its decision to grant permission under SE/11/02258 was flawed. Officer comment – It is not

Agenda Item 4.1

considered that the decision to grant SE/11/02258 was legally flawed. However it is simply common sense to consider the points raised by the judicial review and ensure that the application is correctly assessed in respect of the grounds of challenge.

- That there is strong disagreement with the officers assessment of harm of the proposed development to adjacent listed buildings, the AONB, the Conservation area and the Green Belt, and the conclusion that the need for affordable units outweighs this harm. Officer comment - This is essentially a planning judgement.
- That officers are unwilling to consider alternative sites. Officer comment – The site search process was carried out by an independent organisation. The Council has given consideration to numerous other sites in the parish, as set out in the assessment below. No alternative site has been put forward which is capable of accommodating the six houses of this application.
- That the Council is willing to determine this application prior to the outcome of the Judicial Review proceedings. The Council has a legal obligation to determine this planning application. Officer comment - Officers have adopted the approach of starting with the assumption that each of the grounds of judicial challenge has merit. Officers have then tested the application as required for each particular ground. Had the Judicial review been decided and planning permission SE/11/02258 quashed it would still be necessary for the Council to determine SE/11/02258. That would require the officers to prepare a report that took into account the procedural irregularity that resulted in the quashing of the decision. This planning application has allowed the Council to in effect do this in advance of any decision on the merits of the challenge.

92 Additionally I would emphasise that Paragraph 10 of this report makes clear to Members how they should approach the task of determination of this application. Namely they should consider the application afresh on the basis of this officer report which has been prepared with additional information over the reports on SE/11/02258. The officer's professional assessment of harm against the need for affordable units is set out in detail below, and Members will ultimately be in a position to determine whether or not they agree with the assessment.

Chief Planning Officer's Appraisal

Principal Issues

- 93 This application seeks planning permission to erect 6 dwellings on land at Forge Field, Peshurst. The dwellings would be occupied as local needs affordable housing units.
- 94 In terms of national policy, The NPPF sets out the Government's planning policies and replaces previous Planning Policy Statements and Guidance including the definition of previously developed land.
- 95 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking (para. 14).

Agenda Item 4.1

For decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies out of date, granting of permission unless:-

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;
- specific policies in this framework indicate development should be restricted; or
- material considerations indicate otherwise.

96 The site and surrounding area is located within the Metropolitan Green Belt and Members will no doubt be aware that new house building within the Green Belt is normally resisted. However paragraph 54 of the NPPF does allow for local planning authorities to provide for local needs affordable housing through rural exception sites, and this need not be inappropriate within the Green Belt (Para. 89 of the NPPF).

97 Policy SP4 of the Sevenoaks Core Strategy sets out the specific local circumstances under which affordable housing proposals in rural areas will be considered, and states that such housing will only be developed to meet local needs identified through rural housing needs surveys.

98 In this respect, a Rural Housing Needs Survey (RNS) for the parish of Penshurst was undertaken in 2009 by a registered charity known as Action with Communities in Rural Kent. This charity delivers a Rural Housing Enabler Programme throughout Kent, and is supported by Local Authorities in Kent and Medway, including Sevenoaks District Council. The survey (based on information provided by residents of the Parish) identified that a maximum of 11 households required affordable local needs housing.

99 Following the establishment of such need, Policy SP4 then sets out criteria to be applied in identifying sites as follows –

- a) *the local need identified through the rural needs survey cannot be met by any other means through the development of sites within the defined confines of a settlement within the parish or, where appropriate, in an adjacent parish.*

100 In this instance, it is recognised that the whole of Penshurst village falls within the Green Belt, and for the purposes of this policy it has no “defined confines” – i.e. the village is not excluded from the green belt. Similarly, Fordcombe, the other main settlement within the parish, has no defined confines and also falls wholly within the Green Belt – as in fact does the whole of the Parish. Penshurst also falls outside the rural settlements as set out by LO7 of the Sevenoaks Core Strategy, the village is essentially just washed over the green belt and there are no other confines or settlements within the parish.

100 Penshurst parish is flanked by Chiddingstone and Leigh parishes. These all fall wholly within the Green Belt other than Leigh village. However the defined Leigh village confines are small with tightly drawn boundaries and little room for development. In addition a local needs scheme for housing in Leigh has recently

Agenda Item 4.1

been built out. As such I do not consider it would be appropriate to seek to meet an identified need for Penshurst Parish in this location.

- 101 Taking the above into account, I do not consider that any opportunity exists to enable such a development to take place within any “defined” settlement confines, and that the development would need to take place on land designated as green belt.
- b) *the proposal is of a size and type suitable to meet the identified local need and will be available at an appropriate affordable cost commensurate with the results of the appraisal. The proposal is accompanied by a financial appraisal proving the scheme will meet the defined need. Schemes which propose an element of cross subsidy will not be acceptable.*
- 102 The scheme proposes to erect 6 x 2 bed units. Whilst the overall level of housing need in Penshurst was identified in 2009 at 11 households, the Rural Needs Survey states that in order to forecast the number of affordable homes required in a Parish to meet local need in perpetuity, an indicator used by some local authorities is that the level of need should be approximately two to three times the number of units eventually built. With this in mind, the RNS recommended that a scheme of approximately 5 properties would meet the existing and future needs of Penshurst residents.
- 103 This calculation to provide less units than the identified need aims to ensure that such housing is permanently required and occupied by local people. Problems can occur if a development seeks to accommodate all the identified local need, and then subsequently such need does not materialise. For example, if 11 affordable units were built but 11 local households could not be found to occupy the properties, then occupation of the units would “cascade” down through the S106 mechanism and could eventually allow persons within the wider District to occupy the units, rather than local persons. This would go against the grain of the Council’s rural exceptions policy. By effectively underproviding the number of units compared to the maximum need, this situation would be less likely.
- 104 The application proposes to erect 6 dwellings, and in this respect I consider that this would fall within the terms of “approximately 5 dwellings” as recommended in the Rural Needs Survey. The RNS does not specify that 5 dwellings is a maximum number, and it makes clear that an indicator used by “some local authorities is that the level of need should be approximately two to three times the number of units eventually built” (underlining is my emphasis). I consider that this terminology clearly provides flexibility to provide slightly more or slightly less than 5 dwellings.
- 105 In addition to this, the Rural Housing Enabler has recently advised the Council’s Housing Officers that this formula is no longer used by Action for Communities in Rural Kent, that the maximum number of units based on the identified need is now specified in Rural Needs Surveys, and that the 6 units as proposed under this application would be a very reasonable interpretation of the findings of the Penshurst Rural Needs Survey.
- 106 As such, I am satisfied that the 6 units as proposed would be an appropriate number based on the findings of the Penshurst Rural Needs Survey.

107 The scheme proposes all units as 2 bed dwellings. The Rural Needs Survey states that *“a mix of 1 and 2 bed properties, predominantly 2 bed, would best meet the requirements of local people in housing need.”* Having discussed this matter further with the Council’s Housing Officer, I am advised that 1 bedroom accommodation on small rural schemes such as this are normally of limited value. Two bedroom units are deemed to be preferable as they provide more flexibility, allowing households to develop (for example to have a family) without needing to move to new accommodation. The Peshurst village project Steering Group which was set up following the Housing Needs Survey also recommended that all units should be 2 bedrooms and this was further supported by the local community in consultation exercises undertaken prior to submission of the previous planning application. Given the clear emphasis towards 2 bedroom units as specified in the Rural Needs Survey, I do not consider that this slightly different arrangement would be in significant conflict with the recommendations of the survey.

108 The properties would be available as affordable rented units, developed by the applicant as a major local provider of affordable housing units, with a stock of over 6000 dwellings. The applicant has provided some summarised costs for the development. Whilst these are not particularly detailed, there is absolutely no reason to doubt that the applicant as a major local provider of affordable housing is capable of delivering this scheme. The financial information provided with the application includes the proposed use of grant funding as part of the development costs. The applicant has provided the following statement in respect of the proposed grant funding.

“West Kent has an approved programme of schemes for 2011-15 that includes Forge Field. Grant is currently allocated from within this programme to deliver the affordable homes at Forge Field. This grant will only be formally secured when the project starts on site. The Homes and Communities Agency, who administer government grant, is aware of the project but do not yet have exact details of the scheme.

In the event that the project at Forge Field cannot meet the completion deadline of March 2015 imposed on this programme West Kent would be forced to allocate the funds to another project. The Homes and Communities Agency is aware of the Judicial Review and on-going delays to the project. At present they are allowing West Kent time to see the planning process through.

Beyond March 2015:- At the recent Comprehensive Spending review Government committed £3 billion of funding for a new affordable homes programme spanning 2015 to 2018. If the March 2015 deadline is missed West Kent expects to reapply for the same level of funding under this new programme. West Kent expects such a bid would be supported by Sevenoaks District Council Housing Strategy Team and subsequently by the Homes and Communities Agency but we have no guarantee.”

109 In terms of affordability, the applicant has stated that the current basis of potential grant funding from central government requires them to charge affordable rather than social rents. Affordable rent is defined on this basis as up to 80% of market rents. The current market valuation of the proposed dwellings would be £850 per calendar month. West Kent would charge 80% of this figure, which equates to £680 per calendar month, or £156.92 per week.

Agenda Item 4.1

- 110 This affordable rent figure would fall within the Local Housing Allowance (LHA) rate for a 2 bedroom home in the area, which is £173.08 per week. The LHA rate reflects the maximum housing benefit a resident could receive. If the affordable rent does not exceed the LHA then residents unable to meet the full costs of the affordable rent would be eligible to receive housing benefit to meet the remaining cost.
- 111 I am satisfied from the information provided, together with the status of West Kent Housing as a major local provider of affordable housing, that this rural needs scheme is capable of being successfully delivered by the organisation. The owner of the land is willing to complete a S106 agreement to secure the housing for local needs purposes, and this process is underway.
- 112 The scheme does not propose an element of cross-subsidy (i.e. the development and sale of open market housing to help pay for the affordable housing). The scheme is fully supported by the Council's Housing Policy team.
- c) *the proposed site is considered suitable for such purposes by virtue of its scale and is sited within or adjoining an existing village, is close to available services and public transport, and there are no overriding countryside, conservation, environmental, or highway impacts. The initial and subsequent occupancy of sites developed under this policy will be controlled through planning conditions and agreements as appropriate to ensure that the accommodation remains available in perpetuity to meet the purposes for which it was permitted.*
- 113 With regard to the first element of this policy, the proposal is small in scale at 6 dwellings, and the site is immediately adjacent to the existing village, which is the largest village in the Parish with a village shop, public houses, a primary school and a bus service, albeit limited.
- 114 The site contains a number of planning constraints, being within the Green Belt, Penshurst Conservation Area, adjacent to listed buildings, adjacent to the flood plain, and within the High Weald Area of Outstanding Natural Beauty. In addition, considerations relating to highways safety and neighbouring amenities need to be considered. The test under Policy SP4 is whether any such impacts are overriding. The following sections consider the various planning constraints and impacts relating to the site. Following these sections, I have set out my view as to whether any overriding impacts would arise from the proposal.
- i) *Impact upon openness of Green Belt*
- 115 Paragraph 89 of the NPPF allows for the provision of limited affordable housing within the Green Belt for local community needs under policies set out in the Local Plan. As such, this form of development is not defined as inappropriate within the Green Belt. Whilst the very nature of a rural exceptions site allows the potential for some development to take place in the green belt, it is also important to consider the impact of the specific siting of the development on the green belt, particularly in terms of openness.
- 116 The site is located immediately adjacent to the existing village and is flanked by built development to the north west and north east. The proposal would result in the loss of part of an undeveloped field and the development would be visible from the south west approach into the village. As a result, there would be some

loss of openness to the Green Belt arising from the development. However in such proposals for rural exceptions sites, which by their very nature would take place in green belt locations in this District, some loss of openness would be almost inevitable. Such sites are commonly located at the edge of a village and have the effect of extending the built form of a village. Given the location of the site adjacent to the existing village, with built form extending on the opposite side of the road from the site, I do not consider this impact upon the openness of the green belt to be unacceptable.

ii) *Impact upon character of village, including surrounding heritage assets*

- 117 The site is located on the main road leading through the village and within the Peshurst Conservation Area. The conservation area includes open fields surrounding the built form of the village, and the development would be sited on part of one such field. The Peshurst Conservation Area Appraisal states that the conservation area was primarily designated as an interesting example of a medieval village, tightly concentrated around the church and the great house, which is still evident. It also states that the 19th century developments are architecturally valuable and worthy of preservation.
- 118 The appraisal further states that the village displays a variety of architectural styles, but that there is a unity in detail and form that links buildings across the years, and that a variety in roof heights is a feature of the village. Forge garage, which lies adjacent to the site, is specifically referred to in the appraisal as being of expressive detailing and a well known feature in the village. Its distinctive vernacular appearance on the approach into the village from the south west is recorded in the appraisal. In addition, the appraisal also highlights the existence of splendid views across the river valley to the south west towards Rogues Hill and the open countryside, and the views / vistas gained of and from Star House and The Birches, which are both listed buildings (Star House is Grade II*). Members should also note that Forge Garage was Grade II listed in February 2011 on the basis of its architectural quality as a vernacular building, its symbolic former industrial purpose (as a forge), and its group value with Star House and other vernacular revival buildings in the village.
- 119 I would highlight the following legislative background relating to development affecting listed buildings and conservation areas. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on a local planning authority, in considering development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting, or any features of architectural or historic interest it possesses. Likewise, Section 72 of the same Act places a requirement on a local planning authority in relation to development in a conservation area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 120 This added layer of protection is reflected in advice within the NPPF, which states that heritage assets should be conserved in a manner appropriate to their significance. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

Agenda Item 4.1

Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, including grade II* listed buildings, should be wholly exceptional.

- 121 The NPPF further states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, then this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 122 The Council's Core Strategy Policy SP1 states that the District's heritage assets and settings will be protected and enhanced and states that account should be taken of guidance adopted by the Council in the form of Conservation Area Appraisals. Policy EN23 of the Local Plan states that development proposals should preserve or enhance conservation areas.
- 123 In this instance, the proposal would result in development across part of an existing open field within the conservation area. The field forms part of a large expanse of open space forming part of the conservation area that surrounds the village. It provides a setting to the built form of the village, preserving views into and out of the village from various locations as described in the Conservation Area Appraisal. In approaching the village from the south west, the field allows an open view of the flank wall to Forge Garage. The Penshurst Conservation Area appraisal describes this building as having *"a distinctive picturesque vernacular appearance especially when viewed from the western approach into the village."*
- 124 The development as proposed would be set back within the site, to allow the flank wall of Forge Garage to be exposed, to largely retain this view on the approach into the village from the south west. Whilst car parking for the development would be accommodated at the front of the site, this would imitate frontage parking at Forge Garage, and would be unlikely to result in the obstruction of views of Forge Garage from the south west approach.
- 125 When approaching the site through the village from the north east, the development would be largely obscured by existing buildings on the south side of the village. The grassed area to the front of the site which would be maintained as part of the development would essentially retain the impression of an open grassed field on the approach to the site from the north east through the village.
- 126 The existing native hedgerow fronting onto the High Street would be relocated or alternatively newly planted behind the visibility splay to the new site access. The hedge presently closely follows the boundary with the road before giving way to the built form of the village at Forge Garage. The development would extend built form beyond the garage and the set back of the hedge would be at this transition point. I do not consider that the relocation of the hedge at this point would cause any material harm to the character or appearance of the area. The parking spaces in front of the proposed dwellings would be screened by a further band of landscaping in the form of native hedging and trees.

Agenda Item 4.1

- 127 In terms of scale and design, the proposed dwellings would be of two storey scale and 9 metres in height, and this would be in accordance with the scale and height parameters of other buildings on the south side of the road. Although Forge Garage is lower in height than most other buildings, at 5.5 metres, the proposed dwellings would be set further into ground levels by approx. 2 metres, which reduces the perception of differences in height between the proposed units and Forge Garage. The dwellings would be constructed using a high level of detailing, with steep pitched roofs and chimney features and traditional coloured banded tile hanging, feature gable designs, and traditional open eaves and bargeboard detailing. These pick up on important detailing features that are evident on other buildings in the conservation area, and referred to in the Conservation Area Appraisal. I consider that the level of detailing and scale of the buildings would be of good quality and proportions in keeping with the built form of the village.
- 128 The proposal would have the effect of obscuring some views across the river valley towards Rogues Hill and surrounding countryside currently gained from the road and from properties at Forge Close and Kimberley Cottage, as well as the primary school. The conservation area appraisal refers to the existence of such views as the road leaves the village. The Conservation Area appraisal includes a map which identifies views within the conservation area. It can be seen from the map that this viewpoint is identified at a distance of around 60 metres to the west of the application site.
- 129 Taking the above into account, I consider the main impacts arising upon the character and appearance of the Peshurst Conservation Area would be through the development of part of an open field that provides a setting within the conservation area to the village and to Forge Garage as the first building on the south side of the road when approaching from the south west, and also through the development of part of the open field as a setting for views across the river valley. However I consider that the impact on the setting of the village on the approach from the south west would be limited due to the set back of the development to maintain important views of the flank wall of Forge Garage (as specified in the Conservation Area appraisal). Whilst the development would result in the loss of part of Forge field, a large part of this field (around 70%) would still be retained in its present use as a grassed field around the development and as a setting to the built form of the village. The views across the river valley that are attained as you exit the village are particularly specified in the Conservation Area appraisal. The development would obscure some of these views. However it is noted that the viewpoints as identified on the Conservation Area appraisal maps would not be obscured by the development. Other views of the development back across the valley towards the village, or on the village approach would be seen against the context of the existing buildings in the village.
- 130 Whilst the applicant has identified a number of listed buildings in the vicinity of Forge Field, and has provided an assessment of the impact of the development on each building, the Council's conservation officer has identified that only four may be potentially affected over and above any impact upon the conservation area as a whole. These are as follows:

St John the Baptist church (Grade I listed)

- 131 The church (and the tower in particular) is a Grade I listed building (of the highest listing). It dates from C13 and is highly visible on the approach to the village from

Agenda Item 4.1

the south west. It rises above all other buildings in the village and the tower is viewed against the roofscape of the village from this direction. The proposed development would be set back from the road frontage, typical in scale to existing buildings within the village and of a high quality of design, respectful of the vernacular in the Conservation Area. Thus this view of the church tower would remain as it is, uninterrupted by intervening structures. As such, I consider that the development would preserve the setting of the Church and tower.

Forge Garage

- 132 The development would impact upon the immediate setting of Forge Garage, a Grade II listed building. The building is described by English Heritage as 'an essay in the vernacular revival manner.' The building is also described as having architectural quality, symbolic interest and group value with Star House, and as part of a larger, historically significant ensemble of vernacular revival buildings in the centre of Penshurst.
- 133 From the north east, I consider that the development would preserve the setting of Forge Garage, as the development would be essentially screened from views in this direction, and would maintain viewpoints across to Star House, and therefore the setting of Forge Garage individually, and as part of a collection of historic buildings, would be preserved. The scheme would introduce built form to the south west of Forge Garage where no such development exists at present. This would impact upon the appearance and setting of Forge Garage from this location. However the proposed buildings would be set back from the flank elevation of Forge Garage and as a result, views of this elevation in the approach to the village from the south west would be preserved. The open parking area to the front of the proposed dwellings would be unlikely to obstruct such views. This set-back would also retain the intervisibility and group value between Forge Garage and Star House.
- 134 Taking this into account, I consider that some harm would be caused to the setting of Forge Garage, by virtue of introducing built form to the south west of the building which would reduce the prominence of Forge Garage as the last building on this side of the village. However this harm would be limited by the position of the new dwellings, which have been set back from Forge Garage to preserve views of the flank wall to this building.

Star House

- 135 Star House is a Grade II* listed building, located approximately 30 metres to the south west of the application site and around 50 metres from the location of the dwellings as proposed. As a Grade II* listed building, the property is of heightened importance as a designated heritage asset. The building was formerly an inn and dates from 1610, with C19 additions and restoration.
- 136 The property occupies a prominent position at a bend in the road. The building is also sited on a higher land level when viewed from the main centre of the village, which emphasises this prominence. These views of Star House are currently taken across the front part of the application site. The development as proposed would not interrupt these views, and the front part of the site would remain essentially as an open grassed area. Whilst the proposed site access would puncture through the front of the site, this does not obstruct such views of Star

House. Likewise, the open frontage of the proposed development would preserve the visual relationship and group value between Star House and Forge Garage.

- 137 Star House also has a strong visual presence in the approach to the village from the south west, due to its scale and proximity to the road. Whilst the proposed development would also be visible from this approach, I do not consider it would diminish the prominence or setting of Star House from this direction, due to the distance between Star House and the development, the set-back of the proposed dwellings from the road, and the difference in land levels – the proposed dwellings would be built on land levels in excess of 4-5 metres lower than that of Star House.
- 138 In views across the river valley towards Penshurst village, the proposed development would extend the built form of the village. However due to the distance that would be maintained between the development and Star House, and the prominent position of Star House, on a significantly higher land level above the proposed dwellings, I do not consider that the development would cause any harm to these views of Star House. From Star House itself, the proposed development would be visible at an angle from windows in the front elevation of this property. However the view and vistas from these windows at an elevated level would remain predominantly of open fields and countryside.
- 139 Overall, I do not consider that the development would cause harm to the setting of Star House.

The Birches

- 140 This is a substantial classically styled Grade II listed building, built in the C19. It is sited around 200 metres from the proposed development. As with Star House, this building is sited on a much higher land level than the proposed dwellings. Given the substantial distance between this property and the application site, together with the siting of the proposed dwellings well back from the road frontage and intervening landscaping, I do not consider that the setting of this building would be affected by the development in views or approached into and out of the village. The proposal would not materially affect views over the surrounding countryside from The Birches, given the elevated position of the dwelling and distance from the proposal. Views of The Birches across the river valley towards the village would be preserved, again due to the elevated position of this property in comparison to the application site, and the distance between The Birches and the application site.
- 141 On this basis I do not consider the development would have any detrimental impact upon the setting of The Birches.
- 142 In summary, I would conclude that some harm to the character and appearance of the conservation area would occur through the interruption of views across the river valley and the loss of some open land within the conservation area as a setting to built form. In addition, some harm to the setting of Forge Garage as a listed building would occur, due to the impact of the development on the view of this property from the west. In accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, special regard must be given to the desirability of preserving the surrounding listed buildings and the character or appearance of the Penshurst Conservation Area. In my opinion, the harm as identified above would be limited. The majority of Forge Field would

Agenda Item 4.1

remain undeveloped and as such the built form of the village would continue to enjoy an open attractive setting on the approach from the south west, and the new houses would be set back from Forge Garage, thus retaining views of the flank wall to this property. I also consider that the impact on the setting of the conservation area would be limited as the development would represent a small extension to the village, it would be seen in the context of existing built form within the conservation area, and has been well designed to respect this built form. The interruption of views would be limited and would not affect viewpoints as identified in the conservation area appraisal. Such limited harm would result in some conflict with policies EN23 of the local plan and SP1 of the Core Strategy. However, whilst having special regard to the desirability of preserving listed buildings and the character or appearance of the conservation area, I consider that the harm arising from the development would represent less than substantial harm to the significance of a heritage asset under paragraph 134 of the NPPF. This states that less than substantial harm should be weighed against the public benefits of the proposal. This balancing exercise is considered later in the report, in addition to the policy test under SP4 as to whether such harm is overriding.

iii) Impact on wider landscape within an AONB

- 143 The site and surrounding area is located within the High Weald Area of Outstanding Natural Beauty. The NPPF states that great weight should be given to conserving landscape and scenic beauty within AONB's, which have the highest status of protection in relation to landscape and scenic beauty. Policy LO8 of the Core Strategy states that the distinctive character of the Kent Downs and High Weald AONB and their settings will be conserved and enhanced.
- 144 The existing site is an undeveloped field, and any proposal to develop on land such as this will inevitably have an impact. The site is clearly evident on the south west approach into Penshurst, in addition to views gained across the site from within the village itself.
- 145 The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) as part of the application, which concludes that the site is not visible from the surrounding landscape due to topography and woodland cover, other than from a public footpath to the east of the River Medway where limited views are attained. The LVIA concludes there would be no impacts on the landscape or AONB in this respect. The LVIA also concludes that from the village itself, any impact will be very localised when viewed opposite the site. That the impact on the approaches to Penshurst, the village edge and local character will be low.
- 146 The Council has consulted the High Weald AONB unit on the proposed development, and these comments are set out in full earlier in this report. The AONB unit has raised concern over the content of the LVIA and specifically how the more immediate impacts of the development over shorter distances have been addressed, as well as impacts on the physical landscape itself (not just visual impacts). The AONB unit considers that the scale of the buildings, with unusually high roof lines, would create a greater mass than would normally be expected of residential development, creating a significant local visual impact and a moderate landscape impact resulting from the physical change in character on the site.
- 147 Dealing first with the content of the LVIA, whilst concern has been raised over the content of the document, the AONB unit has submitted its assessment of the

Agenda Item 4.1

likely impact of the development, and I would agree that the main impact arising would be a local visual impact and landscape impact as set out by the Unit. Whilst I acknowledge the concern raised over the adequacy of the LVIA in dealing with local impacts, I am satisfied, having visited the site and viewed it from a number of vantage points, and having considered the response from the AONB Unit, that I have sufficient information to form my own judgement on this matter.

- 148 However I do not agree with the AONB unit's view on the size of the dwellings proposed – which they refer to as consisting of unusually high roof lines creating a greater mass than would normally be expected of residential development. In my opinion, the dwellings at 9 metres in height fall within the parameters of standard ridge heights for two storey residential development, and are comparable in height to many other buildings in the village, including the dwellings at Keymer Court immediately to the east of Forge Garage, and the units opposite the site at Forge Close. Under the previous application, the Unit did qualify its comments to observe that scale may be an issue, and may affect the visual impacts of the development on local views, and that this needs to be considered. Overall, I consider the impact of the development on the landscape to be less than as stated by the AONB unit, as the proposed buildings reflect the style and design of buildings in the village. If the buildings had been designed with lower roof pitches and smaller roofs, they would have been out of keeping with the village. There is a balance to be achieved between the design of the built form respecting the character of the village and Conservation Area, and protection of the landscape character of the AONB. I consider that in this instance more weight should be given to the design of the dwellings in relation to surrounding built form.
- 149 From longer-range vantage points, having viewed the site from surrounding roads and public footpaths, the main viewpoint of the site is from a public footpath approximately 400 metres to the south east . The footpath looks down on the site and surrounding village from higher ground although such views clearly include surrounding buildings within the village, including buildings on the north side of the High Street and Fordcombe Road, which are positioned on higher land levels than the south side. Taking into account the scale and height of the dwellings proposed, I consider that the proposed units would visually integrate into the built village environment when viewed from the footpath, and that harm to the natural landscape from this viewpoint would be relatively small and limited.
- 150 In terms of shorter range impacts, I agree with the AONB unit that these immediate impacts would be much greater, as quite clearly the development would be visible along the approach to the village from the south west and from viewpoints on the road immediately opposite the site. However I do not agree that the scale and mass of the buildings would create a significant dominant feature on the approach to the village, taking into account the drop in level from the approach road, the height of the buildings within the village, the set-back of the dwellings from Forge Garage, and importantly, the fact that the proposed development would be viewed not in isolation but against the backdrop of the existing village and associated built form. In my opinion, the proposal would undoubtedly have a localised impact on the appearance of the village and landscape. However, for the reasons set out above I consider such impact to be of limited harm to the landscape. In this respect, there would be some conflict with Policy LO8 of the Core Strategy.

Agenda Item 4.1

iv) *Impact upon neighbouring amenities*

- 151 Whilst a number of properties on the north side of the road may face or gain views of the proposed dwellings, this would be at a distance in excess of 40 metres, across a main road through Penshurst. In my opinion, given the distance involved, the proposal would not cause any undue harm to the living conditions of occupants of these properties. Whilst the direct view from some buildings, namely the primary school, the properties at Forge Close and Kimberley Cottage, would change as a result of the development, this would not cause an unacceptable loss of outlook given the relationship described above.
- 152 The closest residential property would be the dwelling at Forge Garage, located to the rear of this building. It contains a number of windows in the flank elevation facing into the site. The proposed dwellings would be sited behind the rear building line of the dwelling at Forge Garage and as such these side facing windows would not be obscured by the development. In addition, a separation gap of 11 metres would exist between Forge Garage and the flank wall of the proposed dwellings, with a 5 metre wide landscaped strip along the boundary. One window is proposed in the flank wall of the proposed dwellings which would serve a landing, and this can be conditioned to be of obscure glazing to prevent views into the garden of the existing dwelling.
- 153 Policy EN1 of the local plan states that developments should not cause harm to the amenities of existing neighbouring properties. I consider that, given the layout and distance between the existing dwelling at Forge Garage and the new dwellings as described above, the living conditions of the existing property would not be adversely affected, and there would be no conflict with Policy EN1.

v) *Impact upon highways safety*

- 154 The application seeks to install a new entrance onto the High Street and 14 spaces would be provided for the development. This would accord with the Kent Highways Interim Guidance Notes for residential development which advises that for village environments, a minimum of 1.5 spaces per unit should be provided together with 0.2 visitor spaces per unit.
- 155 The new access would provide visibility splays in the region of 50 metres in both directions for vehicles exiting the site, and this is to the satisfaction of Kent highways. The splays would necessitate the removal of part of a boundary hedge, although a new hedge would be replanted behind the splay.
- 156 As part of improvements to visibility at the proposed junction, Kent Highways require the existing phone box to be relocated slightly further back into the site. The applicant is in discussions with British Telecom to carry out this works and I consider that this can be suitably controlled via a planning condition.
- 157 Kent Highways also require a contribution of £3500 to be secured via a section 106 agreement for the provision of yellow line waiting restrictions in the vicinity of the exit of the proposed development. The applicant has agreed to fund this.
- 158 Objections have been raised regarding the siting of the access, the increase in traffic movements in this locality, particularly in close proximity to the school and potential for hazardous highway conditions. Members will be aware that KCC Highways have not raised an objection to the proposed development subject to

the imposition of conditions and the applicant entering into a Section 106 Agreement to ensure that the development will not result in hazardous highway conditions. Some concerns have also been raised that a preliminary scheme originally proposed a dropping off area for the school, which was then removed in subsequent plans. There were originally plans for a larger scale development, including a new village surgery, which were scaled back prior to submission of the last application. The Highways Officer does not object to the development as proposed without such facilities.

- 159 Policy EN1 of the local plan states that new development should provide a satisfactory means of access for vehicles and appropriate parking facilities. Given the comments from Kent Highways, I am satisfied that acceptable access and parking provision would be made for the development. Whilst Policy T9 of the local plan normally precludes the construction of new accesses onto secondary routes, given the 30mph speed limit within the village which includes the application site, together with the comments from Kent Highways, I do not consider that the development would cause any harm to highways safety.

vi) *Flooding*

- 160 The land on the south side of the High Street slopes down to the River Medway, the floodplain for which extends to around 5 metres from the rear of the application site, and some 20 metres from the rear of the proposed dwellings. The applicant has submitted a Flood Risk Assessment and the Environment Agency continues to accept that development of the site for housing is acceptable, subject to imposition of the same conditions as were imposed under SE/11/02258. The development would not conflict with advice on development and flooding as contained within the NPPF.

vii) *Ecology*

- 161 The application includes an ecological desk study and phase 1 habitat survey which identifies the site as supporting dense scrub, grassland, species rich and species poor hedgerows with trees. Further survey work undertaken has concluded that there were no reptiles found on site and that trees to the south east of the site have potential to support roosting bats. Mitigation measures are proposed which can be controlled by condition.
- 162 The County Ecologist is satisfied that the survey work undertaken is sufficient and that it remains valid despite being undertaken in July and October 2011, given that the condition of the site has not materially changed during this timescale. On this basis and subject to conditions, I am satisfied that the development would comply with Policy SP11 of the Core Strategy.

Summing up of impacts using Policy SP4(c), applying the statutory test set out in Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and advice in the NPPF

- 163 From my assessment above, Members will note that I have identified some harm arising from the development to the landscape within the High Weald Area of Outstanding Natural Beauty and to heritage assets, namely the Penshurst Conservation Area and the setting of Forge Garage as a Grade II listed building. However I have concluded that the degree of harm is limited.

Agenda Item 4.1

- 164 The policy test applied under SP4(c) of the Core Strategy is whether a proposed rural needs housing scheme would cause overriding countryside, conservation, environmental or highway impacts. Such exception sites, by their very nature, are often located in sensitive areas where housing development would not normally be permitted, and where a degree of harm needs to be balanced against the provision of such housing, which would not normally be the case with other forms of development.
- 165 With regard to the impact upon the AONB, I have concluded that any harm to the landscape would be localised and of limited harm. Whilst I acknowledge that AONB's are afforded the highest status of protection in relation to landscape and scenic beauty, I do not consider the harm identified to be overriding under Policy SP4(c).
- 166 Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Whilst I acknowledge the legislative duty placed on a local planning authority to have special regard to the preservation of conservation areas and listed buildings, in this instance and following the advice in paragraph 134 of the NPPF, the proposal would bring substantial public benefits through the provision of affordable local housing to meet an identified need. I consider that this benefit is capable of carrying greater weight than the limited harm identified to heritage assets, and that the impact upon heritage assets would not be overriding under Policy SP4(c).

Alternative sites

- 167 A number of objectors have commented that alternative sites to Forge Field exist, which should be considered by the Council.
- 168 I would advise Members that the existence of an alternative site is a material planning consideration but the weight given to this will normally depend on the facts and circumstances in each individual case. The Court of Appeal decision in *Governing Body of Langley Park School for Girls and the London Borough of Bromley and Ors* [2009] sets out how this should be considered as follows –

"The starting point must be the extent of the harm in planning terms (conflict with policy etc.) that would be caused by the application. If little or no harm would be caused by granting permission there would be no need to consider whether the harm (or the lack of it) might be avoided. The less the harm the more likely it would be (all other things being equal) that the local planning authority would need to be thoroughly persuaded of the merits of avoiding or reducing it by adopting an alternative scheme. At the other end of the spectrum, if a local planning authority considered that a proposed development would do really serious harm it would be entitled to refuse planning permission if it had not been persuaded by the applicant that there was no possibility, whether by adopting an alternative scheme, or otherwise, of avoiding or reducing that harm."

Where any particular application falls within this spectrum; whether there is a need to consider the possibility of avoiding or reducing the planning harm that would be caused by a particular proposal; and if so, how far evidence in support of that possibility, or the lack of it, should have been worked up in detail by the

objectors or the applicant for permission; are all matters of planning judgment for the local planning authority.”

169 The location of a site to accommodate local needs housing within the Parish has been subject to extensive consideration, going back to 2009 when the Rural Needs Survey for Penshurst was first published. A steering group was established at this time involving a number of stakeholders, including the Parish Council, Penshurst Estate and various departments within Sevenoaks District Council, together with the West Kent Housing Association and other groups and individuals, and a number of sites were put forward as possible locations for the development. These sites were considered, with the key issue being that they should be available and potentially suitable for development. Following this, a large number of sites were discounted on the basis that they were not available (i.e. the landowner didn't want to sell / develop), or that they were not suitable for development (for example, a large number of sites put forward were in isolated locations away from the villages of Penshurst and Fordcombe, and performed poorly in terms of sustainability. This included sites put forward at a later date by the Keep Penshurst Green Group. Other sites (and the fundamental reasons why they were discounted) are listed below –

- The “Bank” site Penshurst (north of Latymers) – not available for sale / development
- BT Telephone Exchange Penshurst – still in operational use. Access problems
- Allotments opposite Warren Cottages, Penshurst – single track road - access problems
- Land adj. 14 New Road – small site, remote from main village, unsustainable
- Land at Paddock Close, Fordcombe – owner not willing to sell
- Land r/o Bottlehouse Cottages Penshurst – site remote from village and unsustainable. Permission for housing refused in 1992.
- Land adj to the Bottlehouse PH, Penshurst – site remote from village, unsustainable
- The Old Forge Site, Coldharbour Rd Penshurst – site too remote and unsustainable
- Land at junction of Smarts Hill / New Road Penshurst – remote from village / unsustainable. Owner not willing to develop
- Land at the Enterprise Centre, Penshurst – owner not willing to develop
- Land adj Bridge House, Penshurst – owner not willing to develop
- Land adj. Spile Bank, Penshurst - remote from village, small site, planning permission for housing previously refused.
- Land at junction of Grove Road Penshurst – remote from village, unsustainable, floodplain
- Glebelands garage site Penshurst – well located, but limited in size and potential for impact upon neighbours. Too small to cater for identified need. 5 out of 9 garages occupied.

Agenda Item 4.1

- 170 The outcome of this process, was that only one site emerged which appeared to be potentially available, capable of accommodating the development, and without fundamental locational constraints (i.e. not in an isolated location), being the Forge Field site subject to this application. That is not to say that Forge Field is without any planning constraints or difficulties – as is evidenced in the content of my report above.
- 171 Members will recall that during consideration of the previous application for Forge Field, the Council received an application for an affordable housing scheme at Becketts Field in Penshurst. This was put forward as an alternative proposal to Forge Field, consisting of a scheme to demolish an existing dwelling and erect 6 affordable housing units comprising 4 x 2 bed apartments and 2 x 2 bed houses. This application was considered by Members and was refused on various grounds including scale, height, design, and impact upon neighbouring amenities. In addition the application failed to secure the development as local needs housing and, together with the Forge Field development (as approved by Members), would have lead to an overprovision of local needs housing in the parish.
- 172 In my opinion, the site at Becketts Field is particularly limited by the small area of available and developable land, and the relationship between this land and the existing bungalows at Becketts Field. Whilst some objectors have suggested that an alternative scheme could be viable for Becketts Field, I would be concerned that there is simply not sufficient space or scope to develop this land in isolation with a sufficient number of units to meet the level of local needs housing.
- 173 An objector has also suggested splitting the development, to provide a smaller number of units on Becketts Field, and potentially two units to the rear of Forge Garage. These plans have not been developed by the objector to any real extent. However the land to the rear of Forge Field is shown to be partly within the floodplain and I would be concerned that the Environment Agency would object in principle to the development of this land. The level of this land is lower than the application site, and below the recommended floor and site levels identified by the Environment Agency in their response to this application (see recommended conditions 14 and 15). There is also no evidence from the writer that the landowner would be willing for such development to take place. I would also raise initial concerns that this proposal would introduce a backland form of development which would be particularly alien to the pattern of development on this side of the village, that the site identified by the objector is particularly small and may not be capable of accommodating dwellings with related amenity and parking space, and whether any relationship with the dwelling at Forge Garage would be acceptable. Given these concerns, I do not consider that this suggestion represents a viable alternative to the development proposed under this application.
- 174 In this instance, Members will note that I have identified some harm arising from the development of the Forge Field site. This harm does relate to national planning designations, being the AONB and designated Heritage Assets. Whilst these designations are of national importance, I consider that the identified harm would not be substantial, and would not be sufficient for the development to be in conflict with Policy SP4 of the Core Strategy, or advice in the NPPF – as set out in the section above. The Court of Appeal case referred to above states that the start point in assessing the degree of weight to give to an alternative site should be the extent of harm in planning terms that would be caused by an application. *The less the harm, the more likely it would be that a local planning authority would*

need to be thoroughly persuaded of the merits of avoiding or reducing it by adopting an alternative scheme. Given my view that the development would not result in overriding impacts and would accord with Policy SP4 and government advice (relating to heritage assets), I would conclude that the potential existence of alternative sites would, in this instance, carry limited weight. In any event, no other site has been identified that is available and considered suitable by the Council to accommodate the identified need for local affordable housing. This is despite the fact that this process in Peshurst has now been ongoing since 2009.

- 175 Taking the above into account, I do not consider that a viable and better alternative to the Forge Field site exists that would be capable of delivering the necessary housing development to meet the identified local need. Nor do I consider the alternative site argument to be compelling in this instance, given that I have determined that the development would not result in any significant harm, nor would it be in conflict with the Council's rural exceptions policy SP4.

Any other matters

- 176 The vast majority of comments raised by third parties in objection to the development have been considered as part of the analysis of the scheme above. The following matters have also been raised –
- 177 That the development does not have the support of the majority of local people, and would be contrary to localism – I would advise that opposition to or support for a development is capable of being a material consideration in the determination of a planning application. However the test of acceptability should be based primarily on the planning merits of a scheme, and conformity with national and local planning policies. The Localism Act does not change the way in which local opposition to a development should be considered as part of the planning process. In this instance, Members will note that there is both opposition to and support for the scheme, including support from the parish council. However my assessment is based primarily on the conformity of the scheme with planning policies.
- 178 That the existing planning permission should be revoked and this application is an admission that the previous application was not properly considered – The existing planning permission is subject to Judicial Review and the High Court will determine whether the decision was procedurally flawed or not. The applicant's reasons for submitting this application are set out in paragraphs 3-8 of this report.
- 179 That there has been no community consultation undertaken, contrary to the NPPF – the development of Forge Field was subject to community consultation prior to submission of the previous planning application in 2011. This development is identical to the 2011 scheme.
- 180 That the Landscape and Visual Impact Assessment (LVIA) has not been updated to take account of the additional buildings identified in the applicant's design and access statement – I am satisfied that the design and access statement and the LVIA together with the Council's own records and officer site visits have sufficiently considered the impact of the development on the historic village and buildings and the wider landscape.
- 181 That there are factual inaccuracies in the new application – some objectors have raised concern over some of the content of the Design and Access Statement. I

Agenda Item 4.1

am satisfied that the plans submitted with the application are accurate, and that the Council has sufficient information available to it in order to properly consider and determine the planning application.

Conclusion

- 182 I have identified that the application would, on the one hand, result in some limited harm to the character and appearance of the Penshurst Conservation Area, and the setting of Forge Garage as a listed building. The statutory test requires that special regard be had to the desirability of preserving or enhancing these. Some limited harm to the High Weald AONB would also be caused. On the other hand, the development would provide local affordable housing, as identified in a Rural Needs Survey. This is a balancing exercise, and the NPPF advises that such an exercise should be undertaken when less than significant harm would be caused to designated heritage assets. Likewise, Policy SP4 of the Core Strategy sets a test of whether any countryside, conservation environmental or highway impacts are overriding. Given the limited harm identified, I do not consider that this outweighs the benefits of providing local needs affordable housing. On this basis, I would conclude that the proposal would accord with Policy SP4 of the Core Strategy and with the advice contained on heritage assets within the NPPF.
- 183 In light of the above assessment, I consider the proposed development to be acceptable and would recommend that planning permission be granted subject to completion of a S106 Agreement to secure the units as local needs affordable housing.

Background Papers

Site Plan and Block Plan

Contact Officer(s): Mr A Byrne Extension: 7225

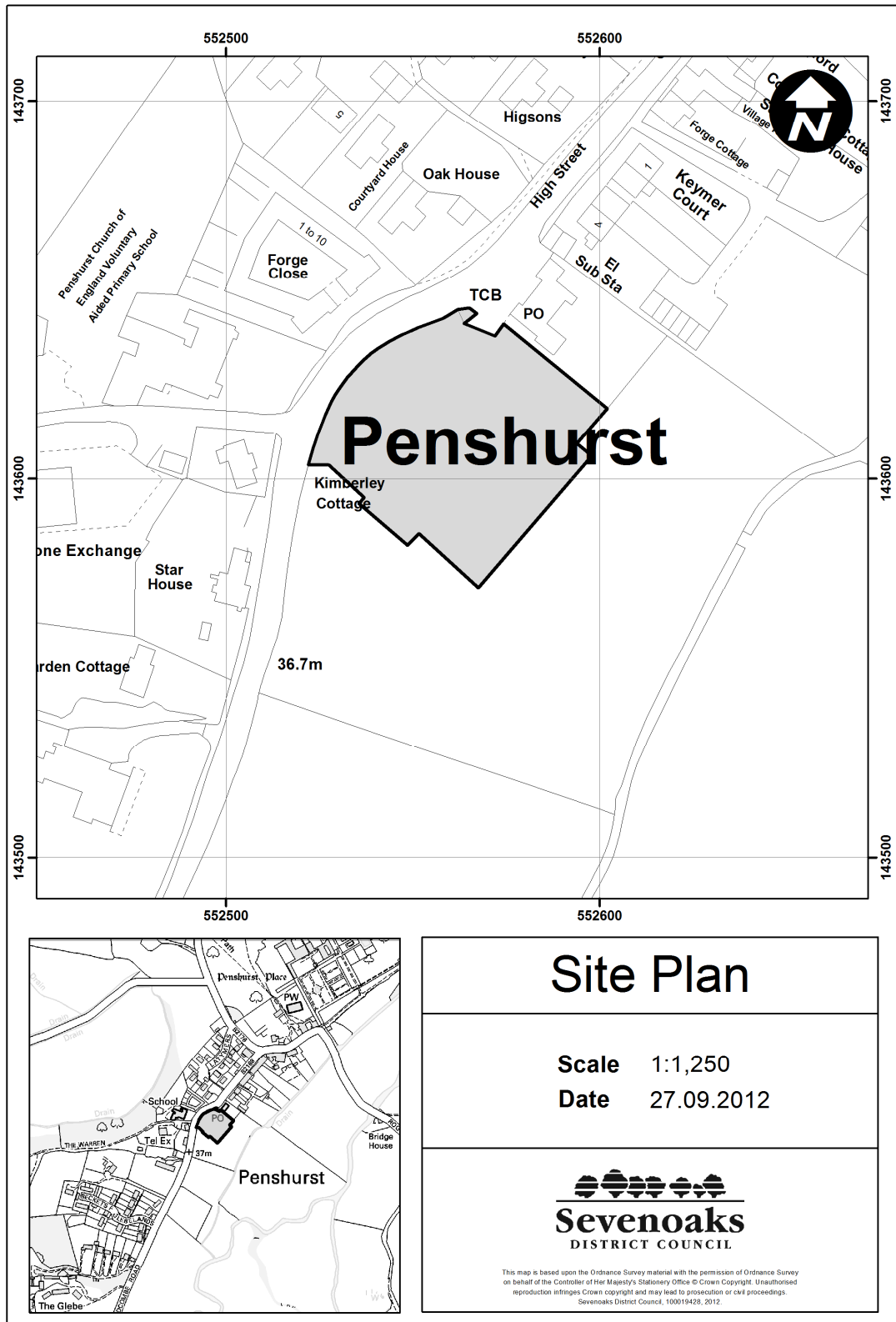
Richard Morris
Chief Planning Officer

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MNIIYOBK0L000>

Link to associated documents

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MNIIYOBK0L000>



4.2 - SE/13/01293/FUL Date expires 22 October 2013

PROPOSAL: Part change of use of existing B1/B8 building with ancillary offices to A1 warehouse retail use with ancillary offices.

LOCATION: Mercury House, Station Road, Edenbridge TN8 6HL

WARD(S): Edenbridge North & East

ITEM FOR DECISION

Councillor Scholey has referred the item to Development Control Committee for the following reasons:

This application should be approved because it is in accord with paragraphs 19 and 21 of the NPPF

It is also in line with Core Strategy policy LO6 because it will regenerate and redevelop a site while keeping it for employment.

In addition it is in line with Core Strategy SP8 because it is being retained for business use within the mixed type of businesses currently existing in that part of Station Road, i.e. a mix of manufacturing, warehouse use and retailing (e.g. Bradfords, "On The Run" at the garage). This latter establishment sells a variety of items by retail.

Councillor Mrs Davison has referred the item to Development Control Committee for the following reason:

This application should be allowed since it is in accord with paragraphs 19 and 21 of the NPPF and also supports regeneration and redevelopment in line with LO 6.

Retail is already present across the road from the site at Bradford's Electrical.

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

The change of use of the site from employment land to retail provision would represent an unsustainable approach to development. It would result in an out of town centre shopping development to the detriment of the vitality and viability of the Edenbridge town centre. The Applicant has not demonstrated through the sequential test that no town centre site exists to accommodate the proposed use. The proposal is therefore contrary to paragraphs 24 - 27 of the NPPF.

The proposal seeks the loss of protected employment land contrary to policies LO6 and SP8 of the Sevenoaks District Core Strategy and EP8 of the Sevenoaks District Local Plan.

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by:

Agenda Item 4.2

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line
(www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp),
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) The application was dealt with/approved without delay.

Description of Proposal

- 1 Part change of use of existing B1/B8 building with ancillary offices to A1 warehouse retail use with ancillary offices. The proposal relates to the retention of 360 sqm of ancillary office space, and the loss of 667.5 sqm of B1/B8 land to retail floorspace. The site includes the provision of 16 existing car parking spaces.

Description of Site

- 2 The site lies on the western side of Station Road with its frontage facing the road and on protected employment land. Parking for the site is located to the front, at the side, and to the rear side. Residential properties are located to its north and north-west elevations, and the railway line runs across its northern elevation. On the other side of station road, an electrical retail unit is located on its eastern elevation. The building is fully occupied in employment use. The site lies outside of Edenbridge town centre.

Constraints

- 3 Protected employment land

Policies

Sevenoaks District Local Plan

4 Policies– EP8, EN1

Sevenoaks Core Strategy

5 Policies – LO6, SP8

Other

6 National Planning Policy Framework

Planning History

7 11/01714/FUL - Erection of a roof extension to provide additional office space. Granted

95/02217/HIST - Relocation of vehicular access to proposed office and minor alterations. (Previous consent SE/90/2073). Granted

95/00392/HIST - Provision of 3 car parking spaces to front. As per amended plans received 22.5.95. Granted

Consultations

Town Council

8 Edenbridge Town Council has made the following comment:

‘Support:

Members had no objection to this application but wished the Officer to check that the turning space proposed for HGVs was sufficient’

KCC Highways

9 Kent Highways have made the following comment:

Can the applicants demonstrate that parking spaces D and E (as shown on the Block Plan) are off the public highway? It would appear from provisional information at KCC (and subject to confirmation) that D and possibly E too are within the highway boundary and form part of the footway, albeit modified to allow vehicles to overrun for delivery purposes.

Notwithstanding the above, from a highways and parking perspective, there do not appear to be any sound grounds for raising an objection, and I do not intend to do so. I would recommend a condition that there should be a sign clearly visible from Enterprise Way directing customers to customer parking, and that customer parking spaces should be clearly identified as such. Reason: Otherwise customers will park in the road; Amenity

SDC Environmental Health

10 Sevenoaks Environmental Health has made the following comment:

Agenda Item 4.2

My only concern would be noise should the applicant propose any additional external plant or equipment such as air conditioning plant. If this is the case the applicant should submit a BS4142:1997 acoustic assessment to demonstrate that no disturbance is likely to be caused

Representations

11 None received.

Chief Planning Officer's Appraisal

- 12 Permission is sought for the change of use of the B1/B8 building to A1 retail warehouse use. The proposal shows the retention of the existing first floor ancillary offices.
- 13 The application site lies on protected employment land for business purposes. No external alterations are proposed to the unit and therefore only the principle of the change of use from employment to retail use is subject to consideration.
- 14 The office part of the proposal relates to the offices which are currently ancillary to the business use, and would continue to be ancillary, but to the proposed retail use. They would not represent a primary use of the building.
- 15 The use of employment land is addressed in policy EP8 of the Local Plan, and policies LO6 and SP8 of the Core Strategy.

Policy LO6 states that:

'Existing suitable employment sites will be retained with the opportunity for regeneration and redevelopment to better meet the needs of business.'

Policy SP8 states:

'Sites used for business purposes will be retained in business use unless it can be demonstrated that there is no reasonable prospect of their take up or continued use for business purposes during the Core Strategy period. Redevelopment for mixed use of business sites in urban areas may exceptionally be permitted where such development would facilitate the regeneration of the site to more effectively meet the needs of modern business, where the employment capacity of the site, represented by the commercial floorspace, is maintained and where a mixed use development would represent a sustainable approach consistent with the general distribution of development.'

- 16 Very little information has been submitted with the application. The agent's letter sets the case for permission being granted. No information, such as attempts to let the premises, has been provided to demonstrate that there is no reasonable prospect of the sites' take up or its continued use for business purposes. An inspection of the site showed that the unit is fully occupied and is therefore clearly a viable employment site. The change of use would not facilitate the regeneration of the site to more effectively meet the needs of modern business or as a sustainable approach consistent with the general distribution of development.

Paragraph 21 of the NPPF states:

- 18 *'Investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing. In drawing up Local Plans, local planning authorities should:*
- set out a clear economic vision and strategy for their area which positively and proactively encourages sustainable economic growth;*
 - set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;*
 - support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances;*
 - plan positively for the location, promotion and expansion of clusters or networks of knowledge driven, creative or high technology industries;*
 - identify priority areas for economic regeneration, infrastructure provision and environmental enhancement; and*
 - facilitate flexible working practices such as the integration of residential and commercial uses within the same unit.'*

19 The proposed development site forms part of the Station Road employment land allocation in Edenbridge.

20 The Council's emerging Allocations and Development Management Plan proposes that the Station Road site continues to be allocated for business use. The site forms part of the employment land supply that the Employment Land Review (2007), and the updated Long Term Employment Space Projections (2011), recommend that the Council should retain to meet requirements of the local economy to 2026.

21 The local policies seek to protect such sites unless it can be demonstrated that there is no reasonable prospect of their take up or continued use for business purposes during the Core Strategy period. The use of land for retail purposes is specifically different to a business use in planning policy terms and is therefore inappropriate on protected employment land. This approach is consistent with paragraph 21 of the NPPF as it complies with a clear vision to support an existing business sector, based on a sound evidence base.

Paragraph 22 of the NPPF states

22 *'Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their*

Agenda Item 4.2

merits having regard to market signals and the relative need for different land uses to support sustainable local communities.'

- 23 No justification has been submitted with the application to show that there is no reasonable prospect of the site being used for B1 purposes. No information has been provided relating to market signals (such as an inability to rent the land), or that there is a need for a different land use at the location to support local communities.
- 24 The Core Strategy states that the Council is preparing an Economic Development Action Plan and that one of its key themes is maintaining the supply of local employment land. The Core Strategy has a significant role to play in implementing the Action Plan in the provision it makes for development and states that there is a significant supply of employment land for business use and that the great majority is acceptably located (as identified in the Employment Land Review). The review identifies that there is a future additional land requirement which can be met through the intensification and use of vacant land. The emphasis of policy is therefore on retaining and making effective use of existing employment land.
- 25 One of the three roles that the NPPF identifies that the planning system should play in contributing towards the achievement of sustainable development is described in the NPPF as:
- 'an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure'*
- 26 The purpose of core strategy policies SP8 and LO6 are, as part of this role, ensuring that sufficient land of the right type is available in the right place and at the right time to support growth (in this case up to 2026).

Paragraph 19 of the NPPF states

- 27 *'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.'*
- 28 The application site is fully occupied and is therefore contributing towards sustainable economic growth. To permit the change of use of a fully occupied unit which provides protected business employment floorspace would be contrary to the aims of sustainable economic growth and the requirements of paragraph 19 of the NPPF.
- 29 The application proposal would result in the loss of a not insignificant amount of employment land which is not considered acceptable under the requirements of the NPPF, the Local Plan or the Core Strategy.
- 30 The site lies outside of Edenbridge town centre and the proposed retail use would act in direct competition to the retail offer within the town centre and would have the potential to draw trade away from, and be detrimental to it. The NPPF is clear that where uses can be accommodated within the town centre or where a

proposal may have a detrimental impact on the vitality and viability of a defined town centre, it should be refused. (NPPF paragraph 27)

31 The application site is an out of centre location and therefore its use for retail purposes does not accord with local or central policy with regard to town centre viability or employment land protection.

32 The emphasis on sustainable development in the NPPF, underpins the importance of protecting town centre uses and employment land. Paragraph 23 states that local policies should:

‘recognise town centres as the heart of their communities and pursue policies to support their viability and vitality’

33 The NPPF requires a sequential test to be applied to applications for main town centre uses outside of an existing centre.

Paragraph 24 states that:

‘Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.’

34 The application site is an out of town location. No sequential test has been undertaken to demonstrate that the retail use cannot be accommodated within the town centre.

35 The proposed use is for a retail unit. This is a different business sector and employment type to the protected business use of the site. Different policies apply to the location and protection of retail and business uses owing to the impacts of the different uses, impact on amenity and to protect the vitality and viability of town centres.

36 The change of use of the site from business employment land to retail provision would represent an unsustainable approach to development contrary to the aims of the NPPF, the Core Strategy and the Local Plan.

37 In response to Kent highways comments regarding car parking spaces D and E, the applicant has been requested to provide information to demonstrate that they are in their ownership. The land is not within their ownership but notwithstanding this, Kent has advised that they do not raise an objection to the scheme.

38 If planning permission were to be granted for the scheme, a condition could control the siting and noise emissions of any plant in line with Environmental Health comments.

39 The proposal fails to comply with Core Strategy policies LO6 and SP8, Local Plan policy EP8 and the NPPF.

Agenda Item 4.2

Conclusion

40 That planning permission is refused

Background Papers

Site and Block plans

Contact Officer(s): Joanna Russell Extension: 7367

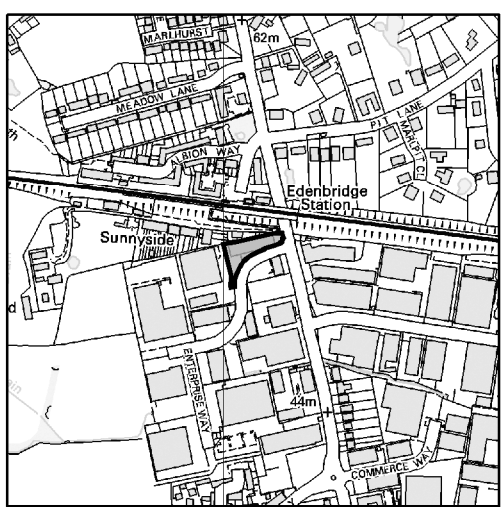
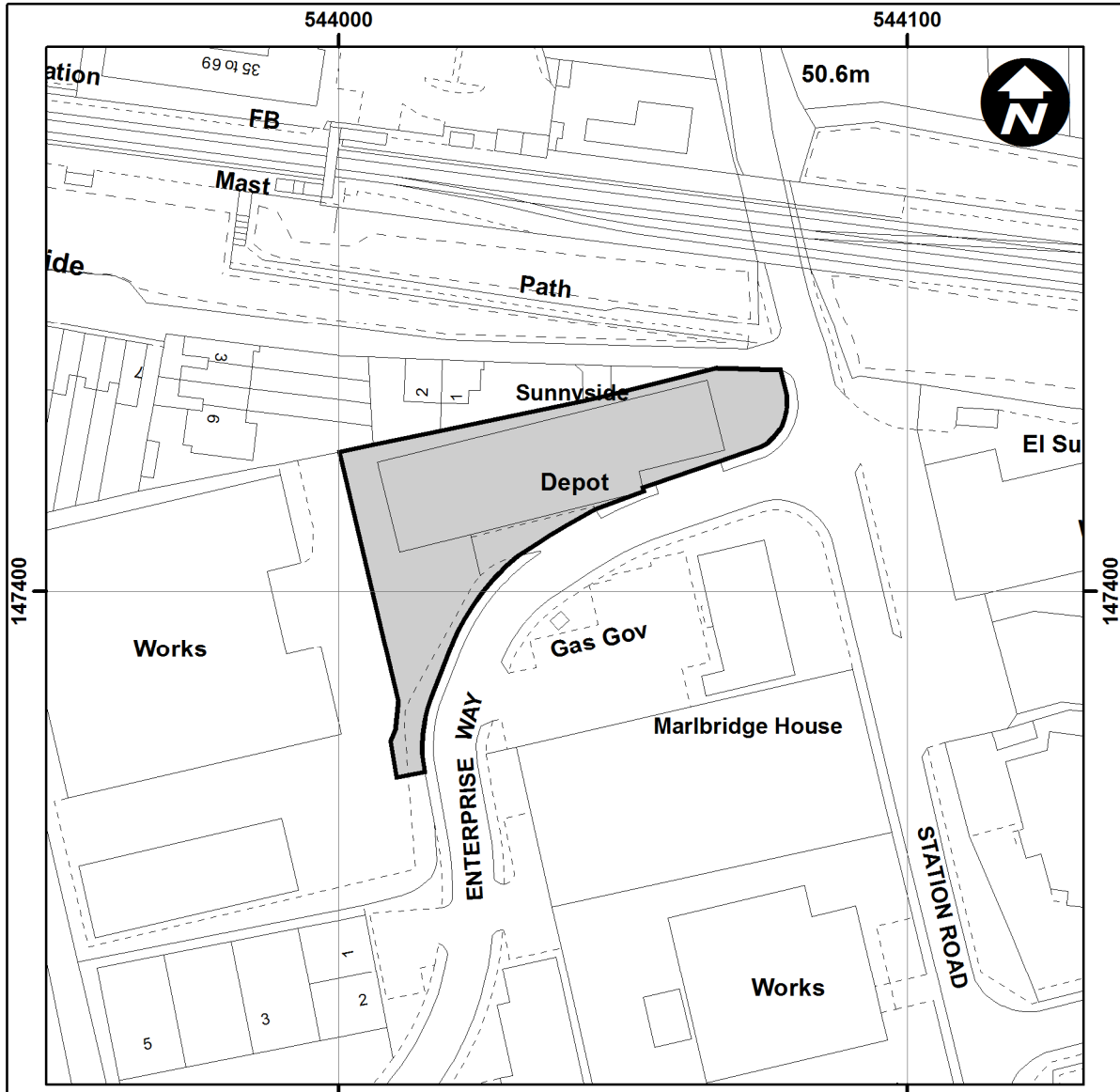
Richard Morris
Chief Planning Officer

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MMOCQJBKOL000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MMOCQJBKOL000>



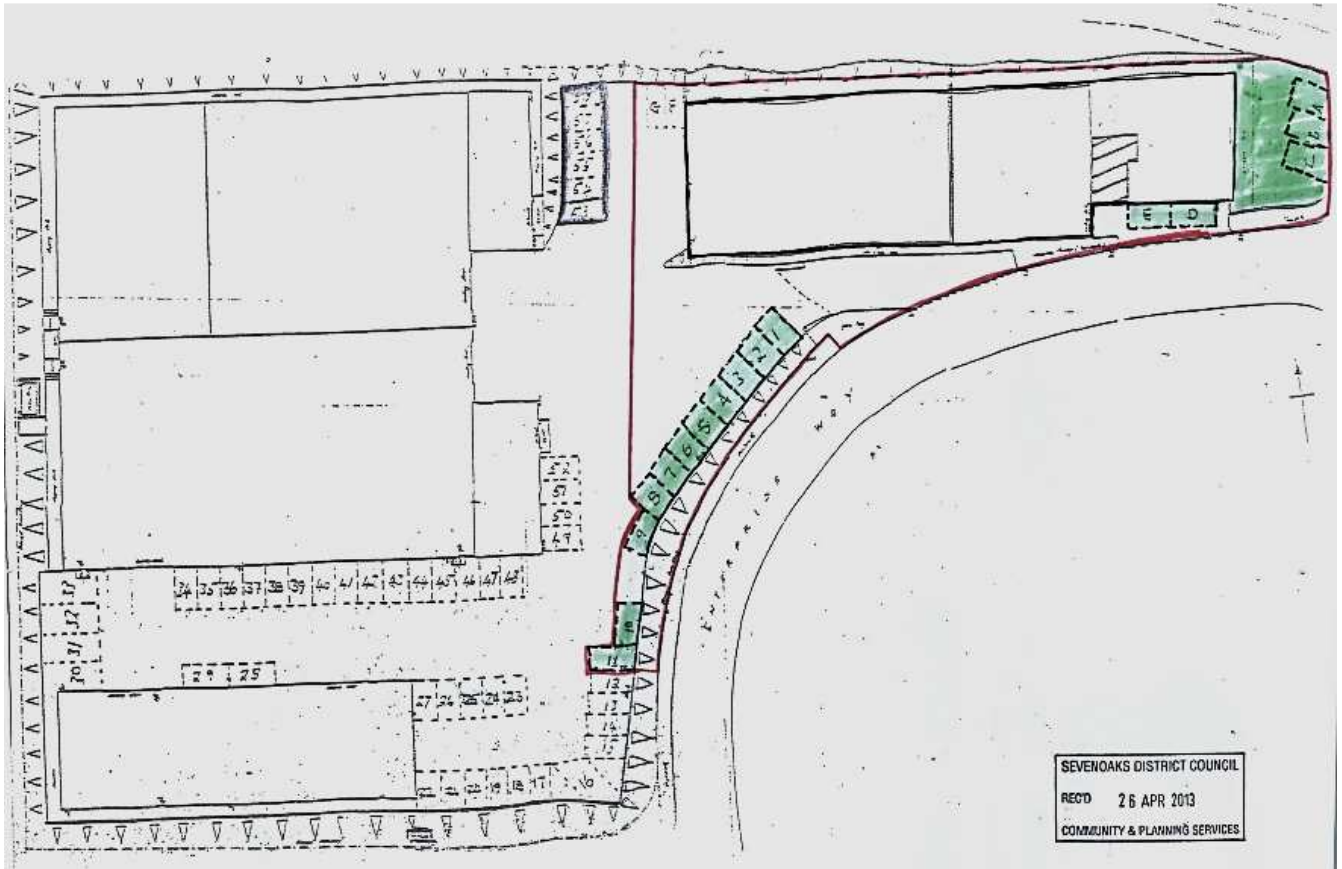
Site Plan

Scale 1:1,250
Date 26/06/2013



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Sevenoaks District Council, 100019428, 2013.

BLOCK PLAN



4.3 – SE/13/01771/HOUSE Date expired 9 August 2013

PROPOSAL: Demolition of existing outbuilding and erection of a replacement outbuilding.

LOCATION: 3 Downs Cottages, Swanley Village Road, Swanley
BR8 7NR

WARD(S): Swanley Christchurch & Swanley Village

ITEM FOR DECISION

This application is referred to Development Control Committee at the request of Councillor Searles on the grounds that the overall design of the scheme is acceptable.

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 would be inappropriate development harmful to the maintenance of the character of the Green belt and to its openness contrary to the National Planning Policy Framework.

The Council is not satisfied that the proposed annexe will be incidental to the main property. The size and internal layout of the proposal shows that it is capable of being used as an independent dwelling. It is considered that the use of the proposed building as an independent unit in this back land position in close proximity to the existing and neighbouring dwellings would result in a disjointed form of residential development contrary to the established spatial character and harmful to the special character and appearance of the Conservation Area. As such, the proposal would be contrary to policies CC6 and BE6 of the South East Plan, policies EN1 and EN23 of the Sevenoaks District Local Plan, policies SP1, LO1 and LO7 of the Core Strategy and the National Planning Policy Framework.

A contribution towards off-site housing has not been secured and therefore the proposal fails to comply with the requirements of policy SP3 of the Core Strategy and the Councils Affordable Housing Supplementary Planning Document October 2009.

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by:

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all

Agenda Item 4.3

consultees comments on line
(www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp),

- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Working in line with the NPPF, the application was refused as the proposal failed to improve the economic, social or environmental conditions of the area.

Description of Proposal

- 1 The application seeks permission for the “*demolition of outbuilding and erection of a replacement outbuilding*”.

Description of Site

- 2 The site the subject of this application is a semi-detached Grade II Listed cottage fronting Swanley Village Road. To the rear of the cottage, within the curtilage, are a small detached outbuilding and a dilapidated timber barn. Access to the rear of the site can be obtained via a lane and public footpath running adjacent to the boundary with the adjoining property number 1-2 Downs Cottages.
- 3 The site is located outside of any settlement boundary as defined on the SDC Local Plan and within the Conservation Area and Green Belt.
- 4 The immediate surrounding area comprises a mix of property types with no defining architectural style. Properties are predominately set back from, but front the roadside.

Constraints

- 5 Area of Special Control of Adverts
- 6 Conservation Areas
- 7 Listed Buildings
- 8 Metropolitan Green Belt

Policies

Sevenoaks District Local Plan

- 9 Policies - EN1, EN23, H6B, H14A, Appendix 4 Residential Extensions

Sevenoaks Core Strategy

- 10 Policies - SP1, SP3, L07, L08

Other

- 11 SDC Residential Extensions SPD 2009
12 Affordable Housing Supplementary Planning Document 2011
13 National Planning Policy Framework (NPPF)

Planning History

- 14 12/03226/HOUSE Demolition of outbuilding and erection of a replacement outbuilding for use as an Annex to the main house. REFUSE 30/01/2013.

12/03227/LBCDEM Demolition of outbuilding and erection of a replacement outbuilding for use as an Annex to the main house. REFUSE 30/01/2013.

12/03396/HOUSE Alterations to building consisting of installation of two sun pipes serving first floor landing and stairs, replacement of existing velux and additional roof light in existing kitchen/diner, single storey side extension, replacement of all windows with double glazed unit, installation of window to the side elevation facing West at ground floor level and removal of internal ceiling to rear addition. GRANT 12/03/2013.

12/03397/LBCALT Alterations to building consisting of installation of two sun pipes serving first floor landing and stairs, replacement of existing velux and additional roof light in existing kitchen/diner, single storey side extension, replacement of all windows with double glazed unit, installation of window to the side elevation facing West at ground floor level and removal of internal ceiling to rear addition. GRANT 04/03/2013.

13/01772/LBCALT Demolition of existing outbuilding and erection of a replacement outbuilding. GRANT 09/08/2013.

13/02469/LDCPR The provision of a caravan as extra accommodation ancillary to No 3 Downs Cottages. PCO

Consultations

Swanley Town Council

- 15 *No comment.*

English Heritage

- 16 *"Thank you for your letter of 20 June 2013 notifying English Heritage of the scheme for planning permission relating to the above site. Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion.*

Recommendation

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

Agenda Item 4.3

It is not necessary for us to be consulted again on this application. However, if you would like further advice, please contact us to explain your request. We can then let you know if we are able to help further and agree a timetable with you."

Representations

- 17 2 Letters received in support of the application for the reasons set out below:
- Discreet new dwelling;
 - Its provision would allow 3 generation of the family to remain in the village;
 - Concordant with current Government policy of encouraging extended families to support each other rather than relying on state intervention;
 - Increase demographic diversity by allowing a young family to move to the village;
 - Sensitive development which will not impact in any detrimental way on the natural surroundings or beauty of the village; and
 - The development will enhance the area by removing a dilapidated barn.

Chief Planning Officer's Appraisal

Background

- 18 On 30 January 2013 planning permission reference SE/12/03226/HOUSE was refused for the "demolition of outbuilding and erection of a replacement outbuilding for use as an Annex to the main house". Five grounds of refusal were given as follows:

The land lies within the Green Belt where strict policies of restraint apply. The proposal would be inappropriate development harmful to the maintenance of the character of the Green belt and to its openness.

Due to its overall size, scale and bulk, the proposed building would fail to appear ancillary and would have an overbearing visual impact upon the existing dwelling and Grade II Listed Building to the detriment of its character, appearance and setting.

The Council is not satisfied that the proposed annexe will be incidental to the main property. The size, scale, bulk, siting and internal layout of the proposal shows that it is capable of being used as an independent dwelling and as such this would result in an intensification in the use of the site that would present a cramped form of development that is out of character with the established pattern of development in the locality to the detriment of the visual amenity of the locality, special character and appearance of the Conservation Area and the setting of the Listed Building.

A contribution towards off-site housing has not been secured and therefore the proposal fails to comply with the requirements of policy SP3 of the Core Strategy and the Councils Affordable Housing Supplementary Planning Document October 2009.

Insufficient evidence has been submitted to substantiate the loss of the curtilage Listed Building and its loss is therefore considered to be contrary to the provisions of the National Planning Policy Framework.

Principal Issues

- 19 Number 3 Downs Cottages and the adjoining building 1-2 Downs Cottages are Grade II Listed and situated in a conservation area. Therefore, in accordance with Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), it is the Council's statutory duty and obligation to have regard to the preservation and enhancement of such heritage assets. As such, the impact of the proposal on the setting of the Listed buildings, special character and appearance of the Conservation Area, and the impact of the loss of the existing timber barn, are the principle issues to consider in the determination of this application.
- 20 The remaining issues to consider in the determination of this application are:
- Whether the proposed use would constitute an annexe;
 - Affordable housing;
 - The visual impact of the proposal on the amenity of the area;
 - Whether the proposal complies with the relevant policy criterion regarding development within the Green Belt;
 - The impact upon existing residential amenity;
 - Highway Implications; and
 - Whether the previous grounds of refusal have been adequately overcome.

Impact on Listed Buildings

Policy

- 21 The NPPF sets out the Government's criterion on the conservation of the historic environment.
- 22 Paragraph 126 of the NPPF describes heritage assets as '*an irreplaceable resource*' and states that they should be conserved in a '*manner appropriate to their significance.*' Listed Buildings and Conservation Areas are heritage assets in the context of the NPPF.
- 23 Paragraph 129 of the NPPF states:
- "Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal".*

Agenda Item 4.3

24 Furthermore, paragraph 130 of the NPPF states:

“Where there is evidence of deliberate neglect of or damage to a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision”.

25 Paragraph 131 indicates that in determining planning applications the Local Planning Authority (LPA) should amongst other things, take account of *“.....the desirability of new development making a positive contribution to local character and distinctiveness.....”*.

26 Paragraph 132 states *“..... as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification”*

27 Finally, paragraph 133 states:

“Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- *the nature of the heritage asset prevents all reasonable uses of the site; and*
- *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- *conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- *the harm or loss is outweighed by the benefit of bringing the site back into use”.*

28 In addition to the above, at a local level policy SP1 of the Sevenoaks Core Strategy states that the districts heritage assets including listed buildings and conservation areas will be protected and enhanced. Policy EN23 of the Local Plan which states that *‘proposals for development or redevelopment within or affecting Conservation Areas should be of positive architectural benefit by paying special attention to the desirability of preserving or enhancing the character or appearance of the area and of its setting’*

Demolition of outbuilding

29 It should be noted that Listed Building Consent has already been granted under application reference SE/13/01172/LBCALT for the demolition of the existing outbuilding and erection of a replacement outbuilding for the reasons set out below.

30 Having regard to the proposed demolition of the outbuilding, as acknowledged by the Council previously, the outbuilding proposed to be demolished is in a deteriorated state. Having regard to the Councils previous decision to refuse LBC for the barns demolition, this was due to the fact that whilst the Council has no evidence to suggest deliberate damage or neglect in the absence any structural evidence detailing the present state of the barn and practicalities of repair there

Agenda Item 4.3

was insufficient information to justify its loss in accordance with the tests set out at paragraphs 132 and 133 of the NPPF.

- 31 In response to this under the current scheme the applicants have submitted a Building Condition Report and structural statement from Gary Gabriel Associates consulting structural and civil engineers.
- 32 It is evident from its appearance that the condition of the barn is poor. The revised information submitted with the current application confirms this. The structural statement also confirms that the building is in a dangerous/unsafe condition with very little of the present timbers, cladding etc reusable.
- 33 Having regard to the above, based on the revised information submitted I am now satisfied that the building in its current state is dangerous and beyond any reasonable economic repair. As such, it is considered that a clear and convincing justification for its loss has been provided in accordance with paragraph 133 of the NPPF and therefore, no further objection is raised to the removal of what remains of this building.
- 34 In turn it is considered that previous ground of refusal number 3 has been adequately addressed.

Replacement outbuilding

- 35 Unlike the previous scheme, it is now proposed to attach the new replacement outbuilding to an existing curtilage listed outbuilding whereas previously the proposed replacement outbuilding was shown as being detached.
- 36 Having regard to the previously refused scheme, the second and third ground of refusal relate amongst other things to the adverse impact of the development on the setting of the Grade II listed building caused by the proposals overall size, scale and bulk.
- 37 With regards to the impact of the revised proposal on the character, integrity and setting of the listed buildings, since the refusal of the previous scheme, the overall size, scale and bulk of the proposed new outbuilding has been reduced.
- 38 The proposed replacement outbuilding is a relatively ordinary L shape design which is elongated by the fact that it will be attached to the existing outbuilding. Including the existing outbuilding, the structure has three components each of which has a pitch roof.
- 39 The roof of the proposed building comprises a double pitch with a valley. The roofs of the proposed new outbuilding are relatively shallow and pitch at 40 degrees to reflect the pitch of the roof to the existing outbuilding to which the proposal will be attached. The height of the highest part of the building is approximately 4.1 metres which is approximately 700mm lower than the highest part of the previously refused building. Each pitch including the pitch to the existing outbuilding varies in its overall height.
- 40 Each of the three components including the existing outbuilding to which the proposal will be attached is finished in a different material. The existing outbuilding comprises brick and the proposed new building would comprise painted render and timber boarding. These are considered to be sympathetic to their setting as the main dwelling is rendered, the barn to be demolished is timber

Agenda Item 4.3

clad and timber cladding is commonly associated with outbuildings. The proposed plain clay tiles although different to the slate to the main house would be sympathetic to the tiles on the existing outbuilding to which the proposal will be attached and are sympathetic to materials predominating locally in type.

- 41 Overall, the reduction in the footprint and height of the proposal and consequently its scale and bulk now ensure that the proposal would appear subservient to the Grade II listed building and would therefore no longer have an overbearing impact on it. Furthermore, the combination of varied materials and difference in the height of the roofs would result in an outbuilding which has the appearance of a building which has been added to over time in a piecemeal fashion.
- 42 As such the proposal is considered to preserve the setting of the adjacent Listed Cottages and character and integrity of the curtilage listed building to which it would be attached in accordance with the NPPF and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended),
- 43 Consequently, it is considered that previous ground of refusal number 2 and ground of refusal number 3 in respect of the impact on the setting of the Grade II Listed Building have been adequately addressed and overcome.

Use

- 44 Having regard to the principle of development, material to the consideration of this application is whether the proposed building would constitute an annexe. In this instance, this is determined by whether the use of the building would remain incidental to the main dwelling or whether it is capable of being used as independent living accommodation.
- 45 This application is described as the erection of a replacement outbuilding. The design and access statement accompanying the application makes it clear that the proposed outbuilding is for occupancy by the applicants (Mr and Mrs Hargreaves). It is stated that the proposed outbuilding will allow Mr and Mrs Hargreaves *“to live in ground floor accommodation and allow them to continue to live at their home whilst allowing their daughter, son-in-law and family to occupy and maintain the two storey house”*.
- 46 It should be noted that the application is a resubmission of a previously refused scheme for a detached building described a replacement outbuilding for use as an annexe. The previous scheme comprised one bedroom with en-suite, one study, a large open plan lounge/kitchen, a separate dining room, a utility room, a bathroom and hallway. The design and access statement submitted with this application stated at 2.0, that the objective was to allow the applicants to live independently but adjacent to their family, which suggested that the annexe building was intended to be used as independent living accommodation.
- 47 In terms of floor area, at 71.25 metre square the proposed new outbuilding represents a 32.5% reduction in the footprint in comparison to the previously refused scheme the footprint of which was calculated to be approximately 105.5 metre square. However, it is attached to the existing outbuilding which measures approximately 15.76 metre square giving a total combined internal floor area of 87.01 metre square in which the applicants propose to provide a living room, bedroom, bathroom, built in storage a hall way and a shared utility room. It should be noted that at 4.5 metres x 6.6 metres the living room is more than capable of

including a kitchen to allow open plan living similar to that proposed under the previously refused scheme. As such, notwithstanding the modest reduction in floor area, due to its size and the level of accommodation proposed to be provided it is considered that the building together with the building to which it is proposed to be attached remains capable of being occupied independently. It is therefore feasible, that it could be used as independent living accommodation, and in any case the scale and size of the building and the accommodation it can provide for means the proposal is tantamount to a dwelling and the application has been considered on this basis and an Inspector in an appeal decision on a similar issue in March 2013 took a similar approach. (See Appendix 1)

- 48 Furthermore, despite the revisions to the wording of the current design and access statement in my view the submitted plans show that the proposed building and accommodation therein is still capable of being used as a completely independent dwelling.
- 49 This raises a number of additional issues including, the requirement for an affordable housing contribution under policy SP3 of the Council's Core Strategy, whether the proposal would constitute infilling in the Green Belt, the impact of the use of the annexe as an independent dwelling on the quality of the environment of any future occupier(s) and occupiers of the existing and neighbouring dwellings. These issues will be discussed in further detail during the remainder of the report.

Affordable Housing

- 50 Policy SP3 of the Sevenoaks core strategy 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.
- 51 The applicant/agent maintains that the proposal is for an annexe and that the affordable housing contribution is not relevant to this case. The applicant/agent has also offered to enter into a legal agreement to ensure that the existing dwelling and proposed building could not be physically separated and sold off as separate residential units.
- 52 Paragraph 4.4 of the Council's Affordable Housing SPD 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. The policy will not however be applied to:*
- residential accommodation which is to be used as incidental to the main dwelling ie staff accommodation/granny annexe, and whose independent occupancy is restricted by condition....."*
- 53 In the circumstances that apply to this application the Council is not satisfied that the proposed annexe will be incidental to the main property as, as stated in the preceding paragraphs, it remains of a sufficient size and continues to have all the facilities to be occupied independently. In dismissing the appeal referred to previously, the Inspector in determining that the new building would be

Agenda Item 4.3

tantamount to a dwelling also considered that an affordable housing contribution would be required.

- 54 Furthermore, as it is the Council's view that the proposal would result in the creation of a self contained residential unit and not an annexe incidental to the main dwelling, the requirement to provide an affordable housing contribution becomes relevant.
- 55 In previous correspondence the applicants have suggested that they would be willing to enter into a legal agreement preventing the accommodation from being sold of as a separate unit however, this does not address the Council's concerns as whilst it would prevent the unit from being sold separately, it would not negate the need for an affordable housing contribution.
- 56 As such, as a contribution has not been secured the proposal fails to comply with the requirements of policy SP3 and the Council's Affordable Housing Supplementary Planning Document October 2009 and therefore fails to address the fourth ground of refusal to the previous decision.

Visual Impact and Impact on the Conservation Area

- 57 As stated previously, the site the subject of this application is located in a conservation area. Therefore, in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), it is the Council's statutory duty and obligation to have regard to the preservation and enhancement of such heritage assets.
- 58 Having regard to the special character and appearance of the conservation area, policy SP1 of the Sevenoaks Core Strategy states that the districts heritage assets including listed buildings and conservation areas will be protected and enhanced. Policy EN23 of the Local Plan which states that *'proposals for development or redevelopment within or affecting Conservation Areas should be of positive architectural benefit by paying special attention to the desirability of preserving or enhancing the character or appearance of the area and of its setting'*.
- 59 Having regard to the built environment, the NPPF 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.' (para. 56)
- 60 In this respect, policy EN1 of the Sevenoaks District Local Plan and policies SP1, LO1 and LO7 of the Core Strategy state that proposed development including any changes of use should not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements, and that *'the form of the proposed development ... should be compatible in terms of scale height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard'*.
- 61 Having specific regard to residential extensions, policy H6B of the SDLP states that residential extensions shall be subject to the principles in Appendix 4. Amongst other things, Appendix 4 states that the *'extensions should relate well in design terms to the original dwelling in respect of bulk, height, materials,*

Agenda Item 4.3

windows and detailing'. Regard should also be had to the Council's Residential Extensions Supplementary Planning Document SPD.

- 62 Number 3 Downs Cottages is located on the south side of Swanley Village Road where frontage development predominates and where properties are set back from the roadside.
- 63 Firstly, I do not consider there to be any similar examples of rear garden outbuildings of this size and scale and used in this manner in the locality which set a precedent for the proposed development. However, the aforementioned appeal is an example of a similar scheme within the district which was submitted as a detached building for ancillary residential use which was recently dismissed at appeal in March 2013 having been considered by the Inspector to be tantamount to a new dwelling which consequently was considered to be contrary to the established pattern of development and to require an affordable housing contribution.
- 64 Whilst it is accepted that the existing outbuilding proposed to be demolished would have been larger in scale, it has been demonstrated that this building cannot be saved, and furthermore the current proposal to replace it with an outbuilding for residential use would be far more domestic in its appearance than the design of the former timber barn which the submitted photographs demonstrate to be rural in character and thus sympathetic to the surrounding area.
- 65 Notwithstanding the acceptability of the revised design on the character, integrity and setting of the listed building addressed under subheading '*Replacement Outbuilding*' above, it is my view that the size and internal layout of the proposal shows that the new replacement outbuilding together with the listed building to which it will be attached remains capable of being used independently and as such, in my view is tantamount to a new dwelling. The proposed building would be located less than 1 metre from the rear of the main dwelling at its closest point which is taken from the corner of the listed outbuilding to which it would be attached and as a result would be displaced from the street scene unlike surrounding neighbouring properties which address the road frontage. Furthermore, as well as an increase in built form on the site, it is reasonable to assume that the level of residential activity and domestic paraphernalia including external seating areas, outside storage, drying facilities, vehicle movements etc would also increase to accommodate both the proposed unit and the existing dwelling which is four bedroom.
- 66 Having regard to the impact of this on the established pattern of development in the locality, from my observations, I consider that the use of the proposed building as an independent unit in this back land position in close proximity to the existing and neighbouring dwellings would result in a disjointed form of residential development which would not be in keeping with the prevailing characteristic and layout of dwellings in the area and would appear displaced from the street scene giving the appearance of a disjointed form of development contrary to the established spatial character.
- 67 The relationship of the building to the size of the plot and numbers 3 and 1-2 Downs Cottages, would be clearly visible within the public domain from the lane adjacent to 1-2 Downs Cottages and as such for the reasons set out above it is considered that the proposal would also harm the special character and

Agenda Item 4.3

appearance of the Conservation Area contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

- 68 For the reasons set out above the proposal would fail to fully address previous ground of refusal number 3 in respect of its impact on the visual amenity of the locality and Conservation Area.

Green Belt

- 69 Having regard to the Green Belt, inappropriate development, by definition, is development that is harmful to the Green Belt because it detracts from its openness. Government advice contained within the NPPF makes clear that the most important attribute of Green Belts is their openness. It is for the applicant to demonstrate why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 70 Having regard to inappropriate development in the Green Belt, paragraph 89 of the NPPF, states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include:
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; and
 - *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- 71 Having regard to the first point, since the determination of the previous planning application and subsequent pre application enquiry, a review of local plan policies has been completed to ensure compliance with the NPPF, which in turn has resulted in a shift in the emphasis on Green Belt policy.
- 72 With regards to the ability to erect outbuildings within the curtilage of dwellings within the Green Belt, in accordance with the NPPF new buildings in the Green Belt are regarded as inappropriate development. As stated above exceptions to this include "the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building"; (paragraph 89).
- 73 As the outbuilding would not be attached to the existing dwelling, notwithstanding its proximity to it, it can no longer reasonably be classed as an extension under policy H14A. Furthermore, as the NPPF makes no reference to outbuildings in the context of extending buildings in the Green Belt, (only that an extension or alteration of a building should not be disproportionate) if the proposal were considered as a new outbuilding in the Green Belt it would not fall within any of the exceptions regarded as appropriate at paragraph 89 and therefore in my view would be regarded as inappropriate development harmful to the openness of the Green Belt.
- 74 If on the other hand the proposal is regarded as an extension or alteration of a building in the green belt (by reason of its physical link to the existing curtilage listed outbuilding), then in my view it would still fail, as the existing curtilage listed

outbuilding is approximately 15.76 metre square in comparison to the new building which is 71.25 metre square and therefore the new building would clearly represent a disproportionate addition over and above the size of the original building to which it is affixed.

- 75 Having regard to the latter point, the test in the case of replacement buildings in the Green Belt is whether the proposed new building is in the same use and would not be materially larger than the one which it is replacing.
- 76 Due to its deteriorated state it is unclear what the last use of the former outbuilding would have been, on the balance of probability my guess is that its last use would have been used for domestic storage and thus would be in the same use as the house (domestic residential) although the only way to establish this in law would be through the submission of a lawful development certificate.
- 77 The existing building is no longer a substantial construction, having fallen into a significant state of disrepair. The Building Condition report and photographs accompanying the application indicate that Bay 1 is the only bay which represents any sort of solid built form although it has no roof and is suffering from bad general decay. From the information submitted it is estimated that the gross floor area of Bay 1 would amount to approximately 15 square metres, which is significantly less than the building proposed. Therefore at approximately 71.25 square metres with the proposed building is clearly materially larger than the one it is replacing and would represent a far more substantial construction.
- 78 It is therefore necessary to consider whether there are any very special circumstances (VSC) applying to the application proposal which outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm. This is addressed in the preceding paragraphs.

Infilling in the Green Belt

- 79 Also not deemed as inappropriate development in the Green Belt as set out at paragraph 89 of the NPPF is:
- *“Limited infilling in villages.....;”*
 - *Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development”.*
- 80 In considering the proposal as an independent residential unit it would also fall to be considered against the criterion for infilling.
- 81 It is the Council’s view that an infill plot should be a small gap capable of limited development for only 1 or 2 dwellings within a substantial built up frontage.
- 82 In considering whether a frontage is substantially built up, consideration is given to, the size of buildings in relation to the plot size and the gaps between them; the relationship of the buildings to the street, their visibility and closeness to the street and the extent to which the road appears to be substantially built up.

Agenda Item 4.3

- 83 The above site is located within Swanley Village, which is washed over by Green Belt. As stated in the preceding paragraphs, the site is also located behind an existing semi-detached cottage on the south side of Swanley Village Road where properties are set back from, but front the roadside. The proposed development would be located behind an existing property, it would not front the road, and in my view is effectively back land development which is displaced from the street. As such, I do not consider this to be an infill plot as it would not form part of a built up frontage.
- 84 As such, in considering the proposed building as an independent residential unit, the proposal would continue to constitute inappropriate development as it fails the criterion relating to 'infilling'. Furthermore, the site is located in a village washed over by Green Belt and any additional development would undermine the openness of the Green Belt which this designation seeks to protect contrary to the NPPF and policy LO8 of the Sevenoaks Core Strategy, which states that the extent of the Green Belt will be maintained.

Impact on Neighbouring Amenity

- 85 Paragraph 17 of the NPPF identifies a set of core land-use planning principles that should underpin decision-taking. One of these principles is that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 86 Policies EN1 and H6B of the Sevenoaks District Local Plan require that any proposed development should not have an adverse impact on the amenities of neighbours and also ensures a satisfactory environment for future occupants.
- 87 Having regard to the impact on neighbouring residents the most immediately affected neighbour(s) would be 1-2 Downs Cottages and the host dwelling. Other nearby residents are sufficiently distanced from the site of the proposed building so as not to be adversely impacted upon by reason of form, scale, outlook or by way of loss of privacy.
- 88 In terms of overshadowing and loss of light, there is sufficient distance between the proposed building and number 1-2 Downs Cottages so that there would be no loss of amenity on this ground and the proposed windows would not overlook habitable windows or the private amenity space to number 1-2. As such privacy is maintained.
- 89 When considering the building as an independent residential unit, the building is located in close proximity to the host dwelling. There is one window in the rear ground floor elevation of the host dwelling facing the proposed building. This window serves a utility room and as such the impact upon outlook from this window is not considered to be sufficiently harmful to justify a refusal on this ground as the room is not habitable. The same applies to loss of light, as the proposed building is not located in close enough proximity to windows of habitable rooms to result in adverse impact by overshadowing.
- 90 Parking to both the host and proposed building would be located where it is at present. The proposal is unlikely to result in any significant intensification in vehicle movements. As such, the proposal would not adversely impact upon amenity by reason of noise and activity levels including vehicle and pedestrian movement.

Agenda Item 4.3

- 91 Overall for the reasons outlined above the proposal would comply with policy EN1 of the Local Plan and the NPPF.

Highways

- 92 With regard to highway safety, this is a category of development which does not require consultation with Kent Highways Services.
- 93 It is considered that no adverse highway implications would arise from the development as the plot has adequate off-street parking provision to the rear which is accessed via the lane located adjacent to number 1-2 Downs Cottages.
- 94 Even the development was to be used as a separate dwelling, adequate off-street parking could be provided.

Very Special Circumstances

- 95 I am aware from meeting the applicant that the applicant suffers poor health, however, no case for very special circumstances has been advanced in this respect.
- 96 As such I have no information to lead me to conclude that there are very special circumstances which would clearly outweigh the harm to the Green Belt and its openness caused by the current proposal in this instance.

Conclusion

- 97 The proposal would constitute inappropriate development within the Green Belt and there are no very special to clearly outweigh the harm in principle to the Green Belt and any other harm.
- 98 It has not been demonstrated that the proposed annexe will be incidental to the main property. The use of the proposed building as an independent unit in this back land position in close proximity to the existing and neighbouring dwellings would in my view result in a disjointed form of residential development which would not be in keeping with the prevailing characteristic and layout of dwellings in the area and would appear displaced from the street scene resulting in a disjointed form of development contrary to the established spatial character and harmful to the special character and appearance of the Conservation Area.
- 99 A contribution towards off-site housing has not been secured and therefore the proposal fails to comply with the requirements of policy SP3 of the Core Strategy and the Council's Affordable Housing Supplementary Planning Document October 2009.

Background Papers

Site and Block plans

Contact Officer(s): Claire Baldwin Extension: 7367

Richard Morris - Chief Planning Officer

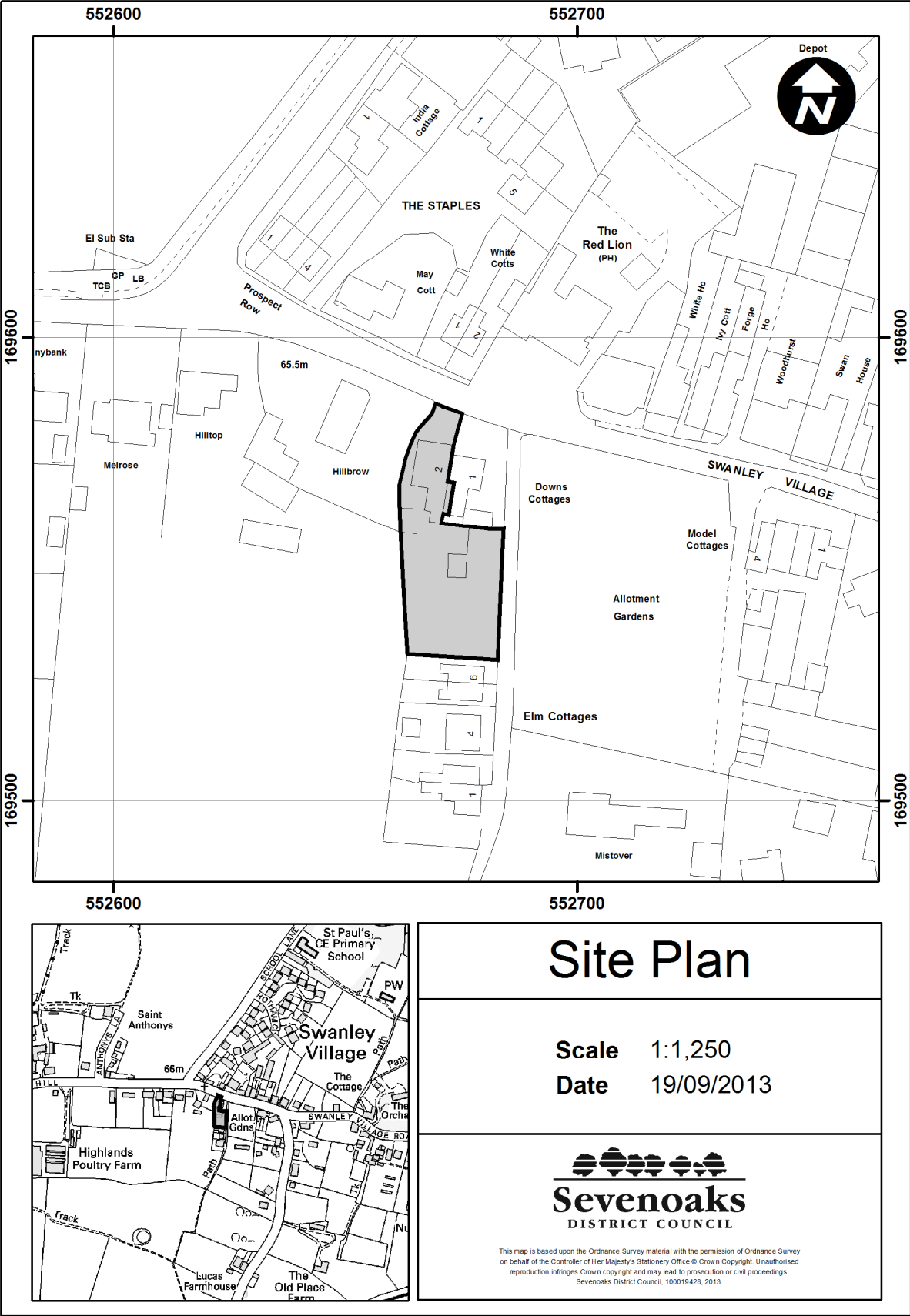
Agenda Item 4.3

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MODFHCBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MODFHCBK8V000>



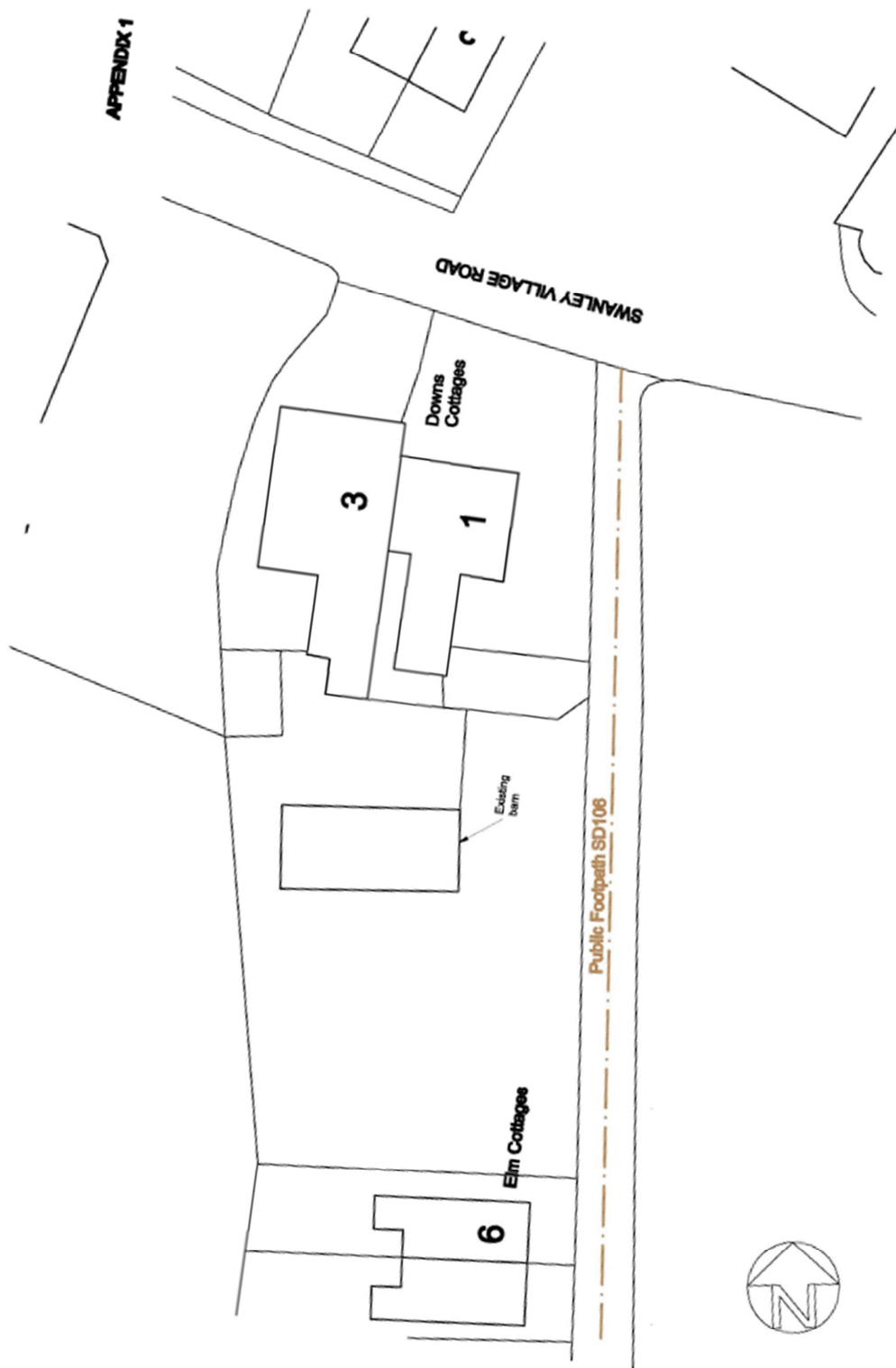
Site Plan

Scale 1:1,250
Date 19/09/2013

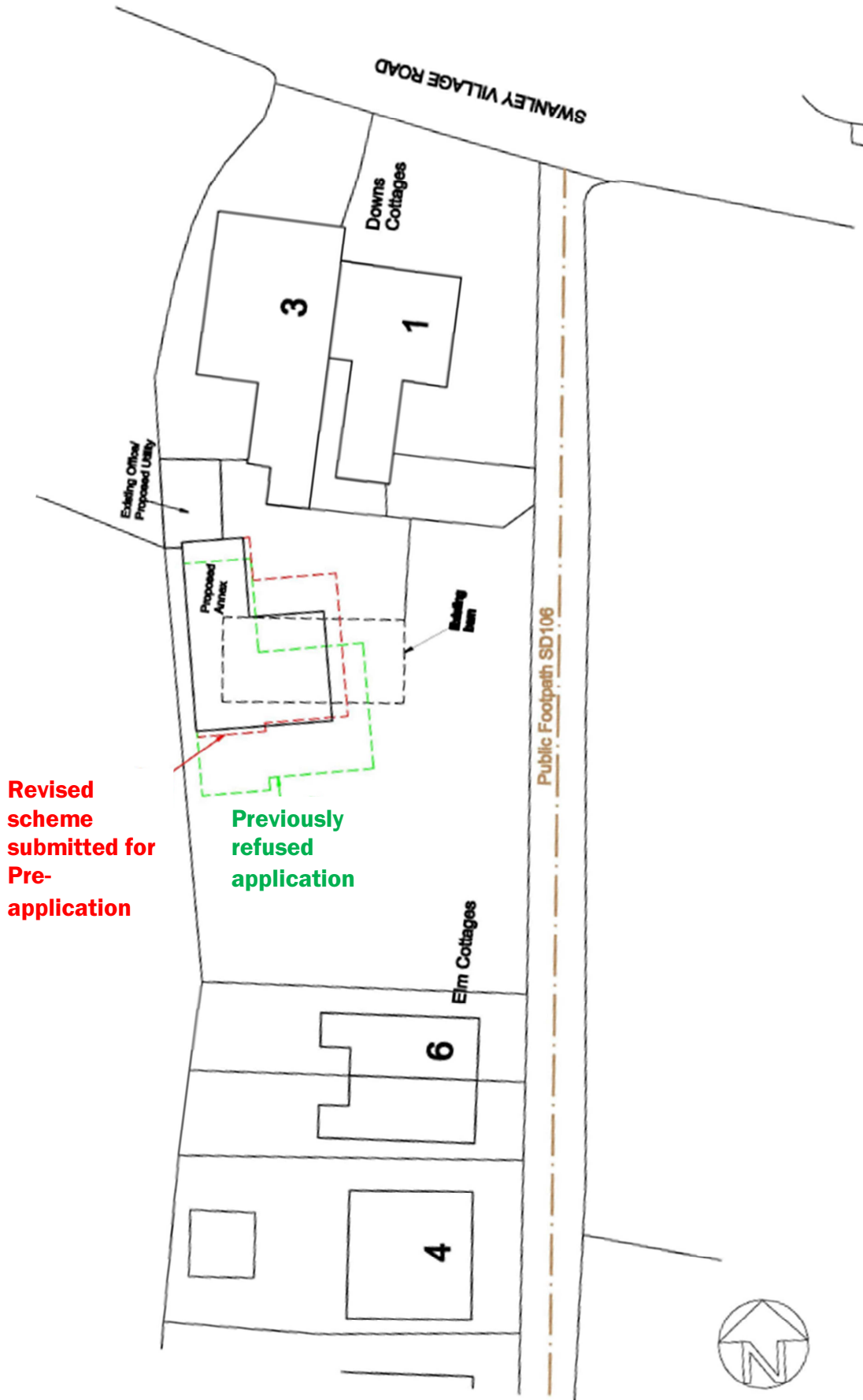


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BLOCK PLAN

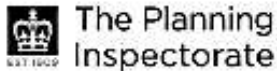


BLOCK PLAN (PREVIOUS SCHEME)



**Revised
scheme
submitted for
Pre-
application**

**Previously
refused
application**



Appeal Decision

Site visit made on 25 February 2013

by J L Cheesley BA(Hons) DIPTP MRTPI

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

Decision date: 1 March 2013

Appeal Ref: APP/G2245/D/13/2190711

Brushwood, Stack Lane, Hartley, Longfield, Kent DA3 8BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Giles against the decision of Sevenoaks District Council.
 - The application Ref SE/12/02757/HOUSE was refused by notice dated 21 December 2012.
 - The development proposed is erection of a single-storey annexe with lounge, one bedroom, study, bathrooms and kitchen, to be used only in connection with the existing house.
-

Decision

1. The appeal is dismissed.

Planning Policy

2. The National Planning Policy Framework states that for development plan policies adopted before 2004, due weight should be given to relevant policies according to their degree of consistency with the Framework.
3. Planning law requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise. I have been referred to Saved Policy EN1 in the Sevenoaks District Local Plan (2000). This policy, amongst other matters, seeks for the form of new development to be compatible with other buildings in the locality and not have an adverse impact on the privacy of a locality. In this particular instance, I consider that these sections of the policy are broadly in accordance with the Framework's objective of the environmental role of achieving sustainable development, by protecting and enhancing the built environment. Thus, I find no material consideration to determine this appeal other than in accordance with the development plan.
4. I have been referred to Policies SP1 and L07 in the Sevenoaks District Council's Core Strategy (2011). These policies, amongst other matters, require new development to respond to the distinctive local character of an area. Policy SP3 is concerned with the provision of affordable housing.

Main Issues

5. I consider the main issues to be:

whether the proposal would constitute the creation of an independent dwelling and if so; the effect of the proposal on the character of the surrounding area;

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the effect of the proposal on the living conditions of occupiers of Haycroft, with particular reference to privacy; and

the effect of the proposal on the provision of affordable housing.

Reasons

Independent Dwelling and Character of the Area

6. Whether the appeal proposal would be an annexe or an independent dwelling is a matter of fact and degree. In my opinion, the appeal building would provide independent living for a couple. Indeed, the appellant has stated that it would provide accommodation for elderly relatives to lead a separate and independent life whilst being able to access help and assistance if required.
7. Each of the rooms would provide residential accommodation including storage and seating, washing and sleeping facilities. In my opinion, this would be more than an annexe to the main house. It would be primary living accommodation capable of being used as a completely independent dwelling.
8. The proposed building would be situated at the rear of the garden. Any parking would have to be to the front of the existing dwelling. I note the appellant's argument that the proposed building is not likely to be sold as a separate dwelling and that a condition could be imposed to restrict the use of the proposed building to ancillary accommodation. However, as the proposed building would be capable of being used as a completely independent dwelling, it would be difficult to resist a future independent use, such as rented accommodation, for a separate household.
9. In reaching the above conclusion, I have had regard to all other matters raised on this issue including an Appeal Decision for a different site Ref:APP/D5120/A/09/2119206. I do not have full details of that proposal. It does appear distinctly different to the proposal before me, in that it is for a change of use of a building, rather than a new property. In addition, the Inspector considered in that instance that in view of its size and location, that property was unlikely to function fully as a separate unit. As regards the proposal before me, I consider that the location of the appeal building at the rear of the site and the facilities it would provide have led me to conclude on this matter that the building would be tantamount to being an independent dwelling and I have determined the appeal on this basis.
10. The appeal site lies within the built up area surrounded by primarily residential development. The overriding characteristic form of the area is for dwellings to front the roads within large plots. The appeal building, by contrast, would be to the rear of the existing dwelling.
11. I note that the building to the south is a granny annexe, which I understand to be historic. From my observations, I do not consider that the form of backland residential development directly behind residential properties is a strong characteristic of the area, as frontage development predominates. Therefore, I do not consider that examples of rear garden outbuildings and the granny annexe behind set a precedent for the proposed development.
12. From my observations, I consider the use of the proposed building as a dwelling in this backland position would not in keeping with the characteristic layout of dwellings in the area. The dwelling would appear displaced from the

streetscene giving the appearance of a disjointed cramped form of development. In my opinion, due to the siting of the proposed building, it would not be in keeping with the overriding pattern of residential development to the detriment of the predominant character of the surrounding area. Thus, the proposal would be contrary to saved Local Plan Policy EN1 and Core Strategy Policies SP1 and L07, in this respect.

13. I note that a fallback position may be to build an annexe for ancillary use to the main house, which could be at least as large if not larger than that before me. This may be so. However, it would not be a detached building at the end of the garden and thus would not be directly comparable to the proposal before me, which I have determined on its individual merits.

Privacy

14. The proposal includes windows for the kitchen and study facing towards the neighbouring garden at Haycroft. The appellant has proposed to remove the window to the kitchen and move the study window to the rear. From my observations, I consider such measures would ensure privacy for neighbours at Haycroft and consider it reasonable to impose a condition with regard to this matter. In these circumstances, I conclude on this matter that the proposal would not have an adverse effect on the living conditions of neighbours. Thus, the proposal would be in accordance with saved Local Plan Policy EN1 and Core Strategy Policies SP1 and L07, in this respect.

Affordable Housing

15. Core Strategy Policy SP3 seeks a financial contribution towards the provision of off site affordable housing, by way of a legal agreement. I have been provided with the Council's *Supplementary Planning Document: Affordable Housing* (2011), which provides advice on how the Council's affordable housing policy is to be implemented. From the representations before me, I consider that the need for contributions towards affordable housing arises from the development. A Unilateral Undertaking has not been provided as part of the proposal. Therefore, I consider that the proposal would undermine the strategy in respect of the provision of affordable housing. Thus, the proposal would be contrary to Core Strategy Policy SP3 in this respect.

Conclusion

16. For the reasons stated above and having taken into consideration all other matters raised, I conclude that the proposed development would not have an adverse effect on the living conditions of occupiers of Haycroft if the fenestration were altered. However, it would constitute the creation of an independent dwelling, which would be inappropriate in this backland location and would have an adverse effect on the character of the surrounding area. In addition, the proposal would undermine the Council's strategy for affordable housing provision. These are sufficient reasons to dismiss the appeal.

J Cheesley

INSPECTOR