



## **DEVELOPMENT CONTROL COMMITTEE**

**06 November 2013 at 7.00 pm**

**Council Chamber, Argyle Road, Sevenoaks**

### **AGENDA**

#### **Membership:**

Chairman: Cllr. Williamson

Vice-Chairman

Cllr. Miss. Thornton

Cllrs. Mrs. Ayres, Brookbank, Brown, Clark, Cooke, Mrs. Davison, Mrs. Dawson, Dickins, Edwards-Winsor, Gaywood, McGarvey, Orridge, Mrs. Parkin, Piper, Miss. Stack, Underwood and Walshe

#### **Pages**

#### **Apologies for Absence**

1. **Minutes**

To approve the minutes of the meeting of the Committee held on 31 October 2013, as a correct record. (To follow)

2. **Declarations of Interest or Predetermination**

Including any interests not already registered

3. **Declarations of Lobbying**

4. **Planning Applications - Chief Planning Officer's Report**

- 4.1. **SE/13/02415/FUL - Land South Of Orchard Barn, London Road, Halstead** (Pages 1 - 64)

Change of use of land for the erection of a new crematorium, associated car park, access road and gardens of remembrance, and area for natural and traditional burials.

- 4.2. **SE/13/02476/FUL - Westview, Stonehouse Road, Halstead TN14 7HN** (Pages 65 - 78)

Demolition of existing detached bungalow and garage, and replacing with a two storey detached 5 bedroom house, with basement garaging on the lower ground floor.

- 4.3. **SE/13/02200/FUL - Land Adjacent To Holmesdale Hall, Park Gate Road, Orpington BR6 7PX** (Pages 79 - 102)

Change of use of redundant barn to residential 4 bedroom dwelling and granny annexe.

- 4.4. **SE/13/02078/FUL - Land To East of Badgers Sett and Formerly Chart View , West End, Kemsing TN15 6PX** (Pages 103 - 114)

Construction of detached dwelling and 2 no. parking spaces.

- 4.5. **SE/13/02815/FUL - 63 Brittain's Lane, Sevenoaks TN13 2JR** (Pages 115 - 124)

Demolition of existing house and garage and erection of replacement dwelling with integral garage, creation of additional hard standing to facilitate two car parking spaces at front, landscaping, new steps and terrace with retaining wall and steps at rear.

#### **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](mailto:democratic.services@sevenoaks.gov.uk) or speak to a member of the Democratic Services Team on 01732 227350 by 5pm on Friday, 1 November 2013.

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

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

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

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4.1 – SE/13/02415/FUL Date expired 27 November 2013

PROPOSAL: Change of use of land for the erection of a new crematorium, associated car park, access road and gardens of remembrance, and area for natural and traditional burials.

LOCATION: Land South Of Orchard Barn, London Road, Halstead

WARD(S): Halstead, Knockholt & Badgers Mount

**ITEM FOR DECISION**

This item has been referred to Development Control Committee by Councillor Grint to discuss issues associated with the Green Belt and very special circumstances.

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

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

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

2) The crematorium hereby permitted shall not be operated outside the hours of 0900 - 1700 hours Mondays to Fridays and 0900 - 1200 hours on Saturday, and not at all on Sundays and public holidays. The gardens of remembrance shall not be open outside the hours of 0900 - 1700 hours.

In the interests of the amenities of the surrounding area.

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

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

4) No development shall take place until samples of the materials to be used in the surfacing of the access drives, car park, service yard and footways have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and implemented prior to the first use of the crematorium.

To ensure a satisfactory appearance upon completion in accordance with the provisions of policy EN1 of the Sevenoaks District Local plan.

5) No development shall commence until a scheme of external lighting and signage in connection with the use of the crematorium has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved drawings.

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In the interests of the character and appearance of the area in accordance with the provisions of policy EN1 of the Sevenoaks District Local Plan.

6) No development shall commence until details of the existing and proposed finished ground levels are submitted together with details of the finished ground floor slab level have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved drawings.

To ensure a satisfactory appearance upon completion in accordance with the provisions of policy EN1 of the Sevenoaks District Local Plan.

7) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall identify any existing trees/shrubs to be retained together with their means of protection during construction and a programme of implementation. All planting shall be carried out in the first available planting season following completion of the scheme and any trees or plants that die, are damaged, removed or become diseased within 5 years from the completion of the development shall be replaced with a species of a similar size and species during the next available planting season.

To ensure an acceptable appearance upon completion in accordance with the provisions of policy EN1 of the Sevenoaks District Local plan.

8) Details of the ecology and bio diversity mitigation and improvements suggested the submitted report entitled Sevenoaks Crematorium Ecology - Ecological Appraisal shall be implemented before the use of the crematorium commences. The details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

To secure bio-diversity improvements in accordance with the provisions of the National Planning Policy Framework.

9) The crematorium and gardens of remembrance shall not be brought into use until the vehicular access, visibility splays and parking areas have been provided in accordance with the approved drawings.

In the interests of highways safety.

10) The removal of hedgerows shall only take place outside the bird nesting season (1 March - 31 August Inclusive).

To protect breeding birds.

11) No development shall commence until a scheme for the provision of surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the commencement of use of the crematorium and shall be carried out in accordance with the approved scheme.

To ensure adequate drainage facilities on site to alleviate existing problems with the discharge of surface water..

12) No development shall take place until a construction method statement and management scheme has been submitted to and approved in writing by the Local Planning authority. The approved scheme shall include details of :- hours of work during the construction period- parking of vehicles of site personnel and visitors- loading and

unloading of plant and materials- storage of materials- wheelwashing facilities. The scheme shall be carried out in accordance with the approved details.

To ensure the free flow of traffic on the adjacent highway.

13) All burials in the cemetery shall be:(i) a minimum of 50 m from a potable groundwater supply source;(ii) a minimum of 30 m from a water course or spring;(iii) a minimum of 10 m distance from field drains; and (iv) no burial into standing water and the base of the grave must be above the local water table.

To protect groundwater at this location.

14) Prior to the commencement of the use, details shall be submitted to and be approved in writing by the Local Planning Authority of all means of boundary treatment and enclosure. The scheme shall be carried out in accordance with the approved scheme prior to the commencement of the use hereby approved.

In the interests of the visual amenities of the surrounding area in accordance with the provisions of policy EN1 of the Sevenoaks District Local Plan.

15) Prior to the commencement of the development hereby approved, details shall be submitted to and be approved in writing by the Local Planning Authority of any bunding or screening required in connection with the mitigation of noise across the site. The scheme shall be carried out in accordance with the approved details prior to the first use of the crematorium or gardens of remembrance.

To protect the visual amenities of the area in accordance with the provisions of policy EN1 of the Sevenoaks District Local Plan.

16) All off-site highway works inclusive of the pedestrian refuge and footway facilities, must be secured via an appropriate agreement with the Highway Authority and completed prior to the site coming into use.

In the interests of highways safety.

17) There shall be no disposal of ashes within 50 yards of a public right of way or public highway.

In the interests of the amenities of the area.

18) Prior to the commencement of development details shall be provided in writing to and be approved by the Local Planning Authority of the dimensions of any memorial stones or plaques proposed for use in the memorial gardens or flat stone burial ground. No other memorial stones or plaques shall be used on the site other than those approved by the Local Planning Authority. In the natural burial ground no headstones or other form of plaque or grave marker shall be used.

To preserve the character and openness of the green belt in accordance with the provisions of the National Planning Policy Framework.

19) The development hereby permitted shall be carried out in accordance with the following approved plans: 1289-01J(P), 1289-02(P), 1289-03(P), 508.24/10, 4333/003, 4333/004, 508.24/12A.

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

### **Informatives**

1) If you wish to discharge treated sewage effluent into surface water or to ground you may require an Environmental Permit from us. You should apply online at <http://www.environment-agency.gov.uk/business/topics/permitting> or contact us for an Environmental Permit application form and further details on 08708 506506.

The granting of planning permission does not guarantee the granting of a permit under the Environmental Permitting Regulations 2010. A permit will be granted where the risk to the environment is acceptable. A permit is not required if the rate of sewage effluent discharge is less than 2 cubic metres a day or less to ground or 5 cubic metres a day or less to watercourse. You must, however, be able to satisfy a number of specific criteria and you may need to register the discharge as exempt, please see our website for further information.

A Standard Rules Permit is available for discharges of secondary treated sewage (to surface water only) of between 5 cubic metres a day and 20 cubic metres a day.

Discharges of treated sewage greater than 2 cubic metres a day to ground and greater than 20 cubic metres a day to a surface water require a Bespoke Permit

2) No works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should contact the Public rights of Way Office before commencing any works that may affect the Public Right of Way. Should any temporary closures be required to ensure public safety then this office will deal on the basis that:

- The applicant pays for the administration costs
- The duration of the closure is kept to a minimum
- Alternative routes will be provided for the duration of the closure.

### **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](http://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) Was updated of any issues after the initial site visit.

### Description of Proposal

- 1 This application proposes a change of use of the site that incorporates the erection of a crematorium, car park and access road, gardens of remembrance and areas for natural and traditional burials.
- 2 The access to the site would be via a new vehicular access onto London Road, sited approximately mid way along the length of the site, curving to the northern end of the site to the car park and entrance to the crematorium building. The car park is sited in the north eastern corner of the site and accommodates spaces for 100 cars set within landscaped bays. Part of the parking area is designated as overflow parking and would lie on a reinforced grass surface.
- 3 The crematorium building lies towards the northern boundary of the site and comprises a single storey building with a mix of brick and oak boarded elevations with a pitched tiled roof. Windows would be oak framed. To the front and side elevations would be two covered carriage entrances (porte cocheres) – each with a pitched roof set on oak posts, generally open at ground floor with a mix of glazed and oak boarding above ground floor . The building would incorporate a single chapel, crematory, waiting area and office and interview rooms. It would have a total floor area of approximately 385 sqm including the porte cocheres.
- 4 The grounds are set out with a meadow, sustainable drainage system and area to scatter ashes to the sides and rear of the crematorium itself, and a memorial garden and natural and flat stone burial areas to the central/southern part of the site.
- 5 The site would be well landscaped with plenty of tree planting around the boundaries of the site. A significant part of the existing hedgerow along the site front would need to be removed to provide sufficient visibility splays for traffic leaving the site. However, new hedging would be planted behind the splay lines. The entrance to the site would have a set of 5 bar timber gates and posts set back from the highway.
- 6 Externally it is proposed to add a right hand turn filter lane into the highway with a traffic island allowing pedestrians to cross the highway from the pavement on the opposite side of the road to the site.
- 7 An existing Public Right of Way (PROW) runs around the southern and western boundaries of the site accessed from London road and turning west once beyond the northern most site boundary. The footpath runs alongside existing site boundaries marking this site from the adjacent fields but is not fenced off from the application site in any way.

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- 8 The facility itself would open Monday -Friday between 9am – 5pm and on Saturdays from 9am – 12 noon. We are advised that in exceptional circumstances other times may be available for services but are not advised what those may be. Services would operate on a 45 minute cycle.

### Description of Site

- 9 The site comprises a site of approximately 2.5ha of land that lies to the west of the A224 to the south of Badgers Mount, a little to the south of and on the opposite side of the road to the Polhill Garden Centre. It comprises a generally level field currently used for grazing of sheep that is demarcated from the A224 by an existing hedge that largely prevents views into the site from that road and from adjacent fields by a mixture of post and wire fencing and hedgerow/tree planting.
- 10 To the north of the site lies Orchard Barn in commercial use as a kitchen centre. To the north west some 70m beyond the site boundary lies a dwelling - The Granary. To the south and west fields, whilst Oak Tree Farm lies to the south, separated by a field some 120m away. On the opposite side of the A224 are fields with the entrance to Polhill Garden Centre approximately 60m to the north east. The village of Halstead lies approximately 1km to the west which Sevenoaks itself lies approximately 7km to the south of the site.
- 11 The nearest made pedestrian footpath alongside the road lies on the opposite side of the A224 whilst an unmade public right of way runs along the southern and western boundaries of the site.
- 12 The general feel of this part of the area is one of flat open fields with views beyond the highways largely obstructed by boundary hedgerows.

### Constraints

- 13 Green Belt, PROW around southern and western boundary, AONB on opposite side of London Road

### Policies

#### *Sevenoaks Core Strategy*

- 14 Policies - L01 L08 SP1 SP2 SP9 SP10 SP11,

#### *Sevenoaks District Local Plan*

- 15 Policies - EN1 NR10 GB1 VP1 T9 EN17B EN31

#### *Other*

- 16 NPPF
- 17 SPD: Countryside Assessment

### Relevant Planning History

- 18 None relevant on this site.

Consultations

*SDC: Environmental Health Noise*

- 19 I am happy with the acoustic report, with the predominant noise source being traffic on London Road I recommend a condition requiring the applicant to provide details of an acoustic fence to be provided to protect relevant areas of the site from road traffic noise.

*SDC: Environmental Health Air Quality*

- 20 I am satisfied with the submitted impact assessment for the crematorium incinerator, and accept the conclusion that:
- 'In summary, for both the maximum modelled results and the modelled results at sensitive receptors, ground level pollutant concentrations as a result of emissions from the Cremator stack are not predicted to exceed Environmental Quality Standards, and therefore are not considered to be significant in terms of impact on human health.'
  - The assessment does not include the impact of the traffic sources, however the applicant has advised that there would only be an additional 0.8% increase in traffic flows, in which case I agree that this would not be significant.

Officer Comment: This has been amended in light of the comments by KCC and no objection is raised to the level of traffic increase considered by KCC Highways (2% per day).

*SDC Tree Officer:*

- 21 The site is an open field, I do not therefore consider there to be any obvious reason to object on landscape grounds. The important existing landscape issues for this site are clearly the boundary hedging. This is especially so for the mature hedging located along the frontage with the A 224. This hedging not only fronts this property but others along the road. This continuation of hedge provides an acceptable backdrop to users of the highway. In order to carry out this proposal, an acceptable access opening will need to be created along with a suitable amount of hedgerow removal to satisfy sight lines. My brief inspection of this hedgerow indicates that it is mainly a single species. It is also one that could be replaced by a rigorous planting schedule, albeit a bit further back than the original. The success of this project is therefore very much reliant on a suitable landscaping scheme being implemented.

*SDC Policy:*

- 22 Paragraph 89 of the NPPF requires the local planning authority to consider the construction of new buildings within the Green Belt as inappropriate development, subject to certain exceptions. As the provision of a crematorium is not identified as one of these exceptions, the proposal is considered to be inappropriate development within the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

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- 23 It is for the applicant to demonstrate very special circumstances. Very special circumstances 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. The provision of evidence submitted in relation to need will have to be weighed in this light against the harm if inappropriate development in the Green Belt.

### *KCC Highways:*

- 24 Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters
- 25 The proposal in question was subject to pre-application scoping with KCC Highways and Transportation in respect of the supporting information
- 26 Firstly, it is clear from the site survey information, projected traffic flows and background vehicle flows that the proposals will not generate a level of vehicle movements which would be significant in respect of either available highway capacity or additional network or local movements. In order to give a robust assessment of the traffic impact the applicant has tested the site against a level of surveyed movements from other sites of similar use but of slightly larger scale, thus giving a scale of movement which would be significantly above average for the size and scale of the proposal site. Projected additional vehicle flows on the A224 even when using these robust projections amounts to less than a 2% daily increase in vehicle movements with the majority of those movements occurring off-peak and as such the projected traffic generation does not constitute a level of movement which would be considered significant or above that which could already be experienced through daily fluctuation. Furthermore, the applicant has offered a level of primary parking provision which is also reflective of the greater levels of demand which would be experienced from a larger scale site and in addition has included a further significant overflow facility.
- 27 The proposals include an off-site highway scheme which consists of a right turn facility (to DMRB standards as an extension to the existing ghost island facility to the north) a central pedestrian refuge island immediately north of the right turn lane facility and associated footway works to link the refuge island to the proposed pedestrian access to the site. As a point of note these proposed highway works are not included on the 'layout plan' of the internal site but they are specifically detailed on the proposal plan within the supporting Transport Assessment. (*Officer comment – this has now been incorporated into the main plan.*)
- 28 The proposal plan includes reference to sight line splays, the length of which reflect the measured speed of the road. It is noted that no section drawing is included within the submission to give a graphical representation of the impact of the carriageway summit to the south of the proposed access point on the projected sight line splay. The spot levels included on the access proposal plan within the TA would suggest that the summit is unlikely to interfere with driver sight line over the length of the visibility splay (i.e. sight line measured at a height of 1m above carriageway level), but it is nevertheless recommended that for clarity a section drawing be produced (for the south side of the proposed access) which includes the splay overlaid to better demonstrate this point. (*officer comment – drawings subsequently submitted*). Whilst the right turn lane proposals are indicated as being designed to DMRB standard, should planning



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permission be forthcoming then the works would still be subject to the technical and safety audit requirements of KCC Highways and Transportation and as such it is recommended that the applicant progress an independent Stage 1 Safety Audit prior to any potential planning approval. Failure to carry out such an audit would not constitute a recommended highway ground of refusal but could result in required design changes which could in turn impact upon any potential planning permission and so it is best practice to carry out a Stage 1 Safety Audit during the planning stage.

- 29 Whilst it is accepted that a use of this nature is likely to generate visits primarily by car it is nevertheless noted that whilst reference to local bus stop facilities is made and, indeed the potential for visits (particularly to the remembrance garden facility) could be made by public transport, no such bus stop facilities appear to be represented on a site plan thus making it unclear how the bus stops relate to the proposed pedestrian crossing facility and it would be prudent to include such detail. *(officer comment now included)*.
- 30 Notwithstanding the above, the principle detail of the planning proposal in respect of highway impact and parking demand is considered acceptable and following the above issues of detail being addressed, no objections are raised subject to:
- 1, The proposed access and off-site highway works inclusive of the pedestrian refuge and footway facilities being delivered through appropriate Agreement with the Highway Authority and completed prior to the site coming into use.
  - 2, An appropriate condition being included to ensure that appropriate sight line splays as shown on the highway works drawing are secured (where any part of such splays fall outside of the existing highway) with a restriction to the placing within them of any permanent obstruction greater than 900mm in height.
  - 3, Appropriate wheels washing facilities being secured on site throughout the duration of construction works to prevent the spread of materials onto the highway.

### *KCC Ecology:*

- 31 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.
- 32 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.”
- 33 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.”

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- 34 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.
- 35 The Ecological Appraisal report has been submitted in support of this application. It is concluded that the much of the site has minimal ecological interest, though the boundary hedgerows do have some value which could present opportunities for reptiles and there are some trees that have potential to support roosting bats.
- 36 It is reported within the Ecological Appraisal report that there are no plans to remove the trees; we are satisfied with the recommendations for action to be taken if this changes (provided in section 7.3.2).
- 37 It is not confirmed whether all the hedgerows will be retained and there is therefore some uncertainty as to whether there is likely to be an impact on reptiles. While the report includes an overview of the approach to mitigation which is acceptable in principle, we advise that confirmation is sought from the applicant regarding their intentions for the hedgerows surrounding the site. If there will be impacts to the boundaries of the site then a detailed mitigation strategy will be necessary as a condition of planning. (*Officer comment – 74m of hedgerow to be removed*)
- 38 The implementation of the recommendations in section 7.3.4 will minimise the potential for impacts to breeding birds.
- 39 One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”. The nature of this application is such that there are significant opportunities to incorporate biodiversity enhancements within the landscaping design. Several recommendations are provided in sections 7.4.1 and 7.4.2 of the report. We advise that the landscape plan should seek to incorporate as many of the recommendations as possible. We also advise that the detailed information relating to the creation of habitats that will benefit biodiversity, such as meadows, should be accompanied by a summary of the management requirements to ensure their long-term suitability.

### *KCC Public Rights of Way:*

- 40 Public Rights of Way Footpath SD2SR4171 runs along the western and the southern boundaries of the site. I would point to Appendix 2: Department of Environment Guidance LG1/232/36 – 1978 in the Planning, Design and Access Statement which relates to the proximity of the crematorium and other parts of the site to public highway and housing.
- 41 Under the Highways Act 1980 a public footpath shown on the definitive map and statement is a **public highway** and therefore any ground used for the disposal of ashes, as shown by the label ‘natural burials’ on the site plan, would need to be 50 yards from the public footpath. The applicant is correct in that the Act refers to the disposal of ashes but not memorial gardens, and the two areas designated ‘ashes’ may, just, be 50 yards from the public right of way. I can find no regulations with regard to natural burials or flatstone burials and rights of way,

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unless the ground is to be consecrated and I can find no reference to that being the case. However, there is the possibility of members of the public using the footpath witnessing natural burials, which can be just using shrouds, without coffins, which some may find upsetting. I am aware that members of the public can walk around cemeteries but there they are aware that they may witness a funeral, whereas this may not be the case on walking a rural footpath.

- 42 The existence of the right of way is a material consideration. Should consent be granted, the development would necessitate the diversion of the right of way in order to go ahead. Appropriate weight should be given to this fact when determining this application.
- 43 Having walked the route last week I can say that the views from the west side of the hedge and fence on the section of path that runs northwest to southeast where the diversion is proposed are very good with long views and rolling countryside. Much better than the enclosed single field view presently visible on the path looking east. However I would not want to see the east-west section of the path diverted to the other side of the hedge as the views to the south there are not desirable.
- 44 I would also not want the path to be bordered by further hedging as this does not allow for natural surveillance and gives rise to overgrowth issues and lack of sunlight resulting in path surface deterioration. If a barrier is needed to prevent people walking diagonally across the burial area/orchard where the path comes in from the road I would suggest post and rail fencing for about 10metres would be adequate. I would not like to see the rest of the path fenced off. It would be preferable if the applicant was willing to lay an all-weather surface such as Type 1 roadstone, but not tarmac, which would visually mark out the route for walkers thus deterring anyone from wandering off the line of the path.
- 45 The granting of planning permission confers no other permission or consent on the applicant.

### *Environment Agency:*

- 46 Thank you for consulting us on the above proposed change of use. We have no objection but the following condition must be included in any permission granted.

Condition: All burials in the cemetery shall be:

- i. a minimum of 50 m from a potable groundwater supply source;
- ii. a minimum of 30 m from a water course or spring;
- iii. a minimum of 10 m distance from field drains; and
- iv. no burial into standing water and the base of the grave must be above the local water table.

Reason: To protect groundwater at this location.

Informative:

If you wish to discharge treated sewage effluent into a surface water or to ground you may require an Environmental Permit from us. You should apply online at <http://www.environment-agency.gov.uk/business/topics/permitting> or contact us

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for an Environmental Permit application form and further details on 08708 506506.

- 47 The granting of planning permission does not guarantee the granting of a permit under the Environmental Permitting Regulations 2010. A permit will be granted where the risk to the environment is acceptable.
- 48 A permit is not required if the rate of sewage effluent discharge is less than 2 cubic metres a day or less to ground or 5 cubic metres a day or less to watercourse. You must, however, be able to satisfy a number of specific criteria and you may need to register the discharge as exempt, please see our website for further information.
- 49 A Standard Rules Permit is available for discharges of secondary treated sewage (to surface water only) of between 5 cubic metres a day and 20 cubic metres a day.
- 50 Discharges of treated sewage greater than 2 cubic metres a day to ground and greater than 20 cubic metres a day to a surface water require a Bespoke Permit.

### *Thames Water:*

#### Waste Comments

- 51 Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

#### Water Comments

- 52 On the basis of information provided, Thames Water would advise that with regard to water infrastructure we would not have any objection to the above planning application.

### *Natural England:*

- 53 Views awaited.

### *Royal Borough of Greenwich:*

- 54 At Eltham Crematorium there are 20 available slots per working day. (09.00 – 15.30)
- 55 During the busiest months we average 16 bookings per day. The earlier slots are generally the last to be booked. Over the period 5 months October 2012 – February 2013, there were 2058 possible slots available and 1737 (83%) were taken.
- There are currently **no** plans to expand at Eltham Crematorium.
  - As we do not work at full capacity and there are early times available, we do not currently envisage extending our service times.

### *London Borough of Bexley:*

- 56 No objection and this council has no plans for a similar facility

*London Borough of Bromley:*

57 Views awaited.

*London Borough of Croydon*

58 Views awaited

*Medway Council:*

59 Advise that regarding the current capacity issues they are in the middle of a major improvement programme involving the closure of one of the chapels. Therefore they have supplied figures drawn from a 5 year average which demonstrates that they have not operated at capacity for the last 5 years. It would appear from the figures supplied that even during the winter they have 40% spare capacity – although it is not clear at what times these slots are available.

*Tonbridge & Malling BC:*

60 No objection

*Tunbridge Wells BC:*

61 Make the following comments:

62 It would be interesting to see what Memoria have considered as the ‘catchment area’ of their proposed site, as well as the style and the nature of their survey questions to Funeral Directors. Additionally I am surprised that they will have based some of their business justifications/assumptions upon statistical information gained from this sample group when that group have no specific operational knowledge of the Kent & Sussex Crematorium and are themselves commercial entities with their own commercial objectives and organisational limitations.

63 As I am sure you’ll be aware the key issues for the proposed siting of crematoria will be those of;

- Its likely proximity to existing private residences, location within the existing community, and community need,
- Crematorium Capacity, and
- Geography of surrounding transport infrastructure.

64 The issue of proximity to residences is obviously provided in legislation, and whilst the demographic and socio-economic status of the local population is no doubt significant to their own business rationale, it will inform your own considerations of the level of community need as well as the environmental impacts from its operation and patronage.

65 Additionally the following points are made:

- Express concern about the Funeral Director survey results of delays at the Kent & Sussex Crematorium. We average 61% utilisation of chapel capacity and 63% cremation capacity.

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- Each winter we experience approximately a 30% upturn in demand. However this cannot be construed as operating near capacity and we therefore question the reliability of the Memoria survey information.
- Waiting times for service slots is a subjective assessment due to:
  - Preference for a 10am – 3pm slot
  - Availability of church and clergy if a church services is required
  - Availability of the funeral directors
- A second chapel is proposed within 4 – 5 years to provide double the existing capacity.

### *Tandridge DC:*

66 No objection.

### *Maidstone BC:*

67 No objection – verbally.

### *Crawley DC:*

68 No objection.

### *Shoreham PC:*

69 Objects to this application for the following reasons:

1. The site lies within the Metropolitan Green Belt where strict rules of constraint apply.
2. Increase in traffic on an already busy road. The traffic predictions provided by the developer do not take into account any future increase in the scale of the nearby Polhill Garden Centre or the likely significant residential development at the Fort Halstead site.
3. Parts of the site are under flood water after heavy rain/snow.
4. Existing planning consent for a woodland burial site (Watercroft Woods) in Halstead - less than a mile from the Polhill Site.
5. No provision for pedestrian access to the site (to visit the burial plots for example). Pedestrians would have to cross to the opposite side of the road and then cross back opposite the site entrance which is clearly dangerous on such a busy road.
6. Limited sight lines
7. The application requires the diversion of a public footpath which would still go through part of the site.
8. Public transport in the area is poor. The nearest train station is at least one and a half miles away from the site. The nearest bus stop is 700 yards from

the site. These factors would seriously hamper disabled and elderly visitors to the site.

### *Halstead Parish Council*

70 Strongly objects on the following grounds:

- Proposed development does not meet criteria for development within Halstead village
- Contrary to green belt policy GB5 – major development
- Inappropriate location close to the AONB (opposite side of London road)
- Highways: Increased traffic movements into the local village and busy A224
  - o This will bring traffic into this rural area from outside the district
  - o Increased traffic hazards from slow moving funeral traffic
  - o No footways in close proximity to the site entrance and no crossing Points
  - o Inadequate sight lines
  - o Contrary to policy T9
- Lack of public transport to site
- Potential flood issues
- Site too small
- Insufficient parking
- Residential properties within 200 yds of the site
- Lack of information regarding pollution and air quality with potential for pollution to be blown into the village
- Greenhouse gases will be emitted
- Group 1 carcinogens will be emitted
- Additional traffic will exacerbate existing air quality issues particularly in and around junction 5 of the M25 junction which is an existing AQMA.
- Dust emissions from the nearby concrete crushing activities may get caught up in the crematorium emissions

### Representations

71 34 letters of objection from members of the public, including the Badgers Mount Residents Association raising the following issues:

- Contrary to green belt policy – inappropriate development

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- Add to traffic on the busy A224 which will increase further when Fort Halstead is developed
- Hazardous crossing for pedestrians due to the sight levels in the road
- Public transport access is poor – the nearest bus stop about 700yds, station 1.5 miles away and no footpath on this side of the road.
- Noise and dust from Oak Tree Farm recycling operation
- Public footpath needs to be diverted
- Flooding of parts of the site
- Harm to character of the village by virtue of further development on the surrounding green belt
- Traffic hazards resulting from the slow speed of funeral traffic
- Additional pollution regardless of the proposed filtration system.
- There will be more than 4 or 5 services per day leading to increased traffic pollution etc.
- Farming and the sale of foods at Polhill are not uses compatible with a crematorium use
- Dangerous precedent for green belt development
- Harm to openness of green belt
- Harm to character resulting from loss of hedging and the development
- The site search was woefully inadequate
- Will not create local jobs
- This use should go on a brownfield site

72 9 letters of support from members of the public raising the following issues:

- Distance and time taken to reach surrounding crematoria
- Nearby businesses will benefit from this development
- The site is 1 mile from Halstead village and is unlikely to harm Halstead village
- A good use of unused farmland
- At the recent parish meeting there was a low turnout and no objections: surely the PC should not then encourage stagnation in favour of progression of the area.
- Good road access



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- Benefit to those in the district needing a crematorium
  - Like the idea of a local place of rest
  - Little chance of this land returning to proper agriculture
  - There are sufficient reasons to allow this development to be an exception to green belt and AON policies.
- 73 Letter from CPRE raising following objection: regardless of whether a crematorium is needed in this area the site is in the open countryside. Typically crematoria are located on the built urban fringe and their managed appearance is essentially suburban. This use would conflict with the Kent Downs AONB opposite.
- 74 Letters of support from 6 local clergy/churches raising following issues:
- The environmental costs of undertakers, mourners and clergy driving to south east London or Tunbridge Wells is too high. A crematorium at Halsted would benefit local residents
  - The biggest problems experienced are by those having a church funeral followed by a committal because of the long distance to the nearest crematoria.
  - This would reduce waiting times for a service because of the level of demand at surrounding crematoria.
  - At a meeting of Sevenoaks Deanery Synod the proposal was met with universal approval.
  - Present emission controls are very strict and would pose no problems
  - As it would usually operate from 10 – 3 there would be few traffic problems
  - Hopefully it would provide a few local jobs
  - Good setting away from dwellings and good road access
  - The traveling time for local families to the surrounding crematoria are too long and very distressing just for a short service.
- 75 3 letters from local funeral directors: 1 objection, 2 support raising following issues:
- There are 3 crematoria within 10 miles of Halstead
  - A permission exists for a burial ground in Badgers Mount
  - Loss of green belt land
  - Unacceptable Waiting times for services at existing surrounding crematoria
  - Particular problems for those choosing a church service and family only committal
  - There has long been a need for anew crematorium in this district. Presently we allow between 45 – 60 minutes travelling time to the closest facilities due to distance and congestion on the road.

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- A new crematorium will boost competition in our area hopefully leading to better levels of service and increased capacity so our clients have shorter waiting times
- The proposed site has all the necessary road links and the rural area makes for a peaceful setting

76 A letter from another crematoria provider (Mercia - potential applicant on the site to the south) objecting on the following grounds:

- Failure to establish very special circumstances
- Flawed site search with a failure to identify/consider any other potential sites, including that being promoted by Mercia
- Lack of a sequential test to explore other sites
- Harm to preservation and openness of green belt by inappropriate development
- Creation of an unnecessary access onto the highway
- Adverse impact on landscape
- Adverse impact on bio diversity
- Contrary to Councils SPD on Development in the Green Belt
- A more appropriate site exists in the form of the site being promoted by Mercia to the south of the application site

### **Chief Planning Officer Appraisal**

#### Principal Issues

77 The main issues relate to:

- the principle of this development within the green belt,
- consideration of any very special circumstances,
- impact upon character of surrounding countryside and adjacent AONB,
- noise
- air quality
- Highways
- Ecology
- Public right of way
- Neighbour amenity
- Sustainability
- Flooding

#### *Principle of Development in Green Belt:*

78 The Government attaches great importance to the Green Belt, the fundamental aim being to prevent urban sprawl by keeping land permanently open. The essential characteristic therefore being its openness and permanence. When

considering any planning application local planning authorities (LPA's) should ensure that substantial weight is given to any harm to the green belt. Very special circumstances 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.

79 At paragraph 89 the NPPF advises that:

*A local planning authority should regard the construction of new buildings as inappropriate in the green belt. Six exceptions to this are identified and none of those are applicable to this use/site.*

80 The NPPF is clear that a cemetery does constitute appropriate development within the green belt. Whilst a crematorium may include structures common to a cemetery, such as a chapel and structures associated with floral tributes, the main purpose of a cemetery is an open use of the land.

81 This distinguishes it from a crematorium where the built form is essential. Therefore a crematorium must be considered inappropriate development within the green belt. Paragraph 88 of the NPPF is clear that *substantial weight should be given to any harm to the green belt and that very special circumstances 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.*

82 Harm to the Green Belt in this case would be caused both by virtue of the inappropriateness of part of the development proposed and by virtue of the harm caused to the green belt at this point and would conflict with the purposes of safeguarding green belt land. *The crematorium building would clearly harm the openness of the green belt and cause the encroachment into the countryside that the policies are designed to prevent. The ancillary access and parking area would not harm the openness of the surroundings but would clearly result in encroachment into the countryside.* Additionally the increase in activity across the site would increase compared to its current use, which will have some impact upon the character of the green belt at this point.

83 Therefore within the green belt, use of a brownfield or previously developed site would be preferable to an undeveloped site in terms of the impact upon the openness of the green belt: either in terms of a change of use of existing buildings or through the demolition of existing buildings/structures that would 'offset' the harm to the openness of the green belt caused by a new crematorium building.

### *Very Special Circumstances:*

84 There have been a few decisions, both determined by Local Planning Authorities and by the Planning Inspectorate relating to the provision of crematoria in the green belt. It is clear that very special circumstances can exist that outweigh harm, such that permission has been granted for new crematoria in the green belt.

85 The applicant refers to the following list of matters that comprise their very special circumstances:

Quantitative need assessment

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Qualitative need assessment

Existing crematoria provision

capacity issues within existing crematoria network

availability of alternative sites

landscape and visual impact

balancing material considerations

- 86 An assessment of whether these circumstances clearly outweigh the harm in principle and any other harm will be carried out later in this report.

### *Character/Appearance and Landscape*

- 87 Policy SP1 of the Core Strategy is clear that new development should be designed to a high quality and respond to the distinctive local character of the area in which it is situated. Outside settlements priority will be given to the protection of the countryside (*Policy L08*) and any distinctive features that contribute to the special character of the landscape and its biodiversity will be protected and enhanced where possible.
- 88 The supporting text to SP1 identifies that new development must be accommodated without damaging the features that contribute to the quality of the urban and rural environment. Therefore it is important that development is designed to respect or improve the character and distinctiveness of the area in which it is located.
- 89 Policy L08 advises that *the* countryside will be conserved and the distinctive features that contribute to the special character of its landscape and its biodiversity will be protected and enhanced where possible. Particular regard will be given to the condition and sensitivity of the landscape character and securing recommended landscape actions in the SPD to ensure that all development conserves and enhances the local landscape character and that appropriate mitigation is provided where damage to local character cannot be avoided.
- 90 The design of the crematorium is relatively simple giving the appearance (apart from the two porte cocheres) of a domestic building. It is located towards the northern end of the site close to Orchard Barn and set back from the road to minimise impact when viewed from the public highway. It would not appear out of character with the mixed design of the surrounding area. Its height would be equivalent to a two storey house. The building has been sited to take maximum benefit from the adjacent building and clearly the landscaping would help to screen this building from the surrounding area. Although any building will adversely affect the openness of the green belt this has been sited to provide as much distance and screening from the public domain as possible.
- 91 The Countryside Assessment identifies this site as lying on the edge of the Knockholt & Halstead Downs Character Area. The key characteristics are of mainly *an agricultural use with plenty of horsiculture and many small woodlands, with larger arable fields found on the flatter ground. Mature beech trees and roadside hedgerows* are a feature of the area. *Sites for urban recreation and the intrusion of new buildings in the views of the area are some of the many visual detractors in this landscape.* Visually the landscape is described as *poor with a low sensitivity to change*: sensitivity is a measure of the ability of a landscape to

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accept change, (both beneficial change and change that may be brought about by a new land use) without causing irreparable damage to the fabric and distinctiveness of that landscape.

- 92 The overall character of the area is rural, interspersed with sites of developed land. The A224 in the vicinity of the site provides access to the Toby Carvery & pub to the north, the Polhill Garden Centre, Orchard Barn, the Calcutta Club and diner to the south east and the commercial activities at Oak Tree Farm of concrete crushing/screening activities, skip lorries etc. The existing landscape around the site is largely flat and open and despite these sites retains a generally rural feel with its open fields and boundary hedging/tree planting. The A224 itself is lined with a mature hedge that largely screens the undeveloped fields beyond from direct view.
- 93 In terms of development surrounding the application site, apart from Orchard Barn to the north there is little to obstruct views from the surrounding countryside of the proposed new building apart from boundary hedgerows/trees. Certainly in terms of views from the public domain a PROW runs along two boundaries of the site and would thus lay the entire site completely open to views by walkers using that footpath. Proposed landscaping would in time hinder those views. Views from adjacent fields would also be possible and from the nearest buildings, albeit they are some distance away.
- 94 When viewed from the A224 due to the large amount of hedgerow (74m) that would need to be removed, the site would, at least temporarily, be opened up to significant views from the public highway. Even accepting that the hedgerow could be replaced and would in time screen most of the site, the new entrance onto the A224 would provide views into the site of the crematorium itself where such views of the site are currently unavailable. The new crematorium would also be partially visible from the A224 viewed above/through boundary screening at least until new planting takes effect.
- 95 In general a significant amount of planting is proposed around the boundaries and within the site and certainly it would be expected that the site would appear more wooded when the scheme has reached maturity. Upon maturity this would be an attractive well planted site.
- 96 The site does not lie within an Area of Outstanding Natural Beauty but the land on the opposite side of the A224 does. Clearly new development within the AONB would have an impact upon the surrounding AONB. Policy LO8 confirms that the distinctive character of the AONB will be protected and enhanced. In this case however, given the location of the site outside the AONB, the scale of the design and associated works and the general planting changes proposed, particularly in terms of landscaping to soften the scheme, it is not consider that the scheme would adversely affect the nearby AONB.
- 97 The scheme would clearly result in a change to the landscape and the flat open character that this stretch of the A224 currently enjoys. However the surrounding landscape is punctuated by individual buildings and development sites and this site would be compatible with that character. Furthermore the significant planting proposed would mitigate significantly any impact of the development. The landscape character assessment indicates that small woodlands do form a part of the landscape character and this site could appear as a well planted lightly

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wooded site that it is considered would not significantly harm the character of the surrounding area.

- 98 No details have been provided about lighting and signage but such issues could be dealt with by condition.

### Noise

- 99 At the time of writing this report a noise report is under consideration by the Councils Environmental Health Officer. The NPPF advises at paragraph 123 that planning policies should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development including through the use of conditions.
- 100 Saved Local Plan Policy NR10 advises that proposals for all forms of development should: minimise pollution of the environment through careful design and layout of any buildings or land uses. This policy is clear that:
- potentially polluting activities must be in a suitable location being sensitive to other land uses;
  - mitigate any possible land use including the effects on the natural environment, amenity or health;
  - control any noxious emissions, or noise, dust, vibration, light or heat; - Restore the land to an acceptable use after use
  - protect natural resources including sites of nature conservation importance, wildlife habitats and to improve the physical environment.
- 101 The issue of noise concerns the increase in noise generated by activities on and around the site and the noise from other surrounding uses and their impact upon the site.
- 102 In terms of the former issue the only residences at present that could be affected by this scheme are those dwellings at Oak Tree Farm which sits one field away from the site and Lamberhurst Farm to the north west. The dwelling at Oak Tree Farm sits adjacent to an access road into the rest of the site that caters for lorry traffic and it is not expected that the additional activities at the application site would constitute an issue. The dwellings at Lamberhurst Farm sit to the rear of the site away from the access and parking areas, closer in fact to the gardens and it is not expected that the noise from the parking and access would be sufficient to cause harm to the amenities of Lamberhurst Farm.
- 103 It should also be noted that the Council currently has an application for Prior Approval in respect of a residential conversion on the second floor of Orchard Barn, to the north of the site. This application awaits determination but obviously should this conversion take place prior to the commencement of the application development the written permission of the residents/owners of that site would be required in order that this application scheme could progress. Regardless of that process however should a flat exist at this location it would be affected by the noise and disturbance associated with the use of the car park. However as a result of the existing noise levels already evident across these sites, resulting from traffic noise on the A224, and the business use of Orchard Barn, it is not

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considered that the noise associated with the use of this car park would not be sufficient to cause significant harm to the amenities of residents of a flat at Orchard Barn.

- 104 In terms of the wider area it is not considered that the use of this site 5 ½ days per week would generate such large amounts of activity on site and traffic as to constitute a nuisance to surrounding businesses/residents or road users.
- 105 Noise sources audible within the site are the road traffic to the east of the site and activities at Oak Tree Farm to the south. Officers are advised by the applicant that there are no noise guidance regulations in respect of the levels of noise considered acceptable within a crematorium and burial site and to this extent it is considered that this is a commercial decision to be taken by the applicant regarding the impact this would have upon the tranquillity and general sense of calm within the site. However the World Health Organisation Guidelines for Community Noise recognises the adverse impact of noise upon health and recommends preferred noise levels that are acceptable in certain circumstances. Whilst this guidance does not specifically address noise levels across a memorial garden or similar environment, it does address noise levels across outdoor recreation areas and officers consider that it is appropriate to seek to attain such levels across this site. Such levels could be attained it is considered by the use of screening along the boundary and this can be dealt with by condition: the precise nature and scale of this screen will be assessed as part of the report that has been submitted.
- 106 There is no suggestion at this point that any acoustic barriers are required that would have an adverse impact upon the character and openness of the site. SDC Environmental Health have advised that if acoustic protection is required this could include options such as a 2m wooden close boarded fence or an engineered solution like a bund structure contained with planting. These options could be sited behind the existing and proposed hedgerow and planting to minimise their impact from outside the site. The second option that did not involve fencing could be the best one, if needed to assimilate the acoustic protection into the landscape over time. As the options for acoustic protection are likely to have a solution that is acceptable in the landscape, a condition could be imposed to address this.
- 107 In terms of noise audible at other crematoria it is interesting to note that aircraft noise is identified by the funeral directors taking part in the applicants survey as a feature of the Surrey & Sussex Crematorium and motorway noise is audible within the Medway Crematorium. This matter does not appear to prevent the successful operation of either of these facilities. Accordingly I am satisfied that this proposal complies with policies NR10 and the NPPF.

### *Air Quality*

- 108 Policy SP2 seeks to ensure that *the design and location of new development will take account of the need to improve air quality in accordance with the Districts Air Quality Action Plan. Development in areas of poor air quality or development that may have an adverse impact on air quality will be required to incorporate mitigation measures to reduce impact to an acceptable level.*
- 109 Policy NR10 is referred to in the section above and details the Councils approach to air quality issues. However the operation of a crematorium requires a permit

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under the Environmental Permitting Regulations which specifically considers the issue of air quality and such a permit cannot be issued unless the facility is in compliance with the regulations. The NPPF is clear at paragraph 122 that *the LPA should focus on whether the development itself is an acceptable use of the land and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local Planning Authorities should assume that these regimes will operate effectively.* The impact of emissions on the environment can therefore be adequately controlled under separate legislation.

- 110 The applicants have proposed to clarify the air quality issue further, with the submission of a separate Air Quality Report. This type of report may provide additional information about air quality issues related to this specific proposal in this location. However even if this information is not forthcoming the decision on this issue in a similar appeal indicated that the legislation that controls emissions should be adequate protection.
- 111 This approach is consistent with the Inspectors decision in the Amber Valley appeal where he concluded that *I am satisfied that the environmental controls to which any new facility would be subject would ensure no harm would arise to nearby properties from emissions to air or noise. Matters relating to emissions are governed by Part B of the Environmental Protection Act 1990 and the Environmental Permitting (England & Wales) Regulations 2010 as a prescribed process and required authorisation. These matters are outside the planning process, covered under separate legislation and a licence to operate is required before the use can begin. The crematorium would require an environmental permit to operate. Any emissions would be closely monitored and any infringements would be governed by the Local Authority as licensing authority. The impact of emissions on the environment and nearby residents would therefore be adequately controlled.*
- 112 Accordingly for these reasons, I am satisfied that the proposals comply with policy SP2 of the Core Strategy, NR10 of the SDLP and the NPPF.

### Highways:

- 113 Policy T9 advises that the Local Planning Authority will not permit any development which involves construction of new accesses on to the defined primary or secondary route network.
- 114 The proposals include an off-site highway scheme which consists of a right turn facility, a central pedestrian refuge island immediately north of the right turn lane facility and associated footway works to link the refuge island to the proposed pedestrian access to the site. In order to provide sufficient visibility splays a long section of the boundary hedgerow would need to be removed. Once inside the site parking is provided for a maximum of 100 vehicles.
- 115 The main issues concern the impact of additional traffic upon the road network, the accessibility of the site to those without access by car, and issues of sustainability in terms of travelling times/distances.
- 116 In respect of policy T9 the wording of the local policy is noted. However, in the absence of any specific KCC policy constraint and in light of the proposals meeting current KCC requirements in respect of a new access in this context,



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there would be no justification in KCC raising objection to a proposal on these grounds. It would therefore be for SDC to assess whether or not to raise a local policy objection in this regard.

- 117 It is clear from the site survey information, projected traffic flows and background vehicle flows that the proposals will not generate a level of vehicle movements which would be significant in respect of either available highway capacity or additional network or local movements.
- 118 Concern has been expressed regarding the impact of slowmoving funeral corteges upon the existing traffic. The proposed access can be delivered to the principle requirements of the Highway Authority for the use class in question and so there would be no justification for any concern of this nature to be raised. Furthermore, prior to both the approval of design and commencement of works, the proposed highway improvements will be subject to the appropriate levels of principle and detailed technical and safety audit through our required Highway Agreements process.
- 119 It is noted that whilst the recommended Stage 1 Safety Audit has not been carried out that this is not considered to be a reason for refusal. Any changes to the access that may be required as a result of that audit may necessitate amendments to the scheme and if these are considered to be material to the scheme a fresh application would be required to consider the appropriateness of those changes.
- 120 The site would not be widely accessible by public transport, there being a bus route along the A224 but no other viable means of public transport. Those wishing/having to walk to the site could use the pavement on the other side of the road and cross at the proposed new traffic island. Whilst it is accepted that public transport links to the site are limited, this has to be considered in context. The proposed use is one which can be seen through surveys of similar sites to generate a high percentage of private vehicle trips and high average passenger numbers with relatively small numbers of visits by other modes. Whilst the ideal scenario would be for consistent levels of public transport provision to be available to all development sites the reality is that sites such as this in a rural locality often have no local services and the existence in this case of a bus service with nearby stops within a reasonably short walking distance is considered to be appropriate and proportionate for a use of this nature in the context of this locality.
- 121 The applicant is providing a pedestrian island and uncontrolled crossing point linking the existing footway on the east side of the A224 with the pedestrian site access on the west side of the A224 which is considered to be an appropriate level of pedestrian provision for a site of this nature.
- 122 Most crematoria in rural areas appear to be at least on the fringes of settlements or in more remote locations where public transport is not necessarily comprehensive. It is accepted therefore that whilst this site does not benefit from good public transport accessibility that this should not be considered such a dis-benefit as to warrant a refusal of the scheme.
- 123 Concern has been raised regarding the potential impact of future development at Fort Halstead on the local highways network. It would not be normal practice to require a current development proposal of this scale to either account for, or be

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tested against the theoretical impact of potential future planning proposals or nearby land allocation proposals in advance of any such proposals being formally permitted or committed.

- 124 Accordingly I am satisfied that this proposal complies with the relevant parts of the NPPF and policies T9 and EN1 of the Sevenoaks District Local Plan.

### *Ecology:*

- 125 The NPPF 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.”
- 126 Policy SP11 seeks to conserve the bio diversity of the district and seek opportunities for enhancement to ensure no net loss of bio diversity.
- 127 Policy EN17B refers to areas of nature conservation interest and the need to ensure that a loss of wildlife habitats and other features of nature conservation interest are not permitted.
- 128 It is concluded that much of the site has minimal ecological interest, although the boundary hedgerows do have some value which could present opportunities for reptiles and there are some trees that have potential to support roosting bats.
- 129 One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”. The nature of this application is such that there are significant opportunities to incorporate biodiversity enhancements within the landscaping design. Several recommendations are provided in sections 7.4.1 and 7.4.2 of the Ecological Appraisal Report.
- 130 The County Bio-Diversity Officer recommends that the recommendations in that report are implemented and this can be dealt with by condition. On that basis and the fact that the scheme complies with the relevant policy guidance the scheme is considered to be acceptable.

### *PROW:*

- 131 The NPPF seeks to protect and enhance public rights of way and access and local authorities should seek opportunities to provide better facilities for users.
- 132 Policy SP10 seeks to develop a green infrastructure network of accessible multi functional green space, primarily based on linking and maintaining existing areas of open space. In this case the public right of way contributes to this network.
- 133 Public Rights of Way Footpath SD2SR4171 runs along the western and the southern boundaries of the site. The original application proposed a diversion of the right of way on the western boundary to the opposite side of the hedge. Concern was also expressed regarding the potential for walkers to view burials and the ability of walkers to wander off the footpath and into the site.
- 134 This matter has been discussed with the county PROW team and the scheme has been amended to reflect concerns expressed. At the entrance of the footpath onto the site a section of hedging is proposed to ensure walkers do not wander into the site and the footpath will be finished with a new surface to encourage

walkers to stay on the correct line. New planting will screen the natural burial ground from the footpath. The footpath is proposed for re-alignment along part of the western boundary. Having walked this footpath the County Rights of Way Officer is happy that this would provide better views than the footpath does at present. This process is subject to a separate process to approve such a change.

- 135 No objections are raised in consideration of this matter and in view of the changes to outlook from the western part of the footpath that could be provided this scheme would appear to be in compliance with the relevant policies.

### *Sustainability*

- 136 At the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision taking. Whilst the NPPF offers support for the use of sustainable travel modes it also offers encouragement to solutions which support reductions in greenhouse gas emission and reduce congestion. This could be accomplished by both improved public transport but also by locating development where the need to travel will be minimised.
- 137 Policy SP2 likewise supports measures to reduce reliance on travel by car.
- 138 The most significant issue regarding the matter of sustainability is the impact of traffic drawn to the site. At present those needing the services of a crematorium need to drive outside the district to sites in excess of a 30 minute drive time. Judging by comments made by Clergy and others involved in such services the drive time can often be considerably in excess of 30 minutes.
- 139 Clearly therefore the siting of a crematorium within the District will facilitate shorter driving times. Whilst there is a balance to be considered in this matter, shorter journey times must be considered a more sustainable development overall, although of course this will mean more traffic in and around this district.
- 140 Whilst this scheme will involve more car journeys within the district, overall it will reduce the amount of travel and therefore must be considered a sustainable proposal.

### *Neighbour Amenity:*

- 141 The NPPF is clear that planning should be a means of finding ways to enhance and improve the places in which people live their lives. We should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 142 Policy EN1 seeks to ensure that no new development would adversely affect the existing area either in terms of any built form or in terms of the operation of any uses.
- 143 The 1902 Cremation Act sets out parameters for the location of the crematorium in relation to existing dwellings and the public highway. One of the most important restrictions in relation to neighbour amenity is that a crematorium cannot be constructed nearer to any dwelling house than 200 yards (182.8m) except with the consent in writing of the owner, lessee and occupier of such a house, nor within 50 yards (45.720M) of any public highway nor in the consecrated part of a burial ground. The definition of a crematorium also includes parts of the grounds

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used for the disposal of ashes (but not ornamental gardens). At present this scheme complies with those parameters.

- 144 Issues specifically related to the impact of noise in respect of neighbour amenity are considered above. However it must be recognised that the increased level of activity associated with this use could still adversely affect nearby residents and occupiers. In this instance the nearest occupiers, it is considered, would be sufficiently far from the access and car park so they would not be adversely affected by the increase in noise and disturbance that would arise. The general levels of activity anticipated on the adjacent highways are likewise not considered to be so severe as to justify a refusal on the basis of harm to either local residents or local businesses.
- 145 It is considered in summary that the scheme would be compliant with the relevant policies and would not harm the amenities of nearby residents or occupiers of commercial premises.

### *Flooding*

- 146 The NPPF seeks to avoid new development in areas at risk of flooding.
- 147 This site is not in an identified flood risk zone.
- 148 Residents advise that the site, where adjacent to the boundary with the adjacent highway, is consistently waterlogged after rain. Whilst this is not an issue of concern to the Environment Agency it is a matter that needs to be resolved because of the proposed location of the flat stone burials.
- 149 The Environment Agency have raised no objection to this scheme subject to the imposition of several conditions.
- 150 It is likely that this is an issue in respect of surface water drainage but nevertheless one that should be resolved before the permission is implemented. It is proposed to therefore to deal with this by means of a pre-commencement condition to clarify the causes of the poor drainage and any proposed mitigation.
- 151 It is concluded therefore that subject to the relevant conditions to resolve surface water issues that this scheme would not cause any harm in respect of flooding.

### Other Issues

- 152 *Policy GB5 of the SDLP has been referred to in objections to the scheme.* This is not an identified major development site and this is not a saved policy therefore policy GB5 does not apply to this scheme.
- 153 *Proximity to food Sale businesses:* Letters of objection have been received raising concern about the proximity of this site to surrounding businesses selling meat and fresh foods. It is not considered that Conflict arises between the siting of this use and those businesses.
- 154 *Alternative Site Available adjacent to Oak Tree Farm:* It has been suggested that this application should be held in abeyance until such time as an application is submitted to the Council for determination on land to the south of this site adjacent to Oak Tree Farm for a crematorium. It is suggested that the Council has

such a duty because the other site is clearly preferable to that now under consideration in green belt terms.

- 155 This issue is considered below and it must also be considered that the Council has a clear obligation to determine this application in accordance with the specified time scales. In this instance this application must be determined by 27 November.
- 156 *Emerging SDP Development in the Greenbelt:* This SDP has been referred to in comments on the application and therefore it should be noted that it is still at the consultation Draft stage and little weight can therefore be given to its contents.

### Access Issues

- 157 Would be dealt with as part of any building regulations submission.

### *Assessment of Very Special Circumstances:*

- 158 *Sequential Approach:* In addition to the consideration of harm to the green belt caused by the scheme, the Council should also consider whether the green belt in general, and this site in particular, is the most appropriate site for this development. The NPPF sets out two formal uses of the sequential test (ie the sequence of tests to be applied when considering the location of new development)– in relation to retail development and in relation to development in areas at risk of flood. However it is also a helpful approach in terms of the application of green belt policy. In this case we need to consider if it would be possible to locate such a facility outside the green belt ie within the built confines of a town or village and if not whether there is a more appropriate green belt site for such a use, if need is demonstrated. This latter point relates back to paragraph 89 of the NPPF and is considered more fully below.
- 159 *Quantitative Need:* Is concerned with whether there is sufficient capacity to meet local need. An assessment is required regarding the ability of existing crematoria to cope with the need for their services, taking account of the standards of service that are expected.

### *Catchment Area:*

- 160 In an appeal decision (attached as Appendix 1) relating to a proposed crematorium in Camborne the Inspector concluded that a population of approximately 150,000 people would be within realistic travel time of the facility and that would be sufficient to ensure its long term future. The district of Sevenoaks has a population of just under 115,000 (2011 census). Taking the 150,000 as a benchmark, the applicant's submission indicates that a population of 216,069 people would live closer to the application site than any other crematorium. This figure represents a catchment area that extends beyond the boundaries of Sevenoaks and includes residents from Bromley, Tandridge, Tonbridge/ Malling and Dartford. This appears to be an accepted approach in the determination of planning applications and planning appeals i.e. that a demonstration of need does not only have to relate to the district within which the crematorium is sited, but also to those surrounding districts. However of that total, 97,734 people within Sevenoaks (i.e. 45% of the population within the catchment area) would live closer to the application site than any other crematorium surrounding the district.

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161 *Capacity/Waiting times:* Part of the applicant's case is that of the surrounding 11 crematoria, 5 of them experience unacceptable waiting times during the winter months i.e. waiting times of upto 3 – 4 weeks for a service. Those specifically identified are Surrey & Sussex, Kent & Sussex, Beckenham, Eltham and Medway. Those crematoria have been contacted and at the time of writing this report two had responded. Both Medway and Kent and Sussex refute the suggestions that they have capacity problems:

- Medway advises that it is in the midst of a major improvement programme which results in the closure of one chapel necessarily affecting its service delivery. Over a 5 year period they consider that on an average basis they have not operated at capacity over the last 5 years although there may be the occasional day when they have operated at capacity.
- Tunbridge Wells Borough Council advise that in respect of the Kent and Sussex Crematorium that they average 63% utilisation of the full capacity of the crematorium. They acknowledge an upturn of some 30% during the Jan-March period each year.

162 They go on to set out the circumstances which may account for the perception that they are operating at full capacity at certain times:

- the preference for services times during the central part of the day even though other service times may be more readily available
- the funeral directors ability to deal with multiple bereaved families i.e. the funeral directors may not have the available staff to accommodate a service due to other commitments
- if a family wish to have a church service prior to a cremation this requires the availability of the church and the minister in addition to the funeral director and crematorium.

163 Against this needs to be considered the fact that:

- these assessments do not provide a detailed analysis of the capacity of slots during the central part of the day
- that the anecdotal evidence from those clergy who have contacted the Council is that there is pressure during the winter months
- two of the three funeral directors who have contacted the council advise of unacceptable waiting times in the winter.

164 An Inspector concluded in an appeal decision in 2013) in Amber Valley (attached as Appendix 2), that in fact the *employees or operators have a vested interest in painting a rosy picture of their own operations. The funeral directors have no such vested interest.* In a case in Camborne the Inspector concluded that the *accounts of funeral directors and the clergy are persuasive* – albeit that comment was in respect of the traveling times to other crematoria. Elsewhere in that decision the Inspector refers to representations from the same group regarding waiting times in gaining services at the preferred time. The experiences of those professionally involved in arranging or conducting funerals is a material factor in

support of the application scheme and this approach was confirmed by the Amber Valley appeal decision.

### *Cremation Rates and Burials:*

- 165 The applicant's data indicates that since the mid 1990's the cremation rate has increased very slightly and sits around a figure of 75% of deaths being dealt with by cremation. The submitted evidence indicates that Sevenoaks has a relatively older population with slightly higher levels of deprivation and more residents in the higher socio economic group compared to the local authority average. The application site will serve 4 other authorities (based on the minimum drive time) and the information from the Office for National Statistics indicates that with the exception of Tandridge the other districts and Sevenoaks will have an ageing population. This in crude terms implies that death rates overall are likely to increase across the catchment area of the site.
- 166 The figures extrapolated from the ONS figures indicate that cremation rates will therefore increase (assuming that the average cremation rate remains at 75%, such that in 2011 1,370 cremations would have been expected at the Sevenoaks site and that this would rise to 1,378 in 2021 and 1,602 in 2033.
- 170 Within the local area an approval for a potential new burial ground exists at Watercroft Wood, but it is not considered that there should be any conflict between the availability of burial plots and the need for a crematorium even though the two facilities would be relatively close to each other.

### *Qualitative Need:*

- 180 Covers a range of issues that relate to the experiences of mourners:

### *Infrastructure:*

- 181 The application, through the Planning, Design & Access Statement, provides an assessment of the provision made by surrounding crematoria where 20 existing funeral directors within the area have been telephoned and views taken regarding their experiences of using surrounding crematoria. This evidence identifies a number of issues:
- Use of existing surrounding crematoria by the funeral directors (FD)
  - View of FDs upon capacity of the individual crematoria
  - Views regarding journey times
  - Assessment of the crematoria re layout, setting, etc.
  - Assessment of cremator size and whether this was an issue
  - The crematoria assessed were Kent & Sussex, Beckenham, Eltham, Medway, Maidstone, Lewisham and Surrey & Sussex .
- 182 These survey results in brief indicate:

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- That between 30%-100% of FDs have used these crematoria over the past year – the frequency of use seems largely dependent upon proximity of the FDs to the crematoria.
- 5 of the crematoria have been identified as working near to capacity in the winter months in terms of the waiting time for a convenient slot for a service
- 100% of the FDs felt they had to travel in excess of 30 minutes to get to the crematoria - with general traffic issues and location of the FDs being the main issues identified
- 4 sites were considered to have issues regarding traffic congestion and parking problems on site
- 1 crematoria had problems regarding the size of the cremator
- 2 crematoria suffer from noise associated with motorways and aircraft noise

183 These assessments are subjective and at the time of writing two of the crematoria have responded to a consultation by the Council addressing some of these issues. Medway explains that it has been undergoing improvement works which have resulted in some problems, whilst Kent & Sussex indicate that they have plenty of capacity available although it is unclear to what extent the capacity relates to service slots during the central part of the day in the busiest months. As is discussed in the representations section above, independent views have also been expressed on at least some of these matters by local clergy.

### *Travel Distances/Times:*

- 184 In previous crematorium applications/appeals an industry standard, or “rule of thumb” has been adopted as 30 minutes travel time for a funeral cortege to the crematorium being generally acceptable. In applying this standard the speed of a cortege is corrected by a factor of 0.6 of average travelling speeds. In the Camborne appeal decision the Inspector took this as a starting point for his assessment.
- 185 The applicant has submitted an assessment of the 30 minute drive times to surrounding crematoria. It can be seen that this assessment means that the majority of Sevenoaks District lies outside a 30 minute drive time to an existing crematorium. It also identifies gaps in the 30 minute drive time to an existing, or proposed crematoria in areas to the south, east and west of this district. The evidence supplied suggests that with a crematoria on the application site, the majority of the District would lie within the 30 minute drive time of the site whereas at present most of the district lies outside a 30 minute drive time of an existing crematoria. Those parts of the district around the southernmost part of the district (Marsh Green, Cowden, Penshurst, Leigh) would still lie outside the 30 minute catchment area for a new crematorium in this district.
- 186 In numerical terms it is calculated that the resident population that would have Sevenoaks as their nearest crematorium (which currently falls outside a 30 minute drive time of all other crematoria but within 30 minute drive time of Sevenoaks) would be 140,002 (based on 2011 population). This is projected to increase to 155,568 in 2021 and 168,353 in 2033. Including those who reside outside the District this number would rise to 183,837.



187 The provision of a crematorium should not be considered solely against its ability to meet a need within this district but account should also be taken of its ability to meet a need outside the district. In this case the provision of a crematorium on this site would bring parts of adjoining districts within the 30 minute travel time to Halstead. Some of those areas currently lie outside the 30 minute drive time to any other crematoria whilst some lie within the travel time to existing crematoria. Those areas that currently lie outside the travel time to any other crematoria must be considered as part of the population that would serve this facility. Those that lie within the catchment area of existing crematoria and cannot be considered as part of the population required to serve this facility and do not therefore contribute to any assessment of need. Rather they could be considered to contribute to an assessment of demand for this facility i.e. this facility would provide a readily accessible alternative facility for families who already had ready access to an existing crematorium. In this case that overlap with other crematoria exists along the north western boundary of the District and includes an overlap with the crematoria at Beckenham, Lewisham, Eltham, Maidstone and Medway.

### *Other sites:*

188 The applicant has not submitted any evidence to support the provision of such a facility within the built confines of any surrounding village or town and neither are officers aware of any such site that could be developed in preference to a green belt site. Of relevance of course to the search for a site within the built confines is the 1902 Crematorium Act restricting the proximity of crematorium to residential dwellings. It is accepted by officers therefore that such a use would have to be in the countryside. In view of the fact that the majority of the countryside within the District is green belt that means that a green belt location is most likely to come forward for this type of use.

189 In terms of other sites considered by the applicant we are advised that having identified the general area around Halstead as the most effective area in terms of distance and drive time to the district and surrounding area that a comprehensive search was conducted by driving around the general surrounding area to ascertain the potentially most appropriate location. Approaches were then made both to local agents and to individual landowners in a search for a site. Only one other site at Fairtrough Farm in Knockholt has been identified as part of this application but officers understand it was discounted due to poor road access.

190 I turn therefore to consideration of other sites that have been suggested as appropriate for such a use by residents, members or other sources.

- A site lying directly to the south of this site has been identified by another Crematorium operator as offering potential for such a use and is suggested to be a preferable site in green belt terms to the application site. This site currently forms part of Oak Tree Farm and at the time of writing this report had not been progressed to the submission of a planning application although we have been advised that one will be submitted shortly.

191 Of relevance to this site is consideration of paragraph 89 of the NPPF where it addresses the issue of inappropriate development. It identifies 6 categories of potentially appropriate development and that part most relevant to this site is:

*..limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use*

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*(excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development .*

- 192 The scheme in draft form proposes to use land immediately to the south of the current application site bordered to the south by Oak Tree Farm. The land proposed for crematorium use is that part of Oak Tree Farm which sits in front of the existing house and comprises the shell of a two storey brick building (with some spoil sitting on land in front) and a field to the north of the house. The larger field that would form the main part of the site is separated by fencing from the brick building that it is proposed to demolish. At present that part of the field to the north of the house is being used for the storage of a silo, three helicopters, a couple of steel storage containers and various steel beams and JCB buckets. It is being suggested that the brick building and all the other goods sited on this field will be removed should permission for a crematorium be granted.
- 193 At the time of writing this report the only building that appears legitimately capable of being described as lawful is the brick structure at the front of the site. The other goods would appear to be stored on the field without the benefit of planning permission and this matter is now the subject of an enforcement investigation. Clearly the removal of unauthorised items cannot be offered as evidence of a brownfield site. Nor could such 'goods' be suggested for removal as an 'offset' against the impact of the new crematorium.
- 194 If the site with the brick building and the adjacent field are treated as part of the same site the removal of the brick building does not confer an automatic right to redevelop. The test is whether any new development would have a greater impact on the openness of the green belt than the existing brick structure. In this case the structures would comprise a crematorium building with, it is understood, associated storage facility for grounds maintenance equipment. The location of the crematorium would project further northwards into what should be undeveloped land rather than sitting alongside the existing entrance into OT Farm and sitting in front of the farm and its associated buildings and structures. The floor area of the crematorium would appear to be larger than the floor area of the existing brick building. However no elevations are available and a judgement cannot be made as to the impact upon the openness of this proposed building when compared to an existing structure. Additionally it has been indicated that a small storage building will be required for grounds maintenance equipment but no details are available of that. Although this is still only at a pre-application stage it is understood that an existing access into the field would be re-used for the access into the crematorium site. What can be concluded however is that the existing brick building proposed for demolition would provide some offset against the volume of the new crematorium building and therefore represents some benefit in green belt openness terms. The precise benefit of this is difficult to estimate without details of the size and design of the proposed new crematorium on this site.
- 195 In addition to a lack of evidence regarding the green belt implications, the application proposes a different site and access arrangement and has potentially a different noise environment to the application site. At present these matters are still being considered by the potential applicant. Until such time as they are finalised and a scheme has been submitted to and been consulted upon by the Council it is not clear whether there are any environmental or other issues that would make this scheme unacceptable.

- 196 In summary therefore it is considered simply that this scheme does not currently provide sufficient information to assume that a submission on this site could be approved. If only matters of green belt are considered however it does offer the removal of an existing two storey structure offering an offset against the volume of the new crematorium. Without precise details of that scheme the overall benefit that may be present cannot be judged however
- A site has been identified in Dartford close to the junction of the M25 and A2 which Dartford are marketing for a new crematorium. This is a green belt site. Whilst that site and the application site may cover a small amount of the same area of need the applicant advises that they do not consider that the use of that site would remove the need for a new crematorium in this district.
  - A planning application is under consideration for a new crematorium on a green belt site in Gravesham. As above it is not considered that the area of need for that crematorium will affect the area of need for a site in this district.
  - Watercroft Wood: This green belt site had permission for a new chapel and cemetery across part of the site. Planning permission for a crematorium was refused on this site in the mid 1990s on the basis of lack of identified need. The applicant advises that this site was investigated for its potential but expresses concerns about its availability at the time of interest and the proximity of residential dwellings to the site. There is of course also the issue that part of this site is ancient woodland and it is unclear if/how much land would need to be cleared to make such a use acceptable.
  - Greatness Cemetery: The applicant advises that the site would present difficulties in terms of the proximity of dwellings to the site.
  - Otford cemetery: A green belt site and the applicant expresses concerns about the proximity of housing to the north and noise for the motorway to the south.
- 197 The harm identified in this case is the principle of building the proposed crematorium in the Green Belt, which would be inappropriate development and the harm this building would cause to the openness of the Green Belt. The report has identified that all other harm including to the character and appearance of the landscape, noise, air quality, amenity, highways, and PROW can be satisfactorily mitigated by conditions.
- 198 Essentially the very special circumstances identified relate to the demonstration of need, being both a quantitative and qualitative assessment, location of and effectiveness of existing crematoria, availability of other sites and the impact upon landscape.
- 199 Although we are advised that a comprehensive search was undertaken by the applicants albeit only 1 alternative site has been fully detailed. Others referred to by residents and others, that have been referred to the applicants, have been advised, (for reasons discussed above), as unacceptable. Officers are not aware of any alternative site that can be clearly demonstrated to be available that offers a more suitable option to the application site.

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- 200 As can be seen from above, it is considered that the proposed scheme could fit comfortably within the general landscape character of the surrounding area without causing significant harm. However the fact that a development could 'fit in' could be easily replicated within the area and would not therefore be regarded as a very special circumstance on its own to clearly outweigh the harm to the Green Belt.
- 201 The assessment of the ability of surrounding crematoria to cope with a busy winter schedule is less than clear with the crematoria themselves offering explanations, to an extent at least, as to why there may be delays or perceptions of delays during the winter season. This evidence is not wholly clear however, since the evidence offered does not specify the ability of the crematoria to offer slots during the sought after peak hours. Their evidence is somewhat contradicted by the clergy who have contacted the Council and who it is assumed provide an unbiased account of their experiences of delays. This issue does at least contribute to a very special circumstance case although not being wholly convincing by itself.
- 202 The matters of distance to surrounding crematoria and lack of provision within a reasonable drive time i.e. 30 minutes of an existing crematoria, to large parts of the district and indeed parts of surrounding districts, is compelling. Previous appeals have adopted an approach that a 30 minute drive to a crematorium is a reasonable expectation. It is clear from the evidence submitted that the vast majority of the district does not lie within such a travelling distance of an existing facility and that there are areas of surrounding district that also do not lie within such a distance of existing facilities. A facility within this district, such as at the appeal site would fulfil that need.
- 203 It is clear from examination of other appeal decisions that this is capable of representing the very special circumstances needed to overcome harm caused by virtue of inappropriateness. In this case the harm caused by the lack of available crematoria to the local population within a 30 minute drive time in combination with the scale of population affected by this deficiency is considered to be sufficient to clearly outweigh the harm caused to the green belt by virtue of inappropriateness and other harm.

### **Conclusion**

- 204 This scheme proposes a new crematorium with burial grounds and associated parking and landscaping on a green belt site fronting London Road Halstead. The site has been assessed in terms of its impact upon the adjacent highway and it could be accommodated without causing adverse impact to local road users. The landscaping proposed would change the character of the site but would be sympathetic to the general character of this landscape and would provide bio diversity improvements to offset the losses associated with the loss of part of an existing boundary hedgerow. Overall the surrounding area could accommodate new development of the sort proposed without causing material harm to the character and appearance of the surrounding area.
- 205 In terms of the amenities of the area although evidence has at this stage still to be fully assessed regarding environmental factors of noise and air quality it is considered that these could be adequately covered by alternative legislation/condition.

- 206 The proposed scheme is clearly, in part, inappropriate development within the Green Belt where openness and permanence are both essential characteristics which would be damaged by the development proposed. Therefore very special circumstances must be demonstrated to clearly outweigh the harm caused to the green belt by virtue of the inappropriateness in principle and any other harm.

**Background Papers**

Site Plan

Contact Officer(s): Lesley Westphal Extension: 7235

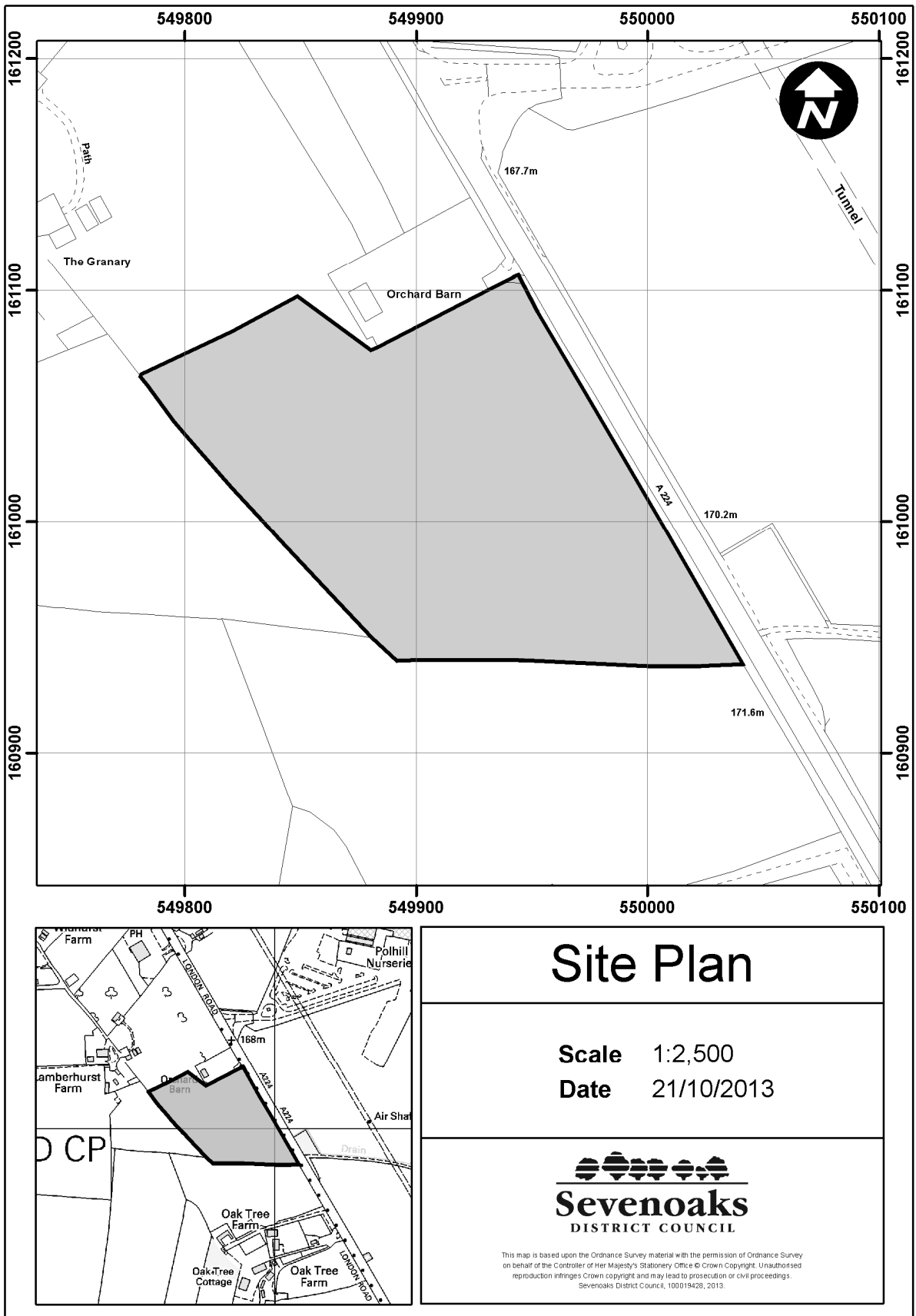
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MR7IP3BK0L000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MR7IP3BK0L000>



**Block Plan**





## Appeal Decision

Inquiry opened on 14 July 2009  
Site visit made on 17 July 2009

by **Mike Robins MSc BSc (Hons) MRTPI**

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

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Decision date:  
**19 August 2009**

### Appeal Ref: APP/D0840/A/09/2098108

#### Land at Race Farm, Puggis Hill, Treswithan, Camborne, Cornwall TR14 0PU

- 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 Crematoria Management Ltd against the decision of Kerrier District Council now replaced by Cornwall Council.
- The application Ref PA07/01094/FM, dated 28 June 2007, was refused by notice dated 6 November 2008.
- The development proposed is a crematorium, provision of an access road, parking and servicing areas.

#### Summary of Decision: I allow the appeal subject to conditions

#### Procedural Matters

1. Notwithstanding the original description of development, it was agreed between parties that the junction improvements, namely the mini roundabout, were not part of the scheme; I have altered the description accordingly.
2. At they inquiry a revised set of plans were submitted. In these, the appellants had responded to information which required the relocation of the crematorium building to maintain statutory minimum distances from dwellings as identified by the Cremation Act 1902. Although parties had limited opportunity to consider these revisions, they did not involve any significant change in the scale, layout or design of the building. While it would have been preferable for the matter to have been addressed earlier, I am satisfied that the revisions were not made to specifically address any substantial planning concerns regarding the scheme, and that no interests would be prejudiced by my acceptance of the revised plans. I have considered the appeal on the basis of these plans.
3. A Statement of Common Ground, (SOCG) was submitted at the inquiry, dated 14 July 2009. This addressed agreed details of the site and surroundings, confirmation of matters not in contention and an agreed set of conditions.

#### Main issues

4. I consider that there are two main issues in this case; firstly, the effect on the character and appearance of the surrounding countryside with regard to national and local policies; and secondly, the effect on the local ecology, particularly protected species, including dormice and badgers.

#### Reasons

5. The appeal site comprises all of one and a large part of a second field, both of semi-improved grassland currently used for livestock or equine grazing. The fields are



enclosed by substantial hedgerows and lie on a slope falling to the east down to a wooded valley of a tributary of the Red River.

6. The site lies in open countryside to the west of Camborne, the main urban centre of which lies beyond the A30 trunk road, which at this point forms a boundary to the urban area. This boundary is not however, continuous and in some areas, notably further east at Tolvaddon, there is significant development to the west of the road.
7. The site is proposed to be accessed from the A30 (T) via a road along the western boundary of the site which leads to Kehelland village. Beyond the proposed access onto the site itself, a network of roads also lead out to the north coast, while along the northwest boundary, a lane, Puggis Hill, leads down to the small hamlet of Reskadinnick, approximately 150m from the site boundary. There are public footpaths in the area, including one that extends out from the town of Camborne towards Reskadinnick and on towards the coast which passes approximately 300m to the east of the site.

**Character and Appearance**

8. The site does not lie within any locally or nationally designated areas for landscape, and it is accepted by the main parties that it will not have an adverse impact on the Area of Outstanding Natural Beauty, (AONB), approximately 1 km to the north. The site does, however, lie within an area classified by the Cornwall Landscape Assessment, 1994, as characteristic of the Camborne-Redruth Mining Area. This Landscape Character Area (LCA) is summarised as being a rolling, sheltered landscape with post industrial mining relics, a strong field pattern and many built structures giving the landscape a cluttered feel.
9. Locally there are no buildings currently on the appeal site itself but the surrounding countryside is not entirely undeveloped, having a range of isolated dwellings, hamlets and villages, as well as the nearby Race Court commercial units and the Rosewarne Agricultural College.
10. It is not contended by the Council that the proposal compromises the countryside character as set out in this assessment, but that it detracts significantly from the existing site and immediately surrounding greenfield agricultural land, due to the proposed introduction of incongruous building forms and landscaping.
11. The crematorium would be a substantial building with associated roads, parking areas and a large and regularly laid out water feature, with further areas of formal landscaping. I concur with the Council's view that there would be harm to the countryside character and appearance and these concerns are supported by national policy. Planning Policy Statement 7 - *Sustainable Development in Rural Areas* (PPS7) seeks to strictly control development with the aim of protecting the intrinsic character and beauty of the countryside. These aims are supported by Policy 2 of the Cornwall Structure Plan, adopted 2004, (the Structure Plan) which, in accordance with aims in Planning Policy Statement 1 - *Delivering Sustainable Development* (PPS1), seeks to protect and enhance the quality of the natural and built environment, retaining important elements of the landscape including natural and semi-natural habitat.
12. There are, however, elements of the scheme that weigh in favour of this proposal as regards the effect on the character and appearance of the countryside. It has been generally accepted that due to the constraints imposed by other legislation,

particularly The Cremation Act 1902, most new crematoria require a rural or countryside location. The appellants have carried out a comprehensive Landscape Visual Assessment from which the final design and layout have been determined. Consequently, the orientation of the main building, while by necessity responding to the contours of the sloping site, also presents its narrowest profile to the long views from the urban areas of Camborne.

13. The materials proposed would be appropriate to the area, and the building, while larger than others nearby, would be kept relatively low with an unobtrusive chimney and would be set against a backdrop of the sloping ground and landscaping. Proposed tree and hedgerow planting would assist in integrating the building in accordance with approaches encouraged in the LCA assessment.
14. Much of the landscaping is proposed to incorporate natural species and the majority of the existing hedgerows would remain, with further planting included in the scheme. The use of meadows rather than more managed landscaping for large areas would also help to integrate the development into the countryside. Notwithstanding this, the proposal still represents a significant change which would introduce a more urban character in the form of roads, parking and buildings to this countryside setting.
15. The new entrance would introduce a substantial gateway and signage onto a rural road, although the site layout would prevent views through this entrance of the parking areas and building. This road currently has entrances off it serving two house and the commercial units at Race Court. Further along the network of roads, entrances to farms and other small industrial units, such as at Kieve Mill, can also be found. I do not therefore consider that the entrance would materially detract from the appearance of the area.
16. Turning to the main building and the hard and soft landscaping, the immediate local views are significantly restricted by the substantial hedgerows surrounding the site. For users of the road passing the entrance and down Puggis Hill, the structures would be well screened. Some views would be available from Race Court and Race Farm, but again existing hedgerows, supplemented by additional landscaping could adequately address this.
17. Views are available from further vantage points such as the nearby footpath and the A30 (T). I had the opportunity to take views from both these locations during my site visit. Those from the A30(T) are inevitably limited by the speed of travel and oblique angle, Direct views are not available from the west and those from the east screened by the extensive shelter belt planting associated with Rosewarne. Views from the footpath would be at some distance and only of significance during the winter due to the belt of trees between the footpath and the site. These views do, however, encompass much of the site and add weight to my concerns over the harm to the character of the area.
18. Other views to the site, for example from vantage points between buildings on the Weeth Road within Camborne or further into the town, are at increasing distance and may perceive change, but not significant harm to the appearance of the area when viewed against the wider pattern of development including the Race Court complex and the extensive areas of the Rosewarne College fields and buildings.
19. I conclude therefore that this proposal would lead to harm to the character and appearance of the countryside, contrary to Policy 2 of the Structure Plan in this

regard. The Kerrier District Local Plan, Revised Deposit Draft, Policy ENV1 seeks to prevent development which would lead to significant harm to the countryside unless outweighed by the need for the development and benefits to the economic and social wellbeing of the community and this is reinforced in relation to the design of buildings in Policy B.EN14. This plan was abandoned in 2004 and was not progressed to public local inquiry and as such I cannot afford it significant weight, nonetheless these policies are reflective of Policy VIS2 of RPG10 which seeks to meet the economic and social needs of the rural community, itself reflective of national guidance in PPS7. Accordingly it is appropriate to consider the need for this new crematorium at this location in Cornwall and whether this outweighs the harm I have identified above.

*Need*

20. Cornwall has a current population in excess of 500,000 people and is somewhat different to the rest of the country in that, as a peninsular county, it has no immediate neighbours other than to its eastern boundary. Practically this means that services that extend beyond just local provision will often be at some distance from the population, who have no choice or recourse to services available in neighbouring counties.
21. Nationally Cornwall is shown to have one of the lowest levels of crematoria by area, although this is unsurprising considering the low population density in what is predominantly a rural area. It is much closer to the average in terms of crematoria per head of population. Considered at a more local level the existing crematoria at Penmount and at Bodmin serve a dispersed population. Because of its location Penmount provides the only realistic choice for approximately 300,000 people, although it is agreed that a large proportion of these, notably those to the southwest on the Lizard and those to the west, in Penzance and beyond, are at some considerable distance from the facility.
22. The appellants suggest that not only is a further crematorium required to meet the needs of this population who are at distance from Penmount, but also that Penmount itself is at its maximum capacity and unable to deal, at certain times, with existing demand. This situation, they suggest, will be exacerbated by increasing population numbers and possibly death rates in this part of Cornwall. I will therefore consider in more detail the quantitative and qualitative aspects of need for a new crematorium at this location.

*Quantitative Need*

23. Penmount is identified as having a capacity for 4,000 cremations per year. Although annual numbers vary it has carried out approximately 2,500 cremations per annum, with more prior to the opening of the Bodmin Crematorium in 1989. This would suggest there is significant additional capacity to deal with future demographic changes. However, I do not consider that it is entirely realistic to suggest that every available time slot, especially those in the early mornings or late afternoon, could or would be utilised and consequently the practical capacity of the crematorium would be less than the Council's theoretical figure.
24. However, even when considering the preferred core time periods it is apparent that approximately 75% of time slots on average across both chapels are used. This therefore suggests that there would be the potential for Penmount to take increased numbers of cremations.

25. Both parties suggest that there will be an increasing population within this area, and cremations have increased at Penmount from 2454 in 06/07 to 2631 in 08/09. Further factors which may also increase the number of cremations include changing death rates and an increased preference for cremation over burial. While the latter factors are difficult to predict, I note the appellants have been relatively conservative in their projections, utilising 2001 census data and static death and cremation rates.
26. The emerging Regional Spatial Strategy, (RSS), identifies much of the area for urban growth, with between 20 and 35% increases in population across central and west Cornwall. While the RSS has not been formally published nonetheless the population estimates are based on factors unlikely to be significantly changed by issues currently delaying its publication.
27. Both parties have projected an increase in the number of cremations as a result of demographic change resulting in excess of 3,000 cremations per year at Penmount. Such figures would remain within theoretical capacity, however, they would significantly increase the use of the preferred core times, resulting in pressure on service delivery and potentially delays in achieving appropriate and timely cremations, I therefore turn to qualitative matters.

*Qualitative Need*

28. It is unreasonable to suggest that a crematorium can realistically serve an unlimited spread of population, and as I have already identified a significant proportion of the population currently served by Penmount are at some distance from the facility. It could therefore be argued that a catchment approach could equally well contribute to the assessment of quantitative need. However, in this case, Penmount currently serves all of West Cornwall as there is no viable alternative. The question to my mind is therefore whether provision at such distance is appropriate considering the qualitative needs of the bereaved.
29. In previous crematorium cases an industry standard, or "rule of thumb", has been applied at 30 minutes travel time for the funeral cortege. It has not been rigidly applied in all cases and in this area, with its dispersed, low density population, I consider it need not be definitive of the populations served by the facility. Nonetheless it provides a starting point for the assessment of the quality of service provided to the bereaved.
30. Two estimates of travel time were put to the Inquiry, the first an Isochronal study from a previous appeal in this area, ref APP/Y0815/A/98/295605, at Killivose, Camborne, the second an Isochronal study submitted by consultants for this appeal. The studies do not conform, even allowing for the different locations across Camborne. That submitted to the Killivose appeal would appear to show 30 minute drive times with no allowance for the slower speeds associated with the funeral cortege. While this is not explicit in the decision it is supported by the report accompanying the study.
31. The study submitted with this appeal is corrected for cortege speeds, a factor of 0.6 has been applied. It is, however, flawed, identifying similar journey times for points along the same road, apparent for the A30 at Scorrier but even more so for the A390 from St Austell where 3 consecutive points are reported to be on the 30 minutes limit.

32. My conclusions on the matter are therefore only informed in part by the studies but also by submissions from funeral directors and the clergy. I consider that the industry accepted travel times for Penmount, particularly including some flexibility for this rural area, would encompass Newquay and St Austell to the east and Falmouth, Penryn and Redruth to the south and west. For the proposed crematorium it would encompass Hayle and possibly Penzance to the west and would extend to overlap with the Penmount catchment at Redruth to the east.
33. In my view the accounts of funeral directors and the clergy are persuasive, identifying travel times to Penmount well in excess of 30 minutes extending in Summer periods to twice that or even longer. This is a significant qualitative factor that weighs in favour of the proposal, and while I accept that there would remain a population to the far west that would still be in excess of 30 minutes from the new facility, nonetheless the situation would be significantly improved for a large part of the population of west Cornwall.
34. Although I have considered the theoretical capacity of Penmount under quantitative need, I turn now to the quality of the funeral experience it can provide. I had the opportunity to visit Penmount at a time when three consecutive funerals were taking place in each chapel. There is no question that the setting is exceptional and no evidence is before me to suggest that the management and staff are anything less than highly professional in the service they provide. However, accepting that this was only a snapshot, the site at the time of my visit was busy with a large number of cars parked around the chapels and a lot of people moving around the immediate area.
35. Of greater concern is the evidence submitted indicating the delay between death and funeral. It is apparent from this that over 80% of funerals take place at least 7 days after death. These figures support the perceptions encompassed in submissions from funeral directors and clergy which point to significant difficulty in mourners achieving their preferred time and day for funerals and consequential delays or compromise. Such pressures are clearly greater in winter with increased delays during January and February in particular, with a significant proportion extending to over two weeks from date of death. While these delays can only partly be explained by Coroner delays or similar, this presents substantial evidence of pressures on the capacity of Penmount to meet the qualitative needs of such a large population.
36. The provision of a crematorium further west than Penmount would not only reduce the travel times but also the distance travelled by mourners attending funerals at the proposed facility. The appellants have calculated significant reductions in car miles and CO<sub>2</sub> savings and these figures have not been substantially challenged by the Council. National guidance has increasingly highlighted the importance of such benefits, most noticeably in PPS1 and the recently published Planning and Climate Change Supplement, and such reductions are in compliance with the Structure Plan, Policy 28 which states that consideration should be given to the overall pattern of development and minimising the need to travel.
37. Concerns were raised over the ability of the proposed single cremator facility to provide an uninterrupted service and a fitting onsite experience for mourners. The appellants currently run a number of similar facilities throughout the country and I am satisfied that maintenance and repair programmes can achieve a suitable level

of service, and that the facility could provide an appropriate experience for mourners based on the daily period of operation and length of service.

38. I place significant weight on the needs of the bereaved and conclude that the proposed crematorium would result in benefits not only in terms of the times involved in travelling to and from funerals, but also in provision of appropriate timescales for funerals to take place and potentially the experience on-site which may currently be under pressure at the busiest times of the year. These benefits would accrue not only to those who would be served by the proposed crematorium, but to the wider population now served by Penmount

### **Ecology**

39. The most recent ecological appraisal submitted to the Inquiry highlighted the nearby, but off-site, presence of badger setts and activity and the potential for dormice associated with the mature hedgerows on and surrounding the site. Full surveys have not been carried out. Although no records of dormice are reported from this site, increasing numbers are being reported in Cornwall. Surveys should therefore have been undertaken for both badgers and dormice prior to determination, and the use of conditions to address a survey, particularly for dormice, would not normally be appropriate.
40. In this case, however, the relevant hedgerow habitat supporting dormice would be largely retained and undisturbed. Only two short lengths are proposed to be removed where access is required into and within the site. In addition, significant additional hedgerow planting is proposed. Nevertheless appropriate precautions need to be taken which can, in this case, be achieved through suitable conditions to protect the existing hedgerows and identify the presence of these species, which, if found, can then ensure suitable protection of resident animals and timing of works. In light of this I conclude that there will be no material harm to protected species from this development.

### **Other Matters**

41. Concerns were raised regarding the level of parking to be provided on site. However, this exceeds the expected standards set out for crematoria by the Federation of British Cremation Authorities, although the level proposed here would be acceptable in this rural area. I am satisfied that suitable management responses would be in place for the occasional larger cremation.
42. The new facility would increase use of the local road off the A30 (T) that passes two properties which have entrances onto this road. The road is wide enough for two cars to pass, even at its narrowest point outside Elmhurst, and while mourners' vehicles and the cortege may introduce limited delays this would be for only short periods of the day. The crematorium would be restricted in its opening hours such that there would be no significant traffic associated with the proposal at peak times of commuter traffic, benefiting users of the Strategic Road Network, the A30 (T), as well as the local road network to Kehelland and Reskadinnick. Visibility from the new entrance could be adequately controlled by condition and the layout is such that I would not anticipate any delay to vehicles entering the site and consequential queuing back along the road.
43. I am satisfied that the environmental controls to which any new facility would be subject would ensure no harm would arise to nearby properties from odour or



noise. While I accept that the site itself may experience some noise from the nearby A30 (T) this was not appreciable at the time of my visit and is likely to be reduced by the landscape planting; such concern is not sufficient to alter my decision on this matter.

44. Reference was also made to occasional odours affecting the area from the nearby sewage treatment works at Kieve Mill. I accept that should this be a common occurrence it would impact on the experience for mourners. However, the works are at some distance and controls should be in place to limit such occurrences, I do not consider that this matter weighs significantly against my decision on this matter.

*Other Appeal Decisions*

45. A large number of appeal decisions were referred to by both parties during the Inquiry. I have already referred to the peninsular nature of Cornwall setting it apart from other areas in the country, and therefore consider the most relevant previous decisions to be those relating to Killivose and to the other nearby site at Kieve Mill, ref APP/Y0815/A/94/243697. While these related to proposed new crematoria in the Camborne area there are notable differences with this proposal.
46. At Kieve Mill the building was of a larger scale with a significantly higher chimney, and was located close to, and open to views from, the AONB. It was also located further from the main arterial A30 (T) and commensurate time savings for the cortege were less persuasive than for this scheme. The qualitative benefits were therefore not felt to be compelling in outweighing the substantial harm to the landscape.
47. At Killivose a larger facility was again open to views and despite the brownfield nature of the site, the prominent and visually intrusive nature of the development with significant loss of hedgerows was felt to be unacceptable. Major benefits were identified in the provision of a crematorium for west Cornwall but these were felt to be reduced by the poor access to the site, the absence of support and the failure to serve parts of west Cornwall. In the scheme before me there has been a comprehensive and substantially unchallenged assessment of alternatives, significantly enhanced access from the A30 (T), a high level of support from funeral directors and clergy and a greater focus on providing a scheme that integrates into the landscape.
48. For both schemes, while reduced vehicle miles were acknowledged, the emphasis on the benefits of such savings and their importance in reducing the future levels of climate change were not as prominent as they are now.

**Conclusion**

49. Penmount has been providing a service to a large and dispersed population throughout central and west Cornwall for a considerable period. While the number of cremations carried out has remained relatively static, I am satisfied that numbers will increase into the future as a result of demographic change. While the facility is well managed and in an attractive setting it is at considerable distance from a significant proportion of the population it serves. This results in travel times for some mourners that are unacceptable, and while theoretically there is sufficient capacity for the future, the large population served already results in a very busy facility and unacceptable delays in the timing of funerals after death.

50. This proposal would result in an improved quality of experience for the bereaved at both Penmount and the new facility, with reduced pressures leading to more available and timely funerals and significant savings in time and distance for mourners in west Cornwall. While I have identified some harm to the countryside from the introduction of the building, roads and parking areas, nonetheless this would be mitigated by the comprehensive approach to design and landscaping and outweighed by the benefits I have identified.
51. I am conscious that my decision will result in a reduced number of cremations taking place at Penmount. However, I am satisfied that a population of approximately 150,000 people would be within realistic travel times of each facility; a population that is likely to increase. Penmount would therefore draw on a catchment that would be sufficient to ensure it remains into the future.
52. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

### **Conditions**

53. Conditions were put forward by the Council and were reviewed within the SOCG. I have considered them against the requirements of Circular 11/95. In addition to those regarding implementation and the submission of materials, I have imposed conditions to retain and protect the landscape and boundary features, particularly the hedgerows, for both landscape and ecology reasons. The conditions regarding the design, construction and retention of the access, roads and parking areas prior to use are necessary to ensure safe access and suitable provision for mourners. The site has some archaeological potential but is also within a former mining area; I have therefore imposed conditions to address these matters.
54. I have imposed a condition regarding opening hours during the week to address traffic concerns on the local and trunk road network. In light of the appellants' statements regarding there being no need or preference for funerals on Saturdays, I have also restricted the use of the site for cremations on the weekend.
55. Although some details have been submitted regarding the management of surface water on the site, it is necessary to impose a condition to ensure suitable delivery of these measures, as well as a condition to address the foul drainage needs of the site. Matters relating to the need for full ecological surveys have been addressed above.

### **Formal Decision**

56. I allow the appeal, and grant planning permission for a crematorium, provision of an access road, parking and servicing areas on land at Race Farm, Puggis Hill, Treswithan, Camborne, Cornwall TR14 0PU in accordance with the terms of the application, Ref PA07/01094/FM, dated 28 June 2007, and the following plans, Ref J06063 01A, J06063 15B, J06063 16B, J06063 17C, J06063 18C, J06063 19C, G269 LS01C, G269 LS02A and BH07029/D05, subject to the following conditions:
- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning



- authority. Development shall be carried out in accordance with the approved details.
- 3) On Mondays to Fridays inclusive, the development hereby permitted shall not be open to members of the public except between 09.30 and 16.30. There shall be no cremations on Saturdays or Sundays.
  - 4) No development shall take place until details of a tree, hedgerow and landscape protection scheme have been submitted to and approved in writing by the local planning authority. The scheme shall address the construction period and shall include positions and specifications of temporary fencing to be erected and an implementation programme. No excavations for services, storage of materials, parking of vehicles, excavation of soils or materials shall take place within the area designated as being protected. The approved tree, hedgerow and landscape protection scheme shall be carried out in accordance with the approved details and implementation programme.
  - 5) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping based on plans, Ref G269 LS01C and G269 LS02A, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
  - 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority, a plan indicating the design, materials and type of boundary treatment for the boundary to the southeast of the site dividing the main field area. The boundary treatment approved shall be completed before the use hereby permitted begins and shall not thereafter be altered or removed.
  - 7) Before the development hereby permitted is first brought into use, the main access road, circulatory roads and car parking spaces shall be constructed in accordance with the specifications indicated on the approved plans, or such other specification submitted to and approved in writing by the local planning authority. Individual car parking spaces shall be delineated in accordance with the approved details and shall not thereafter be obstructed or used for any other purpose.
  - 8) No development shall take place until the access priority junction is laid out in accordance with the details indicated on drawing No BH07029/D05. Details of the construction of the visibility splay and low level planting areas shall be submitted to and approved in writing by the local planning authority. The approved junction and visibility improvements shall be completed in accordance with the approved details before any other development is commenced.

- 9) The recommendations of the Sustainable Travel Statement shall be implemented in accordance with the timetable therein, and thereafter maintained.
- 10) No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 11) No development shall commence until a scheme for the provision of surface water drainage has been submitted to and approved in writing by the local planning authority. The drainage works shall be completed in accordance with the details and timetable agreed.
- 12) No development shall commence until a scheme for the provision of foul drainage has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the details and timetable agreed.
- 13) Development shall not begin until a scheme to deal with any instability of the ground has been submitted to and approved in writing by the local planning authority. The scheme shall include on site investigations and an assessment to identify the extent of unstable ground and the measures to be taken to avoid risk to buildings when the site is developed. The approved scheme shall be implemented before the development hereby permitted is brought into use.
- 14) Development shall not begin until a scheme to deal with any soil contamination has been submitted to and approved in writing by the local planning authority. The scheme shall include on site investigations and an assessment to identify the extent of contamination and the measures to be taken to avoid risk when the site is developed. The approved scheme shall be implemented before the development hereby permitted is brought into use.
- 15) Other than the matters in respect of badgers and dormice, which are subject to conditions 16 and 17, the development shall be carried out in accordance with the details of the Ecological Appraisal dated 3 May 2007, submitted by Encompass Ecology Ltd.
- 16) Details shall be submitted to and approved in writing by the local planning authority setting out the area, timing and methodology of a survey of the use of the site by badgers and dormice. The survey shall be carried out in accordance with the approved details prior to development commencing and the results made available to the local planning authority.
- 17) Details of any mitigation measures including an implementation timetable, required to safeguard the presence of badgers or dormice identified by the survey referred to in condition 16 shall be submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved timetable.

*Mike Robins*

INSPECTOR

Appeal Decision APP/D0840/A/09/2098108

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DOCUMENTS

- 1 Council's letter of notification, dated 19 June 2009.
- 2 Rebuttals submitted from all four witnesses for the appellants.
- 3 Opening statement from the appellants.
- 4 Original letter from the Cornwall Joint Crematorium Committee to the planning application, dated 24 July 2007.
- 5 Statement of Common Ground, dated 14 July 2009.
- 6 Data regarding funerals and home location of deceased.
- 7 Data regarding the delay between death and funeral.
- 8 E-mail regarding maintenance, specifically refractory relining.
- 9 Extract from Kerrier District council Revised Deposit Draft – Page 150.
- 10 Letters pertaining to, and suggestion for, condition 3.

PLANS

- A Revisited plans, addressing separation distances from dwellings in accordance with Cremation Act 1902.

PHOTOGRAPHS

- 1 Aerial photograph encompassing part of site.



The Planning  
Inspectorate

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## Appeal Decision

Inquiry held on 4-6 June 2013

Site visits made on 6 and 7 June 2013

**by Harold Stephens BA MPhil Dip TP MRTPI FRSA**

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

**Decision date: 9 July 2013**

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**Appeal Ref: APP/M1005/A/12/218880**

**Land east of Derby Road, Swanwick, Derbyshire**

- 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 Memoria Ltd against the decision of Amber Valley Borough Council.
  - The application Ref AWA-AVA/2011/1199 dated 8 December 2011 was refused by notice dated 19 November 2012
  - The development proposed is the construction of a new crematorium together with associated highway works, car park, garden of remembrance and provision of land for natural burials.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of a new crematorium together with associated highway works, car park, garden of remembrance and provision of land for natural burials on land east of Derby Road, Swanwick, Derbyshire in accordance with the terms of the application, Ref AWA-AVA/2011/1199, dated 8 December 2011 and the plans submitted with it, subject to the conditions listed at Annex A.

### Preliminary matters

2. I held a Public Inquiry on 4-6 June 2013 and I inspected the appeal site on 6 June 2013. On 7 June 2013 I visited existing crematoria at Markeaton, Bramcote, Mansfield and Chesterfield. On 7 June 2013 I also visited the Charnock Richard Crematorium, Preston Road, Chorley.
3. At the outset of the Inquiry the main parties agreed that the appeal should be determined on the basis of the following drawings: (i) Site Location plan: 1:1250 scale November 2011; (ii) Site Layout Plan No. 1095-02B – 1:500 scale - June 2011; (iii) Floor Plan No 1095-03 – 1:100 scale – September 2011; (iv) Elevations Plan No 1095-04A -1:100 scale – August 2011; (v) Illustrative Sketch Elevations Plan A3; (vi) Illustrative Masterplan Plan No 508.10/03 (HDA4) May 2013; and (vii) Proposed Access Arrangement Plan No 4053/001A – August 2011.
4. The application was supported by various reports including a Landscape and Visual Assessment, a Baseline Ecological Survey, a Planning Design and Access Statement, a Flood Risk Assessment, a Transport Assessment, an Archaeological Desk Based Assessment, a Statement of Community Involvement, a Coal Mining Risk Assessment, a Site Conditions Report and Technical Specifications.

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5. Two Statements of Common Ground (SoCG) were submitted. The first was agreed between the Appellant and the LPA. The second was agreed between the Appellant and the Swanwick Parish Council and Swanwick Residents Association (SPC/SRA).

**Main Issue**

6. I consider the main issue is whether, in the light of the development plan, national guidance and other material considerations, the appeal proposal would be an acceptable form of development within the open countryside.

**Reasons**

7. The appeal site comprises a rectangular parcel of land situated to the east of the B6179 Derby Road and consists of grazing land surrounded by a combination of tree and hedge planting to its boundaries. Immediately to the east of the site is a copse of woodland with a house known as Sleetmoor House to the south east corner of the site. To the west, north and south there are open agricultural fields. Further to the west, on the other side of the B6179 are open fields. The site extends to about 3.1 hectares and lies about 1.4kms south of the centre of Alfreton and 1km from Swanwick village centre.
8. Further to the north of the site lies commercial development, including a petrol filling station, fire station, and hotel, while further to the east there is the Thornton's Chocolate Factory. To the south beyond the field and Sleetmoor Lane there are residential properties. The land rises from west to east by about 24m.

*The proposal*

9. The application seeks full planning permission for the development of the entire site to provide a private crematorium with associated car park, gardens of remembrance and access road together with the provision of land for natural burials. The crematorium would take the form of a single storey building that would be constructed using smooth render for the elevations together with natural stone features, dark plain concrete tiles for the roof, and oak doors, posts and window frames. The maximum ridge height would be 6.8m tall with the eaves height at 2.9m high. The chimney stack would rise to a height of 8.5m.
10. The location and orientation of the proposed building on the site are governed by the Cremation Act 1902, which determines the distances that must be achieved between the Crematorium building, residential development and local highways.
11. Access for the disabled to both the gardens of remembrance and main building would be provided. All entrances into the building would have level thresholds and toilet facilities would be provided for ambulant as well as wheelchair users. Hearing loops would be installed so that all aspects of the building would comply with Part M of the Building Regulations. The building internally would provide a tranquil environment for mourners.
12. Internally, the main building would comprise three distinct components. The chapel building would form the focal structure on the site. Between the chapel and the entrance would be located an administrative building, which would comprise a waiting area, book of remembrance room, lobby and

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toilet facilities. To the south of the chapel would be the main crematory equipment, transfer chamber and accommodation for the mercury filtration system. A screened external yard would lie further to the south of the main building.

13. To the east of the crematorium building would be an area designated for natural and woodland burials. Flat stone burial areas would also lie immediately to the east and north-west of the building while formal memorial gardens would be located immediately to the north of the building. The submitted plans show the provision of 37 dedicated car parking spaces within the main parking area adjacent to the crematorium building. A further 36 car parking spaces would be provided in an overflow car park.
14. The single point of access to the site would be provided from Derby Road, which is the main road running between Swanwick and Alfreton and linking with the A38 immediately to the north. This access would be constructed in accordance with the details provided within the Transport Assessment document.<sup>1</sup>

*Relevant planning policies*

15. The National Planning Policy Framework (NPPF) was published in March 2012. The NPPF largely carries forward existing planning policies and protections in a significantly more streamlined and accessible form. It also introduces the presumption in favour of sustainable development<sup>2</sup> and makes adjustments to some specific policies. The NPPF is a material consideration in determining planning applications and appeals.
16. An Order to revoke the East Midlands Regional Strategy in its entirety came into force on 12 April 2013. The development plan consists solely of the suite of saved policies in the Amber Valley Borough Local Plan 2006 (LP). A full list of the policies that are relevant to this proposal is set out in both SoCG. It is not necessary for me to repeat that list here. From the evidence that is before me the two main policies in this case are Policy EN1 and EN5. I consider that these LP policies are broadly consistent with the NPPF and should therefore be afforded due weight. I deal with Policy EN1 first and Policy EN5 thereafter.
17. Much Inquiry time was spent debating the component parts of Policy EN1 and its reasoned justification. Policy EN1 is a general policy of restraint for new development in the countryside. Satisfaction of any of its 3 criteria will mean compliance with the policy. The most relevant of the 3 criteria in this appeal is criterion (b). Self-evidently, its requirements are different to criterion (a) which allows development deemed essential to forestry and agriculture. As such, criterion (b) cannot be and is not directed at development which is needed in the context of forestry and agriculture. The Appellant does not rely on criteria (a) or (c) of Policy EN1.
18. In relation to criterion (b) a judgement has to be made as to whether the Appellant has demonstrated that the proposal is necessary within the countryside and cannot reasonably be located within an existing settlement. If this can be demonstrated and there is no suitable and available site within a settlement to meet that need, then the proposal can be considered to be acceptable in principle. The additional layer of policy that Mr Jenkin suggests

<sup>1</sup> Appendix F to Mr Roberts Proof of Evidence

<sup>2</sup> Paragraph 14

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should be imposed, that the development should support the rural economy, appears nowhere within the policy and should not be implied.

*Quantitative and Qualitative Need*

19. The Council advances no evidence to the effect that need has not been demonstrated in this case. The SoCG1<sup>3</sup> records the fact that need is not contested in the context of the reason for refusal albeit the Council argued that there is no need for a crematorium at the appeal site. In my view that distinction is not about questioning need, but rather about whether or not there is some alternative site on which that need should be met. Moreover, it is clear to me that the Council appointed experienced consultants - Roger Tym and Partners (RTP) - to examine specifically the question of need. The suggestion by some interested persons that RTP's assessment was tainted by the fact that the Appellant was required to pay for the work is misplaced. There is no reason to doubt the integrity of RTP's work. The analysis was comprehensive. The existence of need was verified by reference to RTP's own assessment of population, geography and travel times. Mr Lomas on behalf of SPC/SRA did not contest this.
20. In light of that thorough assessment RTP concluded that there was both;
  - (i) a quantitative need in that the overall number of people that the new scheme would serve would be very substantial, and,
  - (ii) a qualitative need in that existing facilities faced unacceptable delays for funeral services in the winter months and the fact that many people who currently fall outside of a 30 minute drive of existing facilities would fall within 30 minutes drive of the appeal scheme (together with the fact that only 1 of the 4 existing crematoria offered the facility of accommodating coffins of more than 33 inches wide).
21. The Council accepted that assessment at the time of determination of the planning application. Mr Jenkin confirmed that the Council continues to accept that assessment and he provided no alternative level of need in his evidence.
22. From the evidence that is before me it is clear that a need for a new crematorium was identified as long ago as 2006 within the ICCM<sup>4</sup> report commissioned by the Council.<sup>5</sup> The interpretation of that report, and the subsequent Council Committee report,<sup>6</sup> to the effect that it did not demonstrate need is erroneous. It found a clear need. However, at that time, the reason why no crematorium proposal proceeded was simply because ICCM could not justify provision *safely* for residents of Amber Valley and the Council was not willing to support a controversial scheme that met a need which stretched beyond its boundaries. Of course, the appeal proposal is not promoted in order to cater solely for the needs of Amber Valley.
23. In simple quantitative terms, there are well over 170,000 people who will live closer to the appeal scheme than any other crematorium. This figure was not disputed by the Council or the SPC/SRA. Over 93,000 people who live beyond 30 minutes of an existing crematorium (at funeral cortege speed), will live

<sup>3</sup> INQ3

<sup>4</sup> Institute of Cemetery and Crematorium Management

<sup>5</sup> Appendix 5 of Mr Hodgson's Proof of Evidence

<sup>6</sup> Appendix 6 of Mr Hodgson's Proof of Evidence



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within 30 minutes of the appeal proposal. I am aware that the recently approved scheme in Gedling Borough would have no effect on this finding. The 30 minute threshold has been used in other crematorium cases as a "rule of thumb." It has not been applied rigidly, for example in the sparsely populated areas of Cornwall, but for good reason.

24. Mr Jenkin advances no evidence that a 30 minute drivetime is inappropriate in this instance when assessing need. Any difference between Mr Roberts' 30 minute isochrones and those in the latest LM report<sup>7</sup> is immaterial. Plainly the evidence shows there is a large gap in provision where currently there is no facility within 30 minutes drivetime. The appeal proposal would fill that gap. In coming to this view I agree that the Appellant has correctly applied a factor of 0.6 to normal road traffic speeds to take account of cortege speeds.
25. Furthermore, it is noteworthy that the consensus amongst 25 local funeral directors confirms that during busy winter months, there are unacceptable delays in securing funerals at convenient times of the day.
26. The achievement of more sustainable travel patterns receives express support in the terms of the NPPF. Even if 276,000kms per annum is the maximum degree of saving, the likely carbon saving over the life of the crematorium would be very substantial. I agree that no off-setting for emissions from the crematorium is required since those cremations would occur in any event, albeit at more distant facilities.
27. The SPC/SRA argues that four existing crematoria in the area are within a 30 minute catchment area of the site and that the existing provision is adequate. However, the evidence submitted is based on isochrones which show driving distances based on speed limits. They take no account of traffic, junctions (whether roundabouts, signal controls, or give way signs), the need to accelerate or decelerate, pedestrian crossings, or any other feature of the highway network that prevents a driver from driving at the maximum lawful speeds at all points on a journey.
28. The SPC/SRA isochrones include those which apply the factor of 0.6.<sup>8</sup> That factor is accepted as legitimate by Mr Lomas, and although queried by the Council, Mr Jenkin produces no evidence to support any doubt about its use. However, the factor of 0.6, to reflect the slower speeds of funeral vehicles which attend at every funeral, is applied by SPC/SRA to its isochrones that are based on speed limits. The 0.6 factor is not and cannot be applied by SPC/SWA in an attempt to remedy the deficiencies of its isochrones.
29. At the Inquiry, Mr Lomas tried to suggest that the Appellant's isochrones were at fault by reference to anecdotal experience of driving around on the local road network. It is noteworthy that the Appellant's isochrones were produced some 18 months ago as part of the Transport Assessment whereas Mr Lomas did not raise this point until the last day of the Inquiry. Mr Lomas has only produced the isochrones at his Appendices 7 and 8. He produces no alternative isochrones that purport to show distances based on his anecdotal evidence, nor is there any criticism of the independent GIS analysis by RTP.

<sup>7</sup> Appendix 1 to Mr Hodgson's Proof of Evidence - Amber Valley Crematorium Quantitative Needs Analysis - A report by Leisure Markets November 2011

<sup>8</sup> Appendix 8 of Mr Lomas' Proof of Evidence



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30. With regard to the adequacy of the existing crematoria provision, Mr Lomas spoke to an employee or operator of each of the 4 existing crematoria. By contrast, the Appellant surveyed 25 funeral directors - a methodology expressly accepted by RTP. The consensus amongst funeral directors was that unacceptable delays of 2 or 3 weeks are encountered during the winter months. The employees or operators of the existing crematoria disagree. However, those employees or operators have a vested interest in painting a rosy picture of their own operations. The funeral directors have no such vested interest. Interestingly, the ICCM's consultation exercise in 2006 was not restricted to crematorium operators. It included funeral directors and clergy. That exercise confirmed a need in 2006. It also recognised the existing crematoria may face capacity issues in the winter months. Since then service times have been extended, making convenient slots more scarce.<sup>9</sup>
31. SPC/SRA's case is based on declining death rates which they claim are falling nationally and locally. Death rates are falling, but overall cremation rates are high and the absolute numbers of cremations locally are set to rise using a conservative cremation ratio of 70%.<sup>10</sup> The 4 existing crematoria have technical capacity when looking at their operation over any particular year but the fact that Chesterfield crematorium, for example, has plenty of availability in the summer months, or at 1630 hours on a winter's afternoon is of little comfort or use to those needing to book a funeral at the busiest time of the year at a time of day that would actually allow friends and family to attend. The technical capacity of the 4 crematoria does not bring people who currently live beyond a reasonable distance to a crematorium any closer to that crematorium. Plainly, there is a quantitative and qualitative need in this case.

*Alternative Sites*

32. The question posed in Policy EN1(b) is whether there are alternative sites within settlements that could accommodate this much-needed development. Policy EN1 seeks to control development outside of the built framework of settlements. I note that there are no settlement policy boundaries on the Proposals Map. However, Policy H3 of the LP also includes the term "built framework" of specified settlements. That term is defined in the reasoned justification<sup>11</sup> and makes it clear that it includes only areas within the limits of continuous or contiguous development forming the existing built up area of a settlement. There is no other definition for "built framework" in the LP, and no reason to adopt some different definition in the context of Policy EN1.
33. There was considerable debate at the Inquiry as to which settlements should be examined. In my view any such settlement must be located so as to sustainably meet the identified need. Settlements towards the periphery of the identified gap in provision or within the more sparsely populated area to the west would fail to achieve that requirement. The Appellant examined sites in Alfreton and Ripley (including Swanwick, Leabrooks, Riddings and Codnor).
34. The Appellant's approach receives support from the ICCM report 2006 when considering a proposal for a new crematorium at Alfreton Park.<sup>12</sup> Alfreton is described as an ideal choice for new crematorium development being broadly equidistant from existing crematoria. The Council did not identify any other

<sup>9</sup> Appendix 5 of Mr Hodgson's Proof of Evidence  
<sup>10</sup> Appendix 3 of Mr Hodgson's Proof of Evidence paragraph 3.13  
<sup>11</sup> Appendix 5 of Mr Mitra's Proof of Evidence paragraph 3.44  
<sup>12</sup> Appendix 5 of Mr Hodgson's Proof of Evidence

settlements that should have been included in the search. A brief reference was made to Belper, Heanor and Matlock but no consideration was given to the sustainability consequences of locating a new crematorium in any of those 3 settlements. Clearly a new crematorium in any of these 3 settlements would not meet the identified need in a sustainable way being either too close to existing facilities or too far from the main centres of population that fall within the gap in provision.

35. I found the evidence of Mr Straw to be more than adequate. There is no cogent competing evidence to suggest that his site search was inadequate. The criteria which he applied, including distance from dwellings and highways, a reasonable degree of tranquillity and a site size of around 2 hectares minimum, are all perfectly reasonable. The search, which used his own market knowledge, a circular to agents that was sent out twice, and the Council's own SHLAA<sup>13</sup> and ELR,<sup>14</sup> was exhaustive. It identified no suitable and available site. Possible land values or viability played no part in Mr Straw's search for sites.
36. In the face of that comprehensive search there is no site advanced by any of the opposing parties at the Inquiry as a serious candidate to accommodate a new crematorium within one of the relevant settlements. A site suggested by Mr Soudah at Nottingham Road, Somercotes was discarded by Mr Straw as being within 200 yards (182.8m) of residential property. I consider Mr Straw's evidence to be cogent and compelling. It is noteworthy that of the 25 planning permissions granted since 1996 for new crematoria development all fall outside of settlements.
37. Given the absence of any alternative site within settlements, it was suggested that Policy EN1(b) might require a wider search for alternative sites outside of settlements or, there is some sequential requirement to use previously developed land or existing buildings outside of settlements ahead of the appeal site by reference to Policy LS1 of the LP or the NPPF. Those suggestions are thoroughly misplaced. First, it is absolutely clear from the terms of Policy EN1(b) that it requires a search only for sites within settlements. Secondly, there is no sequential requirement whether in NPPF or Policy LS1 to use previously developed land or existing buildings ahead of greenfield sites. Paragraph 17 of the NPPF expresses encouragement and Policy LS1 expresses a preference to use such land. If that encouragement or preference is not fulfilled there is no policy breach. In any event, neither the Council nor other objectors advance previously developed land or existing buildings said to be suitable and available for new crematorium development. Taking all of these matters into account the proposal accords with Policy EN1.

*The Separate Identities of Settlements: Policy EN5*

38. Although not included in the reason for refusal much Inquiry time was spent discussing Policy EN5. There is a direct link between policies EN5 and EN1. The wording of the policy is clear. If a development meets the terms of Policy EN1 then it will be permitted pursuant to Policy EN5. The Council and other objectors to the appeal proposal may wish to add in some further layer or requirement to the policy, but there is none. Whatever the intention of the Local Plan Inspector as recorded in his report, the terms of the policy are

<sup>13</sup> Strategic Housing Land Availability Assessment

<sup>14</sup> Derby Housing Market Area Employment Land Review

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unequivocal. This point was accepted by Mr Lomas in cross examination. In any event if there is any tension between the reasoned justification and the wording of the policy the latter prevails.

39. The Council attempted to augment Policy EN5 by equating it with Green Belt policy. Mr Jenkin in his proof at paragraph 3.19 refers to inappropriate development and the need to demonstrate very special circumstances. Those terms do not appear within Policy EN5 and there is no policy requirement to demonstrate very special circumstances. Likewise Policy EN5 was not prepared in the context of the NPPF and its advice on Local Green Space.<sup>15</sup> Accordingly, it is entirely inappropriate to have recourse to that 2012 advice in attempting either to interpret or add further requirements to the policy.
40. I have already accepted that there is no conflict with Policy EN1. It follows then applying the plain words of Policy EN5, there is no conflict with Policy EN5. Furthermore, the appeal scheme does not infringe the underlying objective of Policy EN5, namely to maintain the separate identity of the 3 specified settlements - Alfreton, Somercotes and Swanwick. Any assessment of the effect of the appeal scheme on those separate identities, must consider the extent of built development within the scheme, its layout, and landscaping. Both Mr Jenkin and Mr Lomas accepted that their evidence considers none of those things and mentions neither cars nor people.
41. Mr Duckett has given careful consideration to the proposed extent and siting of built development, the overall layout of the site and the proposed landscaping scheme. The built and hard surfaced footprint would account for about 8% of the appeal site and the remaining 92% would be retained as grassland or gardens of remembrance. Mr Duckett has analysed the extent of visibility of the scheme. The area of the site which is visible and makes a visual contribution to the open land occupies the eastern half of the site. This area would be meadow grassland and would largely be retained as open land free from built development. The western half of the site would not be open to view and does not contribute significantly to the open character of the land between Swanwick and Alfreton.
42. Mr Duckett has shown by transparent analysis, that the separate identities of the 3 settlements would not suffer unacceptable harm. I agree. Given the scale, design and location within the site of the proposed crematorium building and its associated highway works and car parking, together with the proposed retention and enhancement of landscaping within the site, I consider that the proposal would maintain the settlements' separate identities. The provision of a crematorium or the activity on the site would not be harmful to this area of protected open land given that the building is to be located to the front of the site and the remainder is to be landscaped into memorial grounds.

*Precedent and prematurity*

43. Mr Lomas attempted to advance arguments in relation to both prematurity and precedent objections. As far as precedent is concerned, whether on the field to the north or that to the south, any development proposal would have to meet the terms of policies EN1 and EN5. With regard to prematurity, self-evidently the appeal proposal is not of a scale or significance to prejudice the Council's emerging LP which remains at a very early stage.

<sup>15</sup> Paragraphs 76-78 of the NPPF

*Objections from Interested Persons/Parties*

44. I appreciate that over 500 letters of objection and a petition were submitted at the application stage with further letters at the appeal stage. The various grounds of objection can be summarised, as follows: the principle of the development, the need for a crematorium, alternative sites, highways, pollution, landscape, visual impact, site suitability and ecology. For the most part, these objections do not extend beyond those already advanced by the SPC/SRA which I have addressed above. The supporting information submitted with the application together with the evidence of the Appellant's witnesses have demonstrated that the proposal would not cause unacceptable harm to the local environment in terms of highway safety, pollution, design and layout, landscape, impact on neighbouring properties, visual impact, ecology, archaeology, flood risk and site stability. Indeed there would be a net gain in hedgerow and tree planting. There is no technical evidence to support an objection on any of those grounds.
45. Few dwellings would be affected by the proposal. The nearest residential properties would be Sleetmoor House, which is located to the south east and Lilly Cottage, which is located to the north west. The other properties are on the opposite side of Sleetmoor Lane. Insofar as there is any impact on residential amenity, Mr Duckett has shown that such impact falls well within the bounds of acceptability. Given the separation distances between these properties and the crematorium building, together with the existing topography of the landscape and the proposed landscaping, the proposal would not cause harm to residential amenity in terms of privacy, overlooking, visual impact, traffic or emissions. All of these matters were confirmed at the site visit. In coming to this view I have considered the Lavender Test that arose in the context of the impact of wind turbines on residential amenity.
46. Thornton PLC raised concerns about the risk of reputational damage to the brand if the crematorium was built. In particular, concern was expressed about how social media might damage the brand through erroneous reporting linking the product with the crematorium. It was argued that this could risk employment and investment. However, the appeal proposal would not cause any direct physical impact on Thornton's operation. There may be fear about reputational damage but this could only arise from reckless and inaccurate statements. In my view such concerns do not comprise a proper material consideration. In any event, there is no proper assessment of the likelihood of reckless and inaccurate statements being made. The 4 examples advanced by Thornton's have nothing whatsoever to do with crematorium development. I attach little weight to these concerns in the determination of this appeal.
47. I am satisfied that the environmental controls to which any new facility would be subject would ensure no harm would arise to nearby properties from emissions to air or noise. Matters relating to emissions are governed by Part B of the Environmental Protection Act 1990 and the Environmental Permitting (England and Wales) Regulations 2010 as a prescribed process and require authorisation. These matters are outside the planning process, covered under separate legislation and a licence to operate is required before the use can begin. The crematorium would require an environmental permit to operate. Any emissions would be closely monitored and any infringements would be governed by the Local Authority as licensing authority. The impact of

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emissions on the environment and nearby residents would therefore be adequately controlled.

**Other Matters**

48. I have taken into account all other matters raised including a number of appeal decisions which were referred to by the parties during the Inquiry.

**Conclusion**

49. I conclude that the proposal would be an acceptable form of development within the open countryside. It accords with the development plan, including Policies EN1 and EN5, and the other policies set out in the SoCG1. I consider on balance that the proposal would constitute sustainable development and is acceptable having regard to the policies set out in the NPPF. The proposal would meet an identified need which in turn would lead to more sustainable travel patterns. I conclude that the appeal should be allowed.

**Conditions**

50. Conditions were put forward by the Council within the SoCG1. These were discussed and revised at the Inquiry. I have considered the latest version in the context of the requirements of Circular 11/95. In addition to conditions relating to timescale, securing the plans and submission of sample materials, I have imposed conditions requiring a surface water drainage scheme, details indicating proposed floor levels and a scheme to dispose of foul water drainage as no details have been given on how effluent will be treated. A condition requiring a Construction Method Statement is necessary in order to mitigate the impact of the development upon the highway network and the surrounding neighbourhood. As the site has been subject to past coal mining activity and coal mining legacy poses a risk to the proposed development, I have imposed a condition requiring intrusive site investigation works prior to development in order to establish the exact situation regarding ground conditions and to inform foundation design.

51. I have imposed conditions relating to the provision of pedestrian and vehicular access to the site and for the parking and manoeuvring of vehicles in the interests of highway safety. A condition is required to secure details in relation to external lighting in the interests of residential amenity. I have imposed a condition that no burials should take place within close proximity of a spring, watercourse or field drain in order to protect controlled waters. I have imposed a condition regarding opening hours of the crematorium and a condition restricting the times of construction works, movement of traffic and deliveries in the interest of residential amenity. The site has some archaeological potential so I have imposed a condition to address this matter. I have imposed conditions requiring a scheme for hard and soft landscaping, details of the new boundary wall to Derby Road and matters relating to ecological and landscape management to ensure that the development does not have an adverse impact on the appearance and character of the area.

*Harold Stephens*

INSPECTOR

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### APPEARANCES

#### FOR THE LOCAL PLANNING AUTHORITY:

|                         |   |
|-------------------------|---|
| Andrew Hogan of Counsel | Instructed by the Solicitor to Amber Valley Borough Council |
| He called               | Jonathan Jenkin BA (Hons) BTP MRTPI                         |

#### FOR THE APPELLANT:

|                       |   |
|-----------------------|---|
| Ian Ponter of Counsel |   |
| He called             | Ian Roberts MCIHT<br>Brian Duckett BSc (Hons) DipLD MLI<br>Jamieson Hodgson<br>Craig Shaw BSc RICS<br>Kris Mitra MA MRTPI |

#### FOR SWANWICK PARISH COUNCIL AND SWANWICK RESIDENTS' ASSOCIATION:

|  |                            |
|--|----------------------------|
|  | Instructed by DLP Planning |
| Peter Taylor - Partner and Solicitor with DLA Piper UK LLP |                            |
| He called  | Jim Lomas BA (Hons) MRTPI  |

#### FOR THORNTONS PLC:

|                              |                                 |
|------------------------------|---------------------------------|
| Paul Adams - Estates Manager |                                 |
| He called                    | Jonathan Hart - Chief Executive |

#### INTERESTED PERSONS:

|                |   |
|----------------|---|
| Janice Byron   | Derbyshire CPRE   |
| Mrs R A Harnan | Local resident  |
| George Soudah  | Local resident  |
| John Briggs    | Local resident and Vice-Chairman/Treasurer of Swanwick Residents' Association |
| Jonathan Arbon | Local Resident  |

#### INQUIRY DOCUMENTS

INQ1 Notification of Public Inquiry and list of persons notified, submitted by the Council

INQ2 Letters received in response to the Notification of the Public Inquiry

INQ3 Statement of Common Ground 1 (Appellant & LPA)

INQ4 Statement of Common Ground 2 (Appellant & SPC/SRA)

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**DOCUMENTS SUBMITTED DURING THE INQUIRY**

**Appellant's List of Additional Inquiry Documents**

- APP1 Email dated 31 May 2013 from the local vicar – Carol Lloyd in support of the proposal
- APP2 Proposals Maps for Wyre Forest DC/Redbridge BC/Eastleigh BC in response to evidence of Mr Lomas in respect of crematoria location
- APP3 Cemetery area and capacity provision at proposed Amber Valley Memorial Park – note prepared by Jamieson Hodgson.
- APP4 Opening Submissions
- APP5 Closing Submissions

**Council's List of Additional Inquiry Documents**

- LPA1 Derby Housing Market Area Employment Land Review March 2008
- LPA2 Amber Valley Borough Local Plan 2006 Proposals Map
- LPA3 Opening Submissions
- LPA4 Closing Submissions

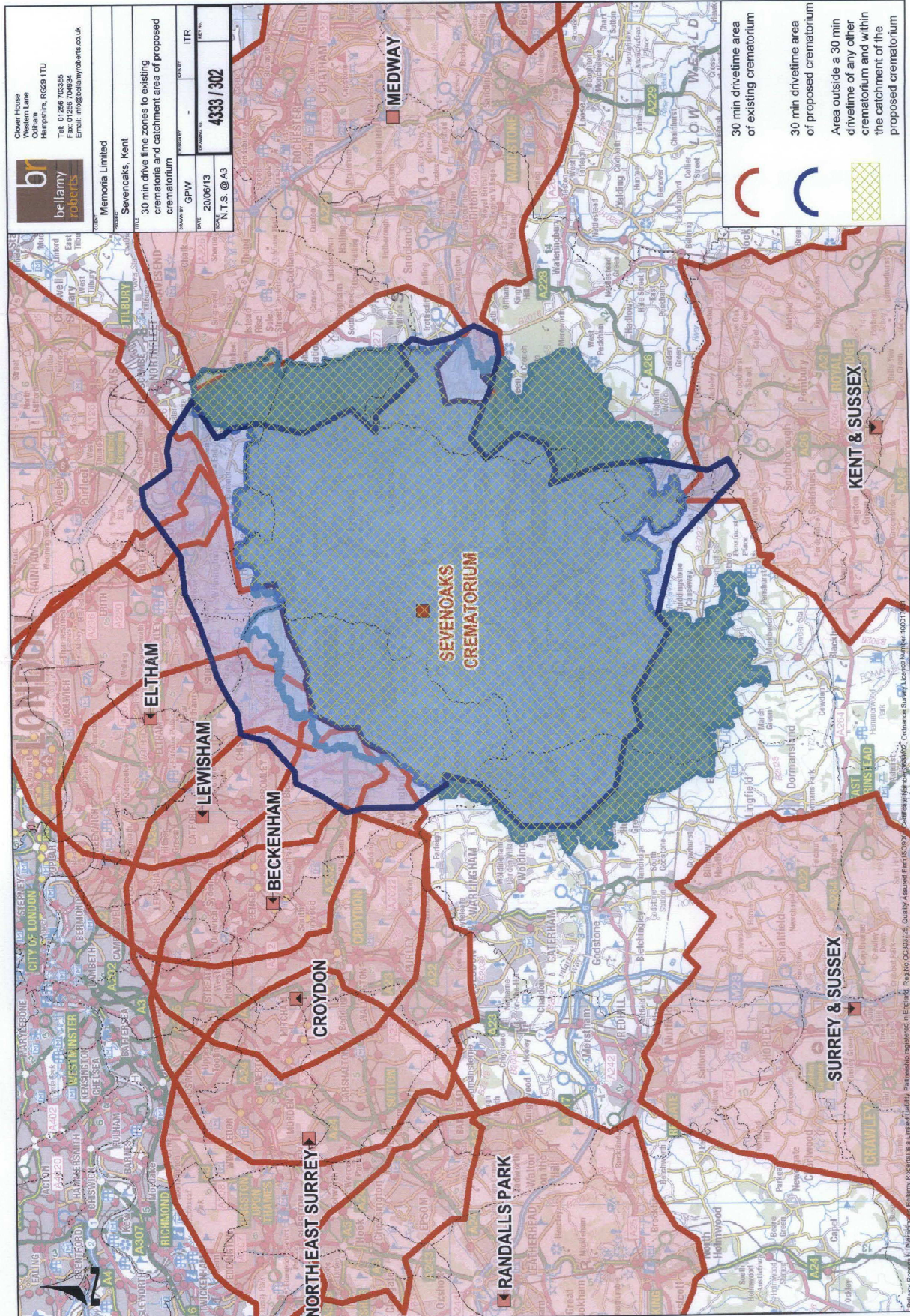
**SPC/SRA's List of Additional Inquiry Documents**

- SPC1 Google Maps (4) showing the location of crematoria in Redbridge, Wyre Forest, Newark and Wessex Vale
- SPC2 Closing Submissions

**Interested Persons' Documents List**

- IP1 Statement of Janice Byron
- IP2 Statement of Mrs R A Harnan
- IP3 Statement of George Soudah
- IP4 Statement of John Briggs
- IP5 Statement of Jonathan Arbon







4.2 – SE/13/02476/FUL Date expired 8 October 2013

PROPOSAL: Demolition of existing detached bungalow and garage, and replacing with a two storey detached 5 bedroom house, with basement garaging on the lower ground floor.

LOCATION: Westview, Stonehouse Road, Halstead TN14 7HN

WARD(S): Halstead, Knockholt & Badgers Mount

**ITEM FOR DECISION**

Councillor Grint has referred this application to Development Control Committee has he has concerns upon the impact of the development upon the street scene and adjoining neighbouring properties.

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

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

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

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

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

3) No development shall take place until full details of both hard and soft landscaping have been submitted to and approved by the Local Planning Authority. These details shall cover as appropriate: Proposed finished levels or contours; Hard surfacing materials; Planting plans; Written specification (including cultivation and other operations associated with plant and grass establishment); Schedules of plants, noting species, planting sizes and proposed numbers/densities, and Implementation timetables.

Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality in accordance with Policy EN1 of the Local Plan.

4) Hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and

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enhance the appearance and character of the site and locality in accordance with Policy EN1 of the Local Plan.

5) Before any work commences, drawings at a scale of 1:50 to show cross-sectional details of the proposed driveway within the no-dig areas as stated in the submitted Arboricultural Method Statement shall be submitted to, and approved in writing by, the Local Planning Authority and the work shall be carried out in strict accordance with those details.

Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality in accordance with Policy EN1 of the Local Plan.

6) Tree protection measures and the recommendation outlined in the submitted Arboricultural Method Statement dated 12 August 2013 shall be carried out in accordance with these details and shall be carried out prior to the commencement of the development or in accordance with the programme agreed with the Local Planning Authority.

Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality in accordance with Policy EN1 of the Local Plan.

7) The dwelling shall achieve Level three of the Code for Sustainable Homes. No dwelling shall be occupied until evidence shall be provided to the Local Authority showing that a final Code Certificate has been issued for it certifying that Code Level three has been achieved or alternative as agreed in writing by the Local Planning Authority.

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

8) The windows to the north elevation and the first floor window(s) on the south elevation shall be fitted with obscure glass before the development hereby permitted is first occupied, and be incapable of being opened except for high level fanlight openings of at least 1.7m height above inside floor level and thereafter shall be so retained.

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

9) No development shall take place until full details of a scheme of Biodiversity enhancement has been submitted to and approved by the local planning authority. The approved details shall be implemented in full and maintained thereafter.

To ensure that the proposed development will not have a harmful impact on protected species and habitats, and wider biodiversity, in accordance with Policy SP11 of the Core Strategy and guidance in National Planning Policy Framework 2012.

10) No development shall be carried out on the land until details of the solar photo voltaic panels to be used with the dwelling hereby permitted have been submitted to and approved in writing by the Council. The development shall be implemented in accordance with the approved details.

To maintain the integrity and character of the dwelling hereby permitted as supported by

policy EN1 of the Sevenoaks District Local Plan.

11) Before the use or occupation of the development hereby permitted, the car parking and turning areas shown on the approved shall be provided and shall be kept available for the parking of cars at all times.

In the interest of highway safety as supported by policies EN1 and VP1 of the Sevenoaks District Local Plan.

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no development shall be carried out within Classes A, B, C of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without prior approval of the Local Planning Authority.

To safeguard the amenities of adjacent residential occupiers supported by Policy EN1 of the Sevenoaks District Local Plan.

13) Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority. This information shall include a layout plan with beam orientation, a schedule of equipment in the design (luminaire type; mounting height; aiming angles and luminaire profiles, isolux diagrams) and a written assessment of the impact of such a scheme. The approved scheme shall be carried out in accordance with the approved details and maintained thereafter and no further lighting shall be introduced into the site without the prior approval of the local planning authority.

In the interests of amenity in accordance with Policy EN1 of the Local Plan.

14) Demolition or construction works shall not take place outside 0700 hours to 1800 hours Mondays to Fridays and 0700 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.

To prevent disturbance to nearby residential properties in accordance with Policy EN1 of the Local Plan

15) The development hereby permitted shall be constructed at the levels indicated on the approved drawing nos. 13/603/2, 13/603/3, & 13/603/4.

To ensure a satisfactory appearance on completion of the development in accordance with Policy EN1 of the Local Plan.

16) The development hereby permitted shall be carried out in accordance with the following approved plans: 13/603/2, 13/603/3, & 13/603/4.

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

**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

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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](http://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) Did not require any further assistance as the application was acceptable as submitted.

### Description of Proposal

- 1 The application seeks the approval for a replacement two storey dwelling of an existing bungalow within the modest plot known as Westview.
- 2 The proposed dwelling would be sited upon the existing footprint of the existing bungalow.
- 3 The dwelling would have a maximum height of 8.6m, a maximum width of about 17.4m and a maximum depth of about 19.5m. The replacement dwelling will incorporate a basement level garage.
- 4 Most of the existing landscaping measures and boundary treatments are to be retained.
- 5 The application proposes to use the existing access whereby the driveway will be re-aligned and a new turning area and parking spaces will be created.

### Description of Site

- 6 This plot is located on the eastern side of Stonehouse Road which is a Private Road, within the built confines of Halstead village. The site is located within an area comprising mainly interwar large detached houses set within generous plots with the built form appearing subservient to the natural landscape. The size of nearby properties varies from small bungalows to much larger detached properties. Dwellings generally are of an individual design those on the eastern side have very large front landscaped gardens with the dwellings set well back from the road frontage. Most of the houses are of paint and render finish.
- 7 The site rises from Stonehouse Road in an easterly direction in approximately a 1:20 slope that levels off mid-way along the site. To the south of the site, is a dwelling called "Briar Bank" a two storey detached property sited approximately 16m behind at a higher level from the application site. To the north "Wheeler's" a

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one and half storey chalet styled bungalow with rooms and dormers in the roof space "Wheeler's" share the same front building line as "West View".

- 8 Both neighbouring dwellings "Briar Bank" and "Wheeler's" share the boundaries with this proposed development, which have extensive screening between the properties.
- 9 Access to the site is from a driveway from Stonehouse Road.
- 10 To the front of the site are three mature Beech trees that are protected by a Tree Preservation Order and one mature Walnut Tree that is also protected.

### Constraints

- 11 Area of Special Advert Control
- 12 TPO - 13/10

### Policies

#### *Sevenoaks District Local Plan*

- 13 Policies - EN1, VP1

#### *Sevenoaks Core Strategy*

- 14 Policies - LO1, LO7, SP1, SP2, SP5, SP7, SP11

#### *Other*

- 15 National Planning Policy Framework (NPPF) Paras: 14, 50, 56, 61, 63, 64, 118
- 16 Halstead Village Design Statement (VDS);

### Planning History

- 17 None Relevant

### Consultations

#### *SDC Tree Officer*

- 18 No objection subject to condition

#### *Parish Council*

- 19 Halstead Parish Council –Raises objections on the following grounds:
  - The applicant states that this proposed property would have no adverse impact on the street scene when there are in fact seven bungalows in close proximity;
  - This is on the outskirts of a small village and is not an urban area as stated;
  - The Parish Council believes that moving the property further back will increase the footprint;

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- The property abuts the Green Belt on which this development would be dominant. The applicant proposes to move the property further back on the site which will cause the development to be even more intrusive in the Green Belt;
- This would contravene EN1 1) The form of the proposed development, including any buildings or extensions, should be compatible with in terms of scale, height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining building and incorporate materials and landscaping of a high standard;
- Overshadowing and overlooking;
- Increased noise by the increase in number of bedrooms and vehicular movements;
- Increase in vehicles would lead to further de-generation of the access road;
- Contravenes Policy EN8 – relating to areas of Areas of Local Landscape Importance
- Contravenes Appendix 4 – residential extensions

The parish council also asked whether the developer would be required to make an affordable housing contribution.

### Representations

20 1 neighbour representation received, objecting on the following grounds:

- Loss of light and privacy;
- Disproportionately large, overbearing and bulky;
- Footprint excessively large;
- Out of character with rest of the street;
- Light pollution;
- Protection of TPO trees

### **Chief Planning Officer's Appraisal**

21 The main planning issues in respect of this application relate to:

- Principle of the development;
- Impact upon the character and appearance of the area;
- Impact upon the existing residential amenity;
- Highways;
- Biodiversity;

- Sustainability;
- Other Issues.

### Principle of the development

- 22 The newly adopted NPPF has a general presumption in favour of sustainable development, whilst encouraging the delivery of homes of a high quality design and a good standard of amenity for all, whilst reusing previously developed land. Furthermore the site is within the built confines of Halstead where the principle for new development is acceptable.
- 23 Currently the site is occupied by a detached bungalow. Core Strategy Policy LO7, permits small scale development that is of the appropriate scale and nature of the village.
- 24 Upon considering the above, the principle of residential use of the site is acceptable subject to having an acceptable impact on the character of the area, the amenities of neighbouring occupiers, impact on highway conditions and an acceptable design, amongst other material planning considerations. The principle of a residential development is considered an acceptable and the most appropriate use of this parcel of land.
- 25 In terms of density, Policy SP7 of the Core Strategy sets a density of 30 dwellings per hectare for developments within rural settlements. This plot is approx. 0.20ha which according to the required densities could provide 6 dwellings. This proposal proposes 1 new unit and does not make efficient use of the land. However, due to the spatial/historic pattern of the development, the erection of one dwelling would not adversely impact upon the character and appearance of the area and compliments the prevailing open/spacious character of the road.

### *Impact on the landscape character of the area*

- 26 The NPPF and Policy SP1 of the Core Strategy encourages design which responds positively to its context and developments which fail to take opportunities for enhancing the character of an area should not be permitted. Designs should complement the neighbouring buildings in terms of scale, density, layout and access.
- 27 Policy EN1 of the Sevenoaks District Local Plan requires that development respects and takes opportunities to enhance the character and distinctiveness of the locality. The form of the proposed development, including any buildings or extensions, should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard so that the distinctive character of villages is not damaged.
- 28 Policies SP1 and LO7 give high priority to the conservation and enhancement of natural beauty. Proposals for development should be small scale proposals that are suitably located and designed and respond to local landscape character.
- 29 The proposal also benefits from adopted supplementary planning guidance within Halstead Village Design Statement. This document does not contain specific development policies but inform an assessment of the wider character of the built form and landscape.

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- 30 In addition to the above, the NPPF emphasises the need to achieve good design standards for new development and a high quality of urban design in the wider context. This document recognises that design issues are matters of proper public interest and the relationships between buildings in their wider setting is often as important or more important than individual designs.
- 31 The NPPF states that good design is fundamental to the development of high quality new housing, which contributes to the creation of sustainable, mixed communities. In addition to this it also states that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.
- 32 As previously mentioned, Stonehouse Road is characterised by dwellings of varied age, size and appearance. The building line is varied and some buildings are more prominent than others are, due to existing topography, siting, scale, and landscaping. However in the main, dwellings do not dominate the street scene due to large plot sizes and surrounding landscaping. The informal layout of the built form, together with the sylvan setting provided by mature garden trees, contributes to the general spaciousness of the area.
- 33 Halstead Village Design statement has been adopted as supplementary planning guidance and makes reference to the potential impact of new or replacement houses. It aims to discourage buildings that are out of scale and character with the rural aspect of the area. The statement promotes the scale and proportions of new developments to be in keeping with their surroundings, to maintain space and landscaping, and to prevent oversized dwellings that are alien to their surroundings, and to promote the use of local materials.
- 34 The development would be set back approx. 39m from the roadside and retain modest sized gaps between the flanks of the adjacent two storey dwelling and bungalow being 6m to the nearest point of the dwellings. Equally sufficient gaps have been maintained between the proposed dwelling and south eastern boundary by approximately 2m and approximately 2.5m to the northwestern boundary. Its layout would respect the existing pattern of development in the locality, where there are other examples nearby of buildings with sufficient separation gaps between dwellings, unusual layouts and plots that are not uniform in size or shape.
- 35 The dwelling proposed would be much larger in size than the former bungalow, although the frontage width and height of the building would be similar to other properties in the area, both old and new. The replacement dwelling would, at its highest point, stand approximately 8.6m metres in height and that falls within the parameters of standard ridge heights for two storey residential developments, and is comparable in height to many other buildings in the locality. To minimise its impact further, the development manipulates existing ground levels to its advantage, to ensure that the ridge height of the development would only be approximately 2.4m higher than the existing bungalow. This assists in assimilating the scale of the building into the existing established character of the area. For these reasons the scale of the proposed dwelling is acceptable, despite the concerns raised by the Parish Council and third parties.
- 36 With regard of the siting of the dwelling, the development would not appear unduly prominent, as the replacement dwelling would be sited upon the existing



footprint of the bungalow though extending further back it would make effective use of the existing topography, with the height proposed for the dwelling set between the ridge height of adjacent properties,

37 In terms of the design of the dwellings para. 60 of the NPPF states:

*“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness. “*

38 The front elevation includes a number of architectural details and the inclusion of large glazed areas. Given the variety of architecture found within the road, it is not considered, that this development, in isolation could be deemed to be unacceptable. There are other dwellings that incorporate large glazed areas into the design of the dwellings i.e. Rosewood and therefore it would not appear out of context.

39 Overall it is considered that the proposed dwelling has been designed in such a way as to minimise its bulk within its current context. The mass and impact of the dwelling would be broken up by the different sections of the dwelling and the use of cutting into the existing ground levels that minimises the overall ridge height of the building. The development has been designed to have its own individual appearance, whilst respecting the linear pattern and scale of surrounding development. Details have been provided of the materials to be used in the external finish of the development picking the themes of local materials used within the locality. Their use would reinforce the character and identity of the area whilst maintaining a contemporary appearance. Given the variation in scale and design of houses in the road in general, the size of the plot and the landscaping afforded to it, it is considered that a dwelling of this proportions proposed can be accommodated without conflict with this policy or without conflict with the VDS.

40 It is considered that the proposed dwelling is of a design that sympathises with the character and appearance of the surrounding area. On this basis, this proposal would conform to policy EN1 of the Local Plan, policies SP1, LO1, LO7 of the Core Strategy.

### *Impact upon existing residential amenity*

41 Policy EN1 from the Sevenoaks District Local Plan states that the proposed development 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.

42 In terms of loss of sunlight and daylight, no adjacent properties would be affected by the proposed development, due to the separation distances between dwellings and orientation of the development.

43 Concern has been raised by some neighbouring occupants regarding the impact of the development upon their outlook and loss of privacy.

44 The development itself has been designed to prevent the loss of privacy to immediate neighbouring properties. It is recognised that there are three

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balconies to the rear elevation of the dwelling. It is also noted that these balconies are recessed into the main structure of the dwelling and this restricts the peripheral vision from these areas especially when there are intervening structures that are found adjacent to the northeastern boundary of the site, to Wheelers and the proposed rear single storey element roof that serves the proposed dining area.

- 45 In terms of the impact upon Briar Bank again the 5m amenity area to the rear of that property would be protected, as this property is on a higher ground level as compared to the application site and that property is set further back into its plot.
- 46 Concern has also been raised relating to the first floor windows to the flank elevation of the Briar Bank. However this issue can be mitigated by the use of obscure glazing conditions and again this property is at a high ground level and the nearest flank windows serve non-habitable rooms, being stairs and bathroom. Overall, it is not considered this issue to be significant to justify a refusal in relation to loss of privacy and overlooking.
- 47 Concern has been raised relating to the amount of glazing to be used in the design of the property. That said it is not considered that this proposal would cause a significant amount of light pollution sufficient to become a nuisance to adjacent neighbours due to the orientation of the proposed large glazed areas of the dwelling proposed. Equally it is not considered that the dwelling would significantly add to light pollution within the locality, as the dwelling would be seen together with other dwellings within the road. Notwithstanding this, it is noted that other dwellings within the locality have large expanses of glazed areas integral to their design. It is not considered that this reason alone would justify a reason for refusal.
- 48 Due to the fact the site is surrounded by residential properties, it would be reasonable to attach a condition restricting the hours of construction to minimise the impact of construction of the dwelling upon existing residential amenity. In addition to this, a condition is recommended to control external lighting to protect the amenity of residents and character of the area
- 49 Upon considering the above, it is considered that the development would not impact upon neighbouring amenities to an unacceptable degree. As such, the proposal would not be contrary to Policy EN1 of the Local Plan.

### *Biodiversity*

- 50 Para. 118 of the NPPF and SP11 of the Core Strategy sets out that new development should maximise opportunities to build in features which are of benefit to biodiversity as part of good design. Proposals do not include a range of features designed to enhance the ecological value of the site. As such a condition could be required to secure those details to improve the ecological value of the site in accordance with the advice of policy SP11 of the Core Strategy.

### *Sustainability*

- 51 Policy SP2 of the Core Strategy states the minimum Code for Sustainable Home (CSH) standard a new dwelling should achieve. At present the code standard requires a code 3 standard.

- 52 The (CSH) guidance states how a home can achieve a sustainability rating for one to six depending on the extent to which it has achieved Code standards. No information has been provided to what extent the current proposal would demonstrate the likely CSH level it will achieve. As such it would be reasonable to attach a condition requesting further information to ensure that the development complies with Policy SP2 of the Core Strategy.

### *Highways*

- 53 The proposal seeks to re-align the existing driveway from the Private road and create a new parking area. The proposed dwelling will create a 4 bedroom property with at least 3 off-street parking spaces provided. 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.
- 54 It is considered that the proposed use would be unlikely to generate additional trips compared to the existing use so there is no objection on this ground. The development would cater for 3-4 parking spaces with a turning and this would accord with policy VP1 of the Local Plan.

### Access issues

- 55 There are no adverse access issues associated with this proposal.

### Other issues

- 56 There is a number of Tree Protection Orders (TPO) upon trees within the site, served under reference TPO/13/10. The existing driveway would be re-aligned and materials to be used to ensure that the roots system of the existing TPO trees would not be compromised.
- 57 An arboricultural method statement has been submitted with the application and the Council's Tree Officer raises no objection to this proposal subject to the development conforming to the arboricultural method statement which allows for the implementation of tree protection measures.
- 58 The Parish Council has asked whether this development would require making an affordable housing contribution in accordance with Policy SP3 of the Local Plan. As there is a zero net gain in dwellings created, then in accordance with Policy SP3, an off-site affordable housing contribution would not be required in this instance.
- 59 In order to protect the future amenities of the adjacent occupiers, it would be reasonable to removal permitted development rights for extensions to the property to ensure their amenities are protected, in accordance with Policy EN1 of the Local Plan.

### **Conclusion**

- 60 On considering the above, it is recommended that this application should be approved as it conforms to the relevant Development Plan policies and there are no other overriding material considerations to suggest otherwise.

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### **Background Papers**

Site and Block plans

Contact Officer(s):

Sean Mitchell Extension: 7349

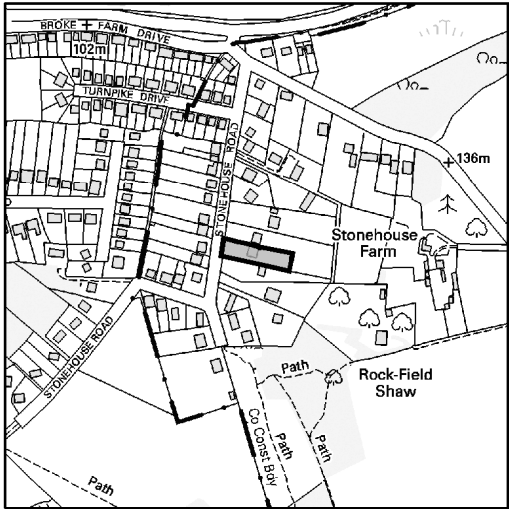
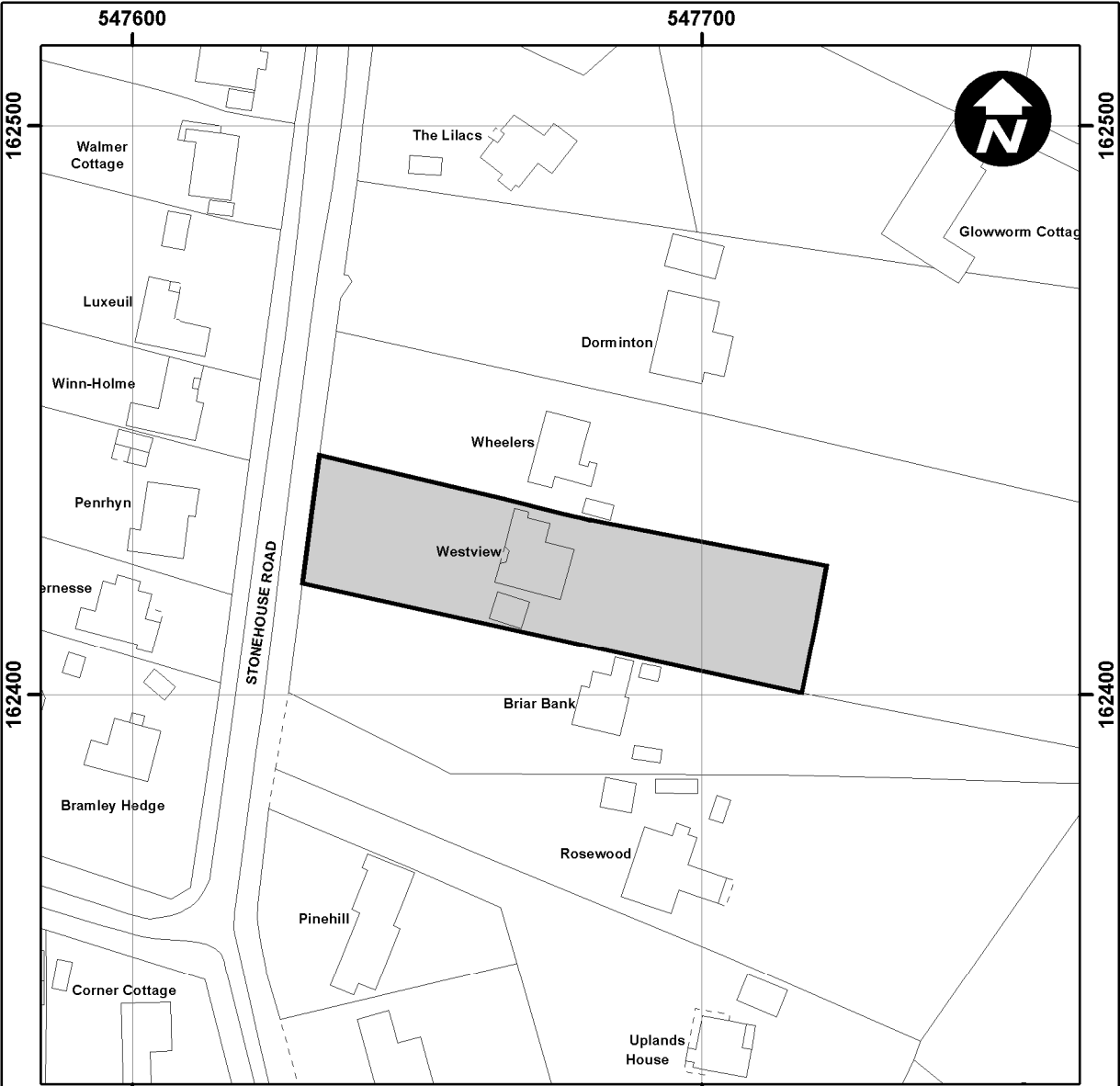
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MRIJ5TBK0L000>

Link to associated documents

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MRIJ5TBK0L000>

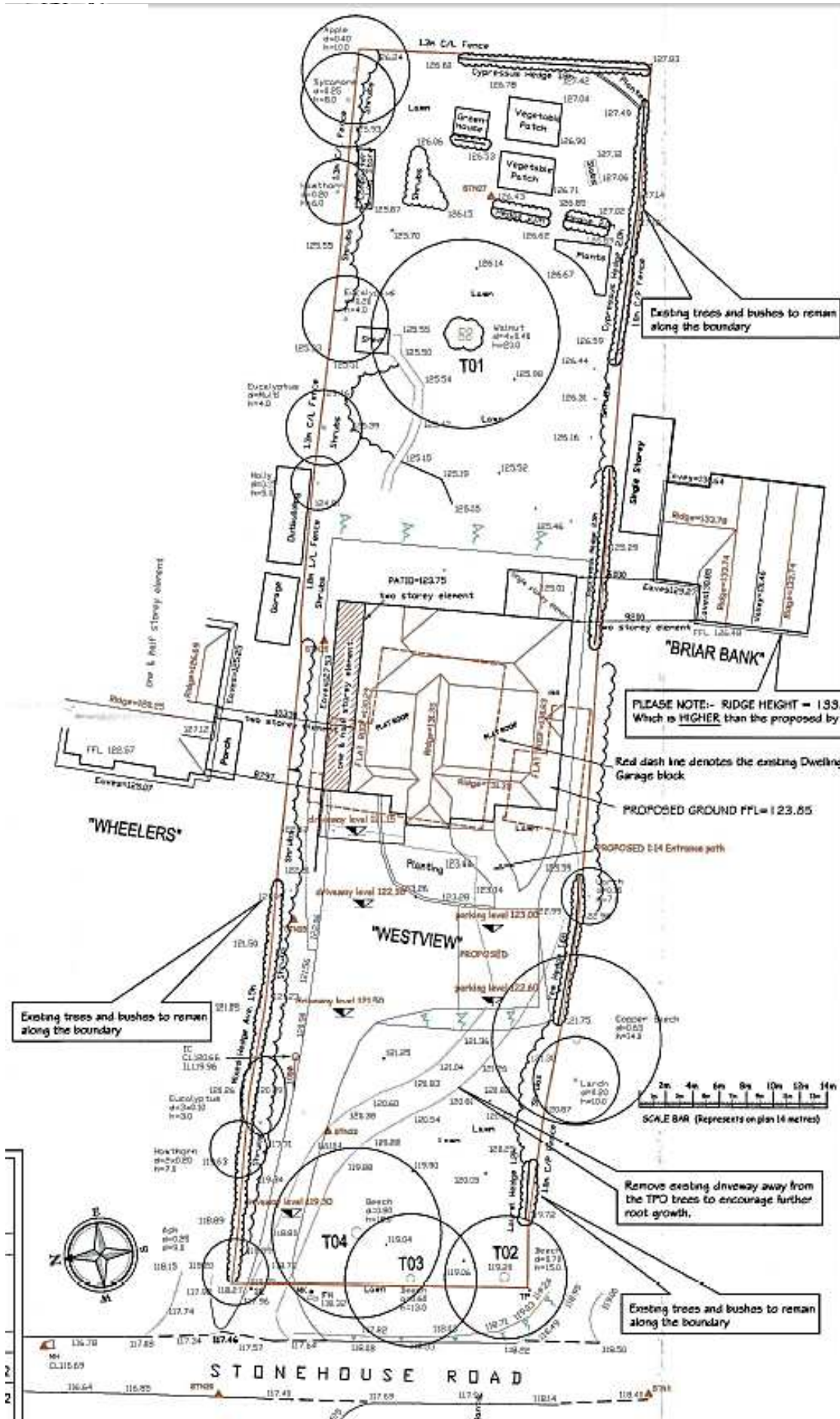


# Site Plan

Scale 1:1,250  
 Date 21/10/2013



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4.3 - SE/13/02200/FUL Date expired 16 September 2013

PROPOSAL: Change of use of redundant barn to residential 4 bedroom dwelling and granny annexe.

LOCATION: Land Adjacent To Holmesdale Hall, Park Gate Road, Orpington BR6 7PX

WARD(S): Crockenhill & Well Hill

**ITEM FOR DECISION**

This application has been called to Development Control Committee by the Chief Planning Officer, as the application is at variance with the views of the Crockenhill Parish Council. The Parish Council consider that the proposal is unacceptable as they consider that this is an unsuitable use of a barn, overdevelopment of the site, the design is unsuitable, increase traffic, noise and disturbance.

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

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

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

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

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 of the Sevenoaks District Local Plan and policy SP1 of the Sevenoaks Core Strategy.

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

To ensure that openness of the Green Belt and the character and appearance of the landscape is protected.

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

To ensure that openness of the Green Belt and the character and appearance of the landscape is protected.

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

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dwelling is occupied or in accordance with a programme of implementation agreed in writing with the Council. The landscape works shall be carried out in accordance with the approved details.

To ensure that the appearance of the development enhances the character and appearance of the area and the historic park and garden, as supported by Policy EN1 of the Sevenoaks District Local Plan and policy SP1 of the Sevenoaks Core Strategy.

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

To ensure that the appearance of the development enhances the character and appearance of the area and the historic park and garden, as supported by Policy EN1 of the Sevenoaks District Local Plan and policy SP1 of the Sevenoaks Core Strategy.

7) The development shall achieve a BREEAM rating of very good. 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 BREEAM rating of very good or an alternative as agreed in writing by the Local Planning Authority; and

ii) Prior to the occupation of the development, a final certificate showing that the development has achieved a BREEAM rating of very good or alternative as agreed in writing by the Local Planning Authority.

In the interests of environmental sustainability and reducing the risk of climate change as supported in policy SP2 of the Sevenoaks Core Strategy.

8) No development shall be carried out until a scheme of hard landscaping (which includes surfacing details), have been submitted to and approved in writing by the Council. The development shall be carried out in accordance with the approved details. The hard landscaping works shall be carried out before the dwelling hereby permitted is occupied or in accordance with a programme of implementation agreed in writing with the Council. The landscaping works shall be carried out in accordance with the approved details.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 of the Sevenoaks District Local Plan and policy SP1 of the Sevenoaks Core Strategy.

9) No development shall be carried out until full details of all existing and proposed means of enclosure have been submitted to the Council for written approval. These details shall include a plan indicating the positions, design and materials of all means of enclosure. The development shall be carried out in accordance with the approved details. No other means of enclosure other than those shown on the approved plans shall be erected within the curtilage of the dwelling hereby approved, despite the provisions of any Development Order.

To ensure that the appearance of the development enhances the character and appearance of the area and has no adverse impact on the historic park and garden as supported by Policy EN1 of the Sevenoaks District Local Plan and policy SP1 of the Sevenoaks Core Strategy.



10) Details of any outside lighting shall be submitted to and approved in writing by the Council before the development commences. Despite any development order, outside lighting shall only be provided in accordance with the approved details.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 of the Sevenoaks District Local Plan and policy SP1 of the Sevenoaks Core Strategy.

11) The annex building hereby permitted shall not be occupied at any time other than for the purposes ancillary to the residential use of the dwelling hereby permitted.

To prevent over development of the site, to maintain the character of the area, in accordance with Policy EN1 of the Sevenoaks District Local Plan and Policy SP1 of the Sevenoaks Core Strategy.

12) The development hereby permitted shall be carried out in accordance with the following approved plans: 1471/1,1471/2, 1471/3, 1471/4

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

13) 1. Before commencement of the development hereby approved (including any demolition works), a contaminated land assessment, including a site investigation and remediation methodology (if necessary) shall be submitted to and approved by the Local Planning Authority. If during the works contamination is encountered, which has not previously been identified, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, agreed and approved in writing by, the Local Planning Authority. The remediation shall be implemented and completed as approved. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of:

- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
- b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

To prevent harm to human health in accordance with the advice and guidance in the NPPF.

14) No development shall take place until a scheme detailing measures for the enhancement of biodiversity on the site, including bats, has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be in place prior to the first occupation of the dwelling and shall thereafter be retained.

To provide opportunities to conserve and enhance biodiversity on the site, in accordance with Policy SP11 of the Sevenoaks District Core Strategy.

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### **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](http://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) Did not require any further assistance as the application was acceptable as submitted.

### Description of Proposal

- 1 This application seeks permission for the change of use of redundant barn to a residential 4 bedroom dwelling and granny annexe.
- 2 It is proposed that the main element of the dwelling would be located in the rendered section of the building. The accommodation within this element would comprise a living room, study, dining room/kitchen and 4 bedrooms. It is proposed that the annex would be formed within the existing timber building to the North West.
- 3 In addition to this, it is also proposed to utilise the existing stable building as a garage for the proposed unit.
- 4 The applicants have advised that the granny annexe will be part of the whole of the internal accommodation formed by the barn conversion but with separate kitchen and bathroom facilities. The annexe will be linked to the main accommodation by an internal corridor and the whole of the barn conversion served by a single supply in terms of gas, water and electricity and if necessary an internal check meter will be installed to record costs applicable to the Granny Unit.
- 5 A garden area is proposed to the south east of the building.

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- 6 Access to the site would be via an unmade track, which is accessed off Park Gate Road.
- 7 A public footpath runs along the unmade track.
- 8 Planning permission was granted under application SE/12/01100/FUL, to change the use of a redundant barn and stables to veterinary hospital.

### Description of Site

- 9 The application site relates to a site known as Holmesdale Hall, which is located at the end of a long private driveway leading from the end of Parkgate Road. The building, which is the subject of this application, is located adjacent to the private driveway.
- 10 This building consists of former seven bay concrete framed structure approximately 32 metres long and 9 metres wide (that has been altered with new rendered walls) , plus a small flat roof store. There is a smaller office/storage building attached to this building which is within the application site and a former stable block. There is also a stable building to the southeast. Located near to this building is a large twin-span steel framed Dutch barn, which is outside of the application site.
- 11 The redundant barn and stables that are the subject of this change of use application are located just outside the boundary of the Lullingstone Castle grade II listed historic park and garden. The closest part of this historic park and garden is the historic boundary of the 18th century landscaped park, which was never planted as part of the formal scheme of that time. However, the green boundary to it does still form part of the rural character of the parkland.
- 12 The site is located within the Green Belt and Area of Outstanding Natural Beauty.

### Constraints

- 13 AONB
- 14 Metropolitan Green Belt
- 15 Adjacent to a historic park and garden

### Policies

#### *Sevenoaks District Local Plan*

- 16 Policies– EN1, GB3A, EN26, EN17B

#### *Sevenoaks Core Strategy*

- 17 Policies – LO8, SP1

#### *Other*

- 18 NPPF

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### Planning History

- 19 Previously this site has formed part of Park Gate Farm. Some of the history also relates to parts of Holmesdale Hall which are not in this application site. The history below relates to the current application site only.
- 20 TH/5/71/707 - Planning permission granted in 1971 for use of land and stables as riding school.
- SE/03/02619/FUL - Change of Use from barn to office accommodation. Refused 09/02/2004
- SE/06/01989/FUL - Change of use of redundant barn to a therapy and healing centre (Class D1) while retaining part of the building as a farm/equine office and store. Refused 17/01/2007
- SE/07/02080/FUL - Change of use of redundant barn to therapy and healing centre (class D1) while retaining part of the building as a farm office and store (Resubmission of SE/06/01989/FUL). REFUSE 30/08/2007 but Appeal allowed. *This is important as this permission established the principle of the conversion.*
- 12/01100/FUL - Change of use of redundant barn and stables to veterinary hospital. GRANT 19/07/2012.
- 12/03345/FUL- Change of use of redundant barn and stables to veterinary hospital (D1) and including occasional overnight accommodation for veterinary nurses during treatment. With extension to south-eastern elevation, the corner of the north-western and north-eastern elevation, and main public entrance porch to south-western elevation. REFUSE 28/03/2013.

### Consultations

*The Conservation Officer has advised the following:-*

- 21 The redundant barn and stables that are the subject of this change of use application are located just outside the boundary of the Lullingstone Castle grade II listed historic park and garden. The closest part of this HPG is the historic boundary of the 18th century landscaped park, which was never planted as part of the formal scheme of that time. However, the green boundary to it does still form part of the rural character of the parkland.
- 22 I had commented on a previous application to convert the buildings into offices, and raised no objection in principle. The main issue from my point of view is impact on the setting of the heritage assets. In this case, the domestication of the buildings is a small concern. The previous application had proposed cladding the rendered part with weatherboarding, which would have been an improvement, but this isn't proposed here. Also, a number of new windows will need to be introduced. The window design, as can be ascertained from the scale of plans submitted, is simple, but my suggestion would be to, where floor plans permit, enlarging some for a less domestic appearance (in height, for instance). The second concern would be the treatment of the curtilage, and no landscaping plan appears to have been submitted. Boundary treatments in particular are important in order to retain the rural character, in particular at the contiguous boundary with the historic park and garden. My view is that these details should be submitted at this stage rather than by condition.

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Conclusion: No objection in principle to the change of use subject to reconsideration of the fenestration to avoid a domestic appearance, and submission of a landscaping plan.

*KCC Highways have made the following comments:-*

- 23 I refer to the above planning application and having considered the development proposals and the effect on the highway network raise no objection on behalf of the local highway authority.

*Environmental Health have provided the following comments:-*

- 24 I refer to the above mentioned planning application. I wish to make the following Environmental Health observations in relation to the proposal:
- 25 1. Before commencement of the development hereby approved (including any demolition works), a contaminated land assessment, including a site investigation and remediation methodology (if necessary) shall be submitted to and approved by the Local Planning Authority.
- 26 If during the works contamination is encountered, which has not previously been identified, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, agreed and approved in writing by, the Local Planning Authority. The remediation shall be implemented and completed as approved.
- 27 Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;
- a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
  - b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
  - c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Reason: To prevent harm to human health

*KCC Ecology have provided the following comments:-*

- 28 Thank you for the opportunity to comment on this application. We have the following response to make:
- 29 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

## Agenda Item 4.3

that they adequately consider the potential ecological impacts of a proposed development.

- 30 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."
- 31 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.'
- 32 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.
- 33 We commented on this site in April 2013 as part of planning application SE/12/01100/FUL.
- 34 An ecological survey was submitted in support of that application and the survey identified that the rear of the site had potential to support reptiles but the rest of the site had limited potential to be suitable for protected or notable species.
- 35 As a result of reviewing the submitted design and access statement for this planning application we are aware that this area will not be directly impacted by the proposed development and they are proposing to retain it as a wildlife area.
- 36 As the area will not be lost as a result of the development we are satisfied no additional information needs to be provided prior to determination of the planning application.

### Bats

- 37 The survey submitted for planning application SE/12/01100/FUL identified that there is suitable foraging and commuting habitat for bats within the site. If any external lighting is proposed we 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).

#### *Bats and Lighting in the UK*

- 38 Bat Conservation Trust and Institution of Lighting Engineers

#### Summary of requirements

The two most important features of street and security lighting with respect to bats are:

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1. The UV component. Low or zero UV installations are preferred to reduce attraction of insects to lighting and therefore to reduce the attraction of foraging bats to these areas.

2. Restriction of the area illuminated. Lighting must be shielded to maintain dark areas, particularly above lighting installations, and in many cases, land adjacent to the areas illuminated. The aim is to maintain dark commuting corridors for foraging and commuting bats. Bats avoid well lit areas, and these create barriers for flying bats between roosting and feeding areas.

### *UV characteristics:*

#### Low

- Low pressure Sodium Lamps (SOX) emit a minimal UV component.
- High pressure Sodium Lamps (SON) emit a small UV component.
- White SON, though low in UV, emit more than regular SON.

#### High

- Metal Halide lamps emit more UV than SON lamps, but less than Mercury lamps
- Mercury lamps (MBF) emit a high UV component.
- Tungsten Halogen, if unfiltered, emit a high UV component
- Compact Fluorescent (CFL), if unfiltered, emit a high UV component.

#### Variable

- Light Emitting Diodes (LEDs) have a range of UV outputs. Variants are available with low or minimal UV output.

Glass glazing and UV filtering lenses are recommended to reduce UV output.

Security and domestic external lighting. The above recommendations concerning UV output and direction apply. In addition:

Lighting should illuminate only ground floor areas. Light should not leak upwards to illuminate first floor and higher levels.

Lamps of greater than 2000 lumens (150 W) must not be used.

Movement or similar sensors must be used. They must be carefully installed and aimed, to reduce the amount of time a light is on each night.

Light must illuminate only the immediate area required, by using as sharp a downward angle as possible. Light must not be directed at or close to bat roost access points or flight paths from the roost. A shield or hood can be used to control or restrict the area to be lit. Wide angle illumination must be avoided as this will be more disturbing to foraging and commuting bats as well as people and other wildlife. Lighting must not illuminate any bat bricks and boxes placed on buildings, trees or other nearby locations.

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*Natural England have provided the following comments:-*

39 The Wildlife and Countryside Act 1981 (as amended)

The Conservation of Habitats and Species Regulations 2010 (as amended)

The National Park and Access to the Countryside Act 1949

Natural England's comments in relation to this application are provided in the following sections.

50 Statutory nature conservation sites – no objection

This application is in close proximity to the Lullingstone Park Site of Special Scientific Interest (SSSI).

Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

51 Protected landscapes – no comments

This application falls within the Kent Downs AONB. Natural England has no comments to make on this proposal as we do not believe that this development is likely to adversely affect the purpose of the Kent Downs AONB

Given the location of the development, your Authority should seek the view of the AONB partnership prior to determining this planning application, as they may have more detailed comments to make on the location, nature or design of this development.

52 Protected species

*Bats and great crested newts*

It is noted that a survey for European Protected Species has been undertaken in support of this proposal. Natural England does not object to the proposed development. On the basis of the information available to us, our advice is that the proposed development would be unlikely to affect bats and great crested newts.

For clarity, this advice is based on the information currently available to us and is subject to any material changes in circumstances, including changes to the proposals or further information on the impacts to protected species.

The advice we are giving at the present time relates only to whether, in view of the consultation materials presently before us (including with reference to any proposed mitigation measures), the proposal is likely to be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range (*i.e.* the 'Favourable Conservation Status' test). We have not considered whether the proposal satisfies the three licensing tests or whether a



licence would be issued for this proposal. This advice is based on the information currently available to us and is subject to any material changes in circumstances, including changes to the proposals or further information on the protected species.

We have not assessed the survey for badgers, barn owls and breeding birds<sup>1</sup>, water voles, white-clawed crayfish or widespread reptiles. These are all species protected by domestic legislation and you should use our protected species standing advice to assess the adequacy of any surveys, the impacts that may result and the appropriateness of any mitigation measures.

### 53 Local wildlife sites

If the proposal site is on or adjacent to a local wildlife site, eg Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local wildlife site, and the importance of this in relation to development plan policies, before it determines the application.

### 54 Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

### 55 Landscape enhancements

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

*KCC Public Rights of way Officer has advised the following:-*

- 56 Thank you for your letter dated 29th July 2013 with regard to the above application Public Rights of Way Footpath SD206 is the only access route in from the end of the public carriageway of Park Gate Road. I do not anticipate that it will be affected by the development. I enclose a copy of the Public Rights of Way network map showing the line of this path for your information. The applicant may

### Agenda Item 4.3

have private vehicle access rights along this footpath; the public only has the right to use it on foot. As per my comments on the previous applications on 6th June and 29th July 2012 I have no objection to the proposal in principle particularly, as noted, that the level of vehicular traffic is likely to reduce as a consequence of the change of use from a former riding stables. However, the applicant should be made aware that the liability of the County Council in terms of the maintenance of the public footpath extends only to passage along the path for pedestrians and does not include any liability for the passage of private vehicles. In addition, the applicant may be responsible for repairing any damage to the surface of the path caused by the passage of vehicles that renders the condition of the path unsafe or inconvenient for use by pedestrians.

- 57 There are no details on landscaping or curtilage boundaries in the application and I would ask that this is made a matter for conditions. There must be no encroachment on the width of track currently available for the public to use. Any planting adjacent to the track would need to be set back at least a metre from the existing edge so that any plants could be kept trimmed back from the path and not encroach onto its width.
- 58 Contractors' vehicles must not be parked on the track obstructing the right of way. Signage should be erected to notify drivers that the public has a right of way on foot and to keep down their speed. The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way.
- 59 Should any temporary closures be required to ensure public safety then this office will deal on the basis that:
- The applicant pays for the administration costs
  - The duration of the closure is kept to a minimum
  - Alternative routes will be provided for the duration of the closure.
  - A minimum of six weeks notice is required to process any applications for temporary closures.
- 60 This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any building materials, constructor's vehicles or waste generated during any of the construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

*The Kent Garden Trust have advised the following:-*

They have no comment to make on the application.

- 61 No comments have been received from:-
- Archaeological Officer
  - The Garden Society

- Kent Wildlife Trust

*Parish / Town Council*

62 Objection and reasons:

It is considered unsuitable re-use of a redundant barn.

Would provide creeping development if approved - there is currently permission for the existing house to be demolished and replaced so why is an additional residential building required? It is also noted that the whole area of Holmesdale Hall is up for sale and divided into 10 different plots.

The current proposal looks larger than the original dwelling on this land and is totally out of proportion. The proposal is to increase the number of windows considerable and is not in keeping with the surrounding area. Residential use could increase traffic, noise, disturbance and increase paraphernalia associated with residential dwellings.

This building is clearly visible from the public footpath that runs alongside.

There is an additional large barn alongside which is not shown on the plans. There is concern that this would form the next residential application.

Representations

63 1 anonymous letter has been received in connection with the proposal. The main issues raised include the following:-

- Modifications that have been made to the building.
- Impact of AONB
- The proposal represents a piecemeal form of development

**Chief Planning Officer's Appraisal**

64 Due to the nature of the scheme and the site constraints, the following are considered to be the determining issues:-

- Impact on the Green Belt
- Impact on character and appearance of the area/AONB
- Impact on the amenities of adjacent properties
- Parking/Access
- Impact on the historic park and garden
- Impact on protected wildlife, SNCI and SSSI
- Contamination Issues
- Public Right of Way Issues
- Affordable housing contribution

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### *Impact on the Green Belt*

- 65 National planning policy guidance relating to the Green Belt is set out in paragraph 80 of the NPPF. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The document states that there is a general presumption against inappropriate development, where the openness of the countryside/landscape would be adversely affected. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 66 The NPPF states that certain other forms of development are also not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include:-
- 67 The re-use of buildings provided that they are of permanent and substantial construction.
- 68 In addition to the policy advice in the NPPF, the advice and guidance from relevant policies in the local plan (which are compliant with the NPPF), should also be considered in respect of this proposal.
- 69 Policy GB3A of the Local Plan is relevant and states that the Council will permit the re-use of buildings within the Green Belt providing the proposal complies with the following criteria:
- The proposed new use will not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land within it;
  - The building is of permanent and substantial construction and is capable of conversion without major or complete re-construction; and
  - The form, bulk and general design of the buildings are in keeping with their surroundings and respect local building styles and materials.
- 70 It is considered that policy GB3A is broadly consistent with the NPPF and therefore needs to be taken into consideration under this application.

### The proposed new use will not have a materially greater impact than the present use on the openness of the Green Belt

- 71 The first criterion is whether the new use would have a materially greater impact than the use of the present building.
- 72 As already stated, the building is already on the site and therefore in this respect it is considered that the actual conversion of the building will have no greater impact on the openness of the site.
- 73 With a proposal of this nature the main impact on the Green Belt is from the residential use itself, which includes the parking areas and residential paraphernalia from the use itself from the domestication of the site.

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- 74 As stated above one aspect of a scheme like this is the impact from the creation of a residential curtilage. In some cases, it is considered that a curtilage could harm the open character of the land due to the maintenance of the land which would result in a change in its character to a more manicured environment (which is considered to be harmful to the open character of the land) and the associated residential paraphernalia which results from a residential use of this nature (such as tables and chairs, washing lines, play equipment – which the council would have no control over). It is considered that the use of planning conditions would control some of the harm in terms of restricting outbuildings/hard standings/fencing etc. but would not satisfactorily control the harm in terms of how the site is used and the domestication of the site.
- 75 In this case, however, the curtilage of the site follows an established field boundary and is immediately adjacent to the building. In view of the shape of this curtilage and its location, the proposed garden area (to be used in connection with this application) is considered to be acceptable from a visual perspective. In addition to this, the front of the site is already hard surfaced and views of this area, are largely contained by existing buildings (subject to this application) and by the steel barn and stable block to the west. Parking is proposed within the front of the site, which is considered to be acceptable in terms of the impact on the openness of the site.

### The second element to consider is whether the building is of permanent and substantial construction.

- 76 Although a structural statement has not been submitted under this application to verify that the building is of permanent and substantial construction, the building has already been given permission to convert under application, 07/02080 (on appeal) and for the latest application, 12/01100/FUL to change the use of redundant barn and stables to a therapy centre and then to veterinary hospital. The structural survey submitted confirmed that the building was capable of being converted. In this respect the proposal is considered to comply with this element of the policy.

### The form, bulk and general design of the buildings are in keeping with their surroundings and respect local building styles and materials.

- 77 The final element of the policy GB3A of the Sevenoaks District Local Plan is that the form, bulk and general design of the buildings should be in keeping with their surroundings and respect local building styles and materials. The form, bulk and general design of the buildings are in keeping with their surroundings and respect local building styles and materials.
- 78 The proposed external changes to the existing barn are considered to be acceptable and are considered not to adversely undermine the integrity of the existing agricultural building.
- 79 The proposed conversion is therefore considered to comply with the advice and guidance in the NPPF and policy GB3A from the Sevenoaks District Local Plan. In this respect the proposed development is considered to be appropriate development in the Green Belt.

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### *Impact on streetscene/AONB*

- 80 The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development.
- 81 The application site is located in a highly sensitive area within the AONB. Paragraph 11 of the NPPF states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty. It states that the primary purpose of these designations is to conserve and enhance the natural beauty of the landscape. LO8 from the Sevenoaks Council Core Strategy, also recognise the importance of the visual quality of the landscape and do not support development, which would adversely affect the natural beauty of the area.
- 82 In principle there is no objection raised to the alterations proposed to the external appearance of the building to facilitate the conversion, these include the new windows, doors and rooflights. The development as proposed is therefore considered to be sensitive to the character and appearance of the area and no objection is raised to its appearance. To ensure that the proposal would have no adverse impact on the character and appearance of the area, it is considered that conditions in respect of fencing, use of materials and the removal of permitted development rights would be appropriate.
- 83 The proposal therefore is considered to comply with the above aforementioned policies.

### *Impact on neighbouring amenity*

- 84 Policy EN1 of the Sevenoaks District Local Plan requires that any proposed development should not have an adverse impact on the privacy of neighbouring properties and also ensures a satisfactory environment for future occupants.
- 85 The nearest residential property is Holmesdale Hall, which is located approximately 40 metres to the east of the application property. This distance is considered to be sufficient to have no material impact on the living conditions of this property.
- 86 The proposal is considered to have no adverse impact on any adjacent property.

### *Parking and highways safety*

- 87 Policy EN1 of the Sevenoaks District Local Plan requires that proposed development should ensure the satisfactory means of access for vehicles and provide parking facilities. Policy VP1 of the Sevenoaks District Local Plan requires that vehicle parking provision in new developments should be made in accordance with adopted vehicle parking standards.
- 88 KCC highways have advised that having considered the development proposals and the effect on the highway network, that they raise no objection on behalf of the local highway authority.

- 89 As stated above, the site already has a large hardstanding area at the front, which would accommodate the parking from the proposal and in addition to this a garage area to the south east. It is therefore considered that the proposal is acceptable in terms of parking provision and highways safety.

### *Impact on the Historic Park and Garden*

- 90 The NPPF states that states that in determining planning applications, local planning authorities should take account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness.
- 91 The NPPF also states that 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. 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, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.
- 92 Policy SP1 of the Sevenoaks District Core Strategy states "the districts heritage assets and their settings, including listed buildings, conservation areas, archaeological remains, ancient monuments, historic parks and gardens, historic buildings landscapes and outstanding views will be protected and enhanced"
- 93 Policy EN26 from the Sevenoaks Core Strategy states, that the Proposals Map identifies a number of historic parks and gardens and the Local Planning Authority will protect these sites and their settings from intrusive development.
- 94 The redundant barn and stables, subject of this change of use application, are located just outside the boundary of the Lullingstone Castle grade II listed historic park and garden. The closest part of this Historic Park and Garden is the historic boundary of the 18th century landscaped park, which was never planted as part of the formal scheme of that time. However, the green boundary to it does still form part of the rural character of the parkland.
- 95 The main issue in terms of this proposal is the impact on the setting of the heritage asset. In this case, the Conservation Officer has advised that no objection is raised to the conversion/domestication of the building in general terms. The main issue in terms of the heritage asset is how the boundary of the site is delineated, to enable the rural character of the area to be maintained (as it would form a continuous boundary with the historic park and garden). Although this is considered to be an important issue, it is however considered that the

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boundary treatment and the landscaping details should be submitted via a condition to ensure the rural appearance of the area is adequately maintained and the historical asset adequately safeguarded.

### *Impact on protected wildlife and the Site of Nature Conservation Interest*

- 96 The National Planning Policy Framework states "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."
- 97 The NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
  - proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;
  - development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
  - opportunities to incorporate biodiversity in and around developments should be encouraged;
  - planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.
- 98 Policy EN17B of the Local Plan states that within SNCIs 'In other areas of nature conservation interest, including SNCIs and LNRs, development will not be permitted if it is likely to cause a loss of wildlife habitats and other features of nature conservation interest, unless it can be shown that the need for the development overrides the particular interest and no suitable alternative site is available. Where harm arises adequate compensation or mitigation will be required.
- 99 This application is in close proximity to the Lullingstone Park Site of Special Scientific Interest (SSSI).
- 100 Natural England have however advised that they are satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, and will not damage or destroy the interest features for which the site has been notified.



- 101 The proposed development is to be located 120 metres to the north of a Site of Nature Conservation Interest (SNCI). KCC Ecology has advised that they commented on this site in April 2013 as part of planning application SE/12/O1100/FUL. An ecological survey was submitted in support of this specific application and the survey identified that the rear of the site had potential to support reptiles but the rest of the site had limited potential to be suitable for protected or notable species. In view of this previous document and as a result of reviewing the submitted design and access statement for this planning application they are satisfied that the area will not be directly impacted by the proposed development as they are proposing to retain it as a wildlife area.
- 102 In view of the fact that none of the consultees has raised any objection to the proposal on conservation and wildlife grounds, I consider that the proposal would have no adverse impact on the protected wildlife and to the adjacent SNCI, with the addition of relevant conditions to seek that lighting is controlled and biodiversity improvements are sought.

### *Contamination Issues*

- 103 The NPPF states to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 104 Environmental Health has advised that they would seek a condition to be imposed regarding contamination, should the proposal be approved. In view of their comments, it is considered to be necessary that a condition is imposed of this nature.

### *Public Right of Way*

- 105 The Public Rights of Way Footpath SD206, runs along the unmade access to the site and is accessed off the public carriageway of Park Gate Road.
- 106 As the Public Rights of Way Officer has raised no objection, the proposal is considered to have no adverse impact.

### *Affordable Housing Contribution*

- 107 Policy SP3 of the Core Strategy additionally indicates that the Council will expect the provision of affordable housing in all types of residential development. In the case of development that result in the net increase of less than five units 'a financial contribution based on the equivalent of 10% affordable housing will be required towards improving affordable provision off-site'. The Council's Affordable Housing SPD gives some guidance on the calculation and delivery of the necessary contribution which would be applicable.
- 108 The applicants have had the property (once completed) valued at £450,000. An independent valuation report has been submitted with the application by Langford Rae Van Bergen (Estate Agents) to support this. In view of the valuation,

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the applicants have agreed to pay the affordable housing figure of £20,076, which is in accordance with the working formula.

- 109 Providing that the 106 agreement is acceptable as drafted the proposal would comply policy SP3 of the Sevenoaks District Local Plan.
- 110 Paragraph 4.4 of the Affordable Housing SPD states that
- 111 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 i.e. staff accommodation/granny annexe, and whose independent occupancy is restricted by condition
- 112 Although the annex has the facilities required for independent living, the annex will be connected to the main dwelling through a doorway. In view of this, it is considered that the proposal would be ancillary to the main dwelling use. To ensure that the dwelling does not however become an independent unit, a condition is suggested to ensure that it would remain incidental to the main use. As it has been demonstrated that use would be ancillary, a separate affordable housing contribution for the annex element is not required in accordance with the SPD for affordable housing.

### **Conclusion**

- 113 In conclusion the proposed development is considered to be appropriate development in the Green Belt.
- 114 There is considered to be no adverse neighbour impact, highway implications, no adverse impact on the historic park and garden and no adverse on protected wildlife.
- 115 Providing that the 106 agreement is acceptable, the proposal is also considered to be in accordance with policy SP3 of the Sevenoaks Core Strategy.

### **Background Papers**

Site and Block plans

Contact Officer(s): Vicky Swift Extension: 7448

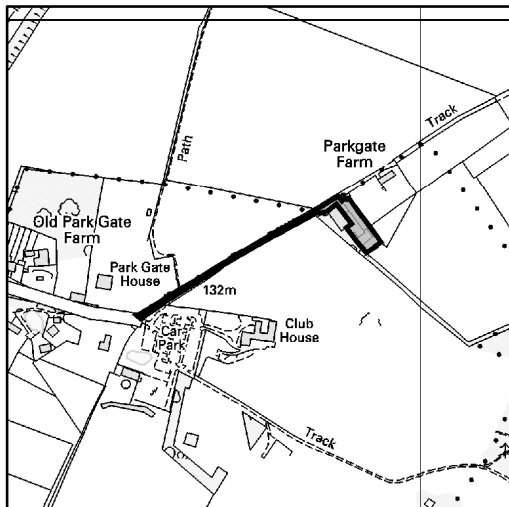
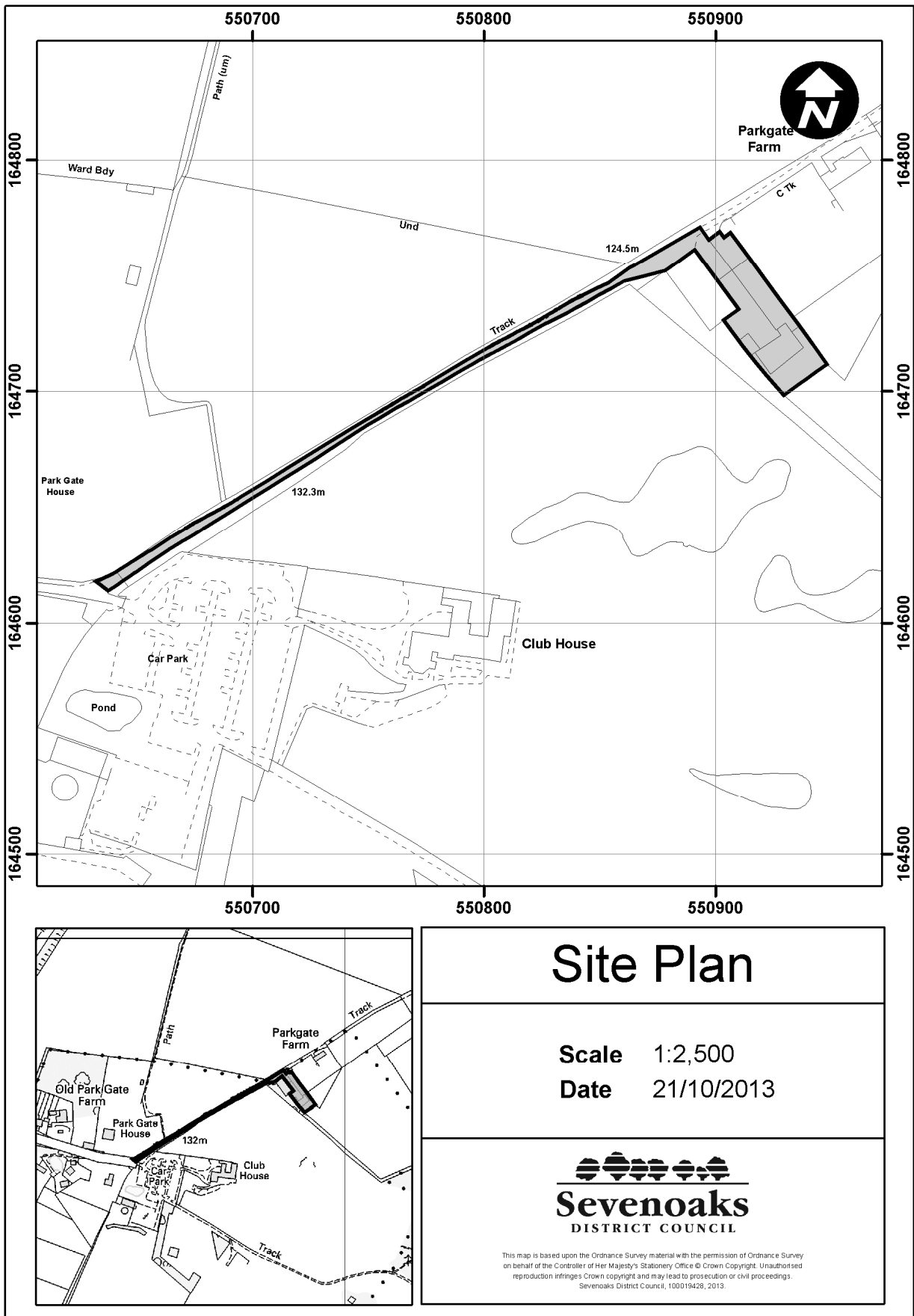
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MQDTF9BK0FZ00>

Link to associated documents

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MQDTF9BK0FZ00>



# Site Plan

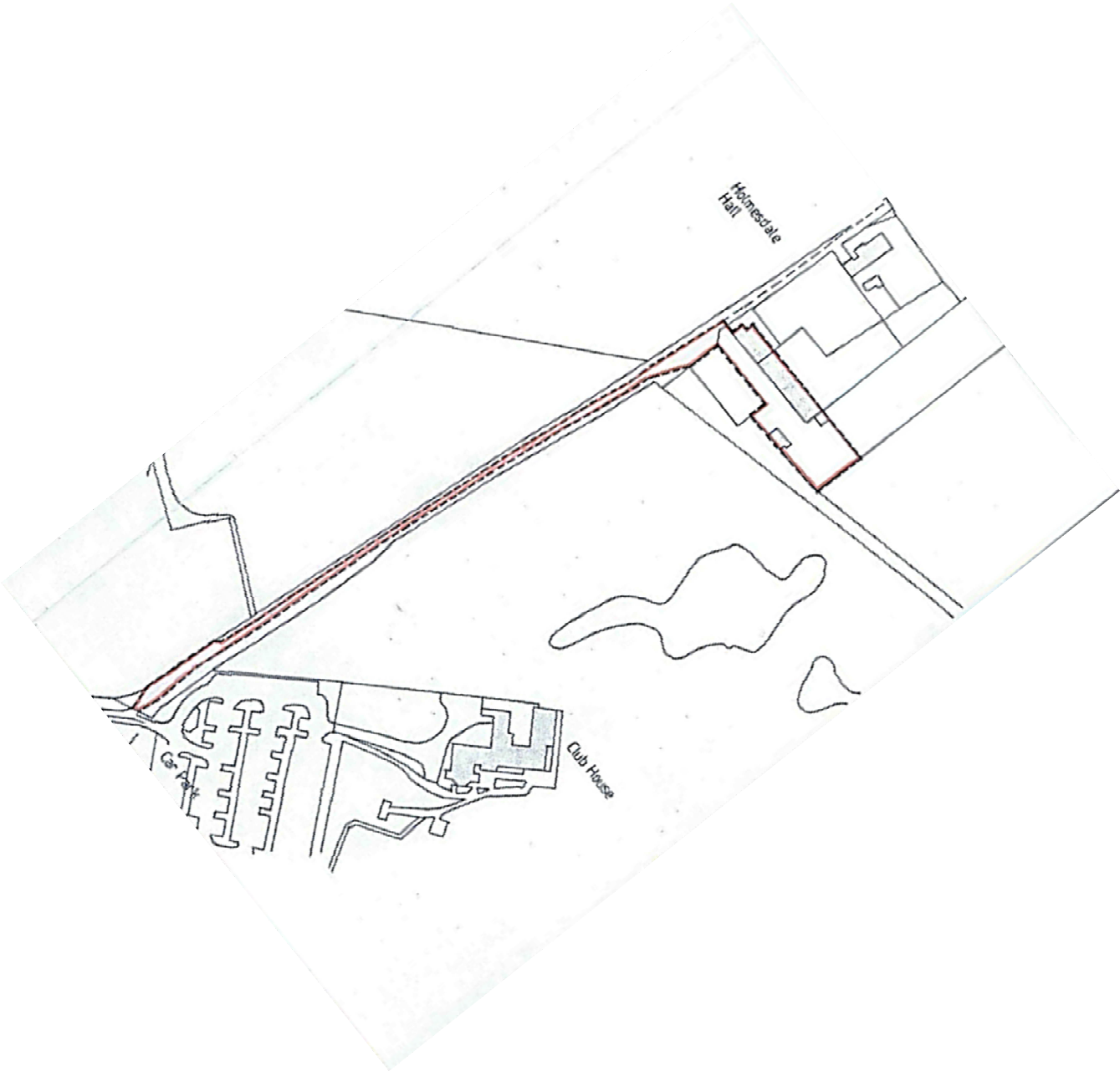
Scale 1:2,500

Date 21/10/2013



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**Block Plan**



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4.4 – SE/13/02078/FUL Date expired 1 October 2013

PROPOSAL: Construction of detached dwelling and 2 no. parking spaces.

LOCATION: Land To East Of Badgers Set And Formerly Chart View , West End, Kemsing TN15 6PX

WARD(S): Kemsing

**ITEM FOR DECISION**

This item has been referred to the Development Control Committee by Councillor Stack who wishes the committee to consider the contribution of this site to the character of the surrounding area in the light of a previous appeal decision.

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

- 1) The proposed scheme would result in the loss of the gap between 11 West End and Badgers Sett thereby causing harm to the character of the surrounding area, including the adjacent conservation area, contrary to the provisions of policies EN1 and EN23 of the Sevenoaks District Local Plan and policies SP1 and LO7 of the Sevenoaks Core Strategy.
- 2) The proposed development makes no provision for a contribution towards the Councils Affordable Housing initiative and nor has it been demonstrated that such a contribution would render the scheme unviable. This scheme is therefore contrary to the provisions of policy SP3 of the Sevenoaks Core Strategy.

**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.
- 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

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- 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 This application proposes the erection of a 3 bedroom two storey detached house with two off street spaces lying in front of the house. The house would align broadly with the two houses either side lying approximately 4m from the flank wall of the house to the east and just over 2.5m from the flank wall of the house to the west.
- 2 The house would have a traditional design with brick and tile hung elevations and a pitched tiled roof. A single pitched roof dormer window is proposed in the rear roof space.
- 3 The rear garden would be some 5m in length and the rear boundary would align with the green belt boundary.

### Description of Site

- 4 The application site is located on the southern side of West End to the west of the junction with Ediths Road, set back from the highway behind a recent development which fronts West End. That development comprises shops and flats at the site frontage, a pair of semi detached houses sitting in front of the site and one detached house lying next to the site. It lies between that house and the original house on the other side of the site - Badgers Sett and forms part of the gardens of both houses.
- 5 The majority of the development site to the north and the east lies within the Conservation Area.

### Constraints:

- 6 The site lies within the built confines of Kemsing (the green belt boundary runs across the end of the rear garden), partly within the extended Conservation Area (the boundary runs between 11 West End and proposed house and across the front of the site).

### Policies

#### *Sevenoaks District Local Plan*

- 7 Policies - EN1, EN4B, EN23, GB1, VP1, H1, H10A

#### *Sevenoaks District Core Strategy*

- 8 Policies - SP1, SP2, SP3, L07, H1, H4, H5, T4, BE6



Relevant Planning History

- 9 SE/06/02947/FUL - Demolition of existing commercial, retail and residential property and construction of 170m<sup>2</sup> of retail and commercial space, 4 x 2 bedroom flats, 3 x 2 bedroom houses, 2 x 4 bedroom houses associated parking and new double garage to Badgers Sett. - Refused

SE07/03190/FUL - Demolition of existing commercial retail and residential property and construction of 170m<sup>2</sup> retail and commercial space, 4 x 2 bedroom flats, 2x2 bedroom houses and 1 detached 4 bedroom house and new double garage to Badgers Sett. - Approved

SE/09/01041/FUL - 2 New 4-bed detached houses - Refused

SE/09/02723/FUL Detached house – Refused - Appeal lodged and dismissed - reproduced as Appendix 1 to this report.

SE/11/02411/FUL Erection of a two storey side extension to Badgers Sett. Approved.

Consultations

*Kemsing Parish Council*

- 10 Recommend APPROVAL, subject to the inclusion of the following condition - "Part of the plot is in the Green Belt, and an 'open fence' of either 'ranch style' or 'post and rail' shall be installed to clearly mark the boundary between the garden of the proposed property and the Green Belt beyond and shall be so maintained in perpetuity."

*Thames Water*

- 11 No objection

*KCC Highways*

- 12 No objection subject to condition regarding wheel washing facilities.

Representations

- 13 None

**Chief Planning Officer Appraisal**

Principal Issues

- 14 The main issues concern the impact upon the character and visual amenities of the surrounding area including the Conservation Area, impact upon adjacent highway, neighbours amenities and affordable housing.

*Impact upon Character/Visual Amenities of the Area*

- 15 The National Planning Policy Framework at Section 12 considers the impact of new development upon the historic environment. Paragraph 126 seeks to ensure

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that new development makes a positive contribution to local character and distinctiveness.

- 16 The Conservation Area, Section 72(1) of the Planning Listed Buildings and Conservation Areas Act 1990 provides 'In the exercise, with respect to any buildings or other land in a conservation area, of any (Planning Act functions)...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'. Policy EN23 seeks to ensure that new development *preserves or enhances the character or appearance of the area* whilst policies SP1 and LO7 both refer to the need for new development to *respect the character of the local character*.
- 17 The site lies partially within the Conservation Area: the Conservation Boundary running through the length of the site close to its eastern boundary and along the northern boundary of the site. The house would be visible from within adjacent private sites within the Conservation Area and clearly visible, at the end of the access road, from West End (lying almost directly opposite the end of the access into this site from West End). At present views of other nearby houses in similar positions are seen from West End and to this extent this development would be no different to those other houses. However as a result of trying to fit another house into this site, this part of the site will have a cramped appearance – accentuated by the modest distance between the flank wall of each new house.
- 18 This issue was considered as part of the previous appeal (see Appendix 1) and the Inspector concluded as follows:
- 19 *"8. The appeal site, which is partly in the Conservation Area, lies within a gap between the 2 detached houses at the rear of the cul-de-sac. It is said to form part of the side garden of one of these houses. Retaining this land undeveloped performs a useful function. It ensures that views are obtained from West End over the access road towards trees and open countryside beyond. This prevents the recently constructed shops and houses, with its otherwise close-knit pattern, and extensive areas of hard standing, appearing unduly harsh and overdeveloped.*
- 20 *9. The benefit this gives would be negated by the presence of the proposed development. This would especially be so given the substantial extent that it would cover the plot and its proximity to the 2 adjoining houses. Added harm would be created by the proposed linked carport. By occupying much of the front garden of the house it would make the scheme as a whole appear an over-development of the plot. This would be so notwithstanding the forward location of the garages for the 2 adjoining houses.*
- 21 *10. Given the above the proposed development would detract from the character and appearance its immediate surroundings."*
- 22 The scheme to which this decision refers was significantly larger than the current scheme and drawing reference COB/12/534/01B shows the existing proposal compared to the scheme that was refused. A number of differences are evident:
- The ridge height has been reduced by between 1.2 – 2.2m
  - The width of the main body of the house has been reduced by 40cm
  - The projecting single storey garage has been removed

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- The gap between the proposed house and the house to the east (no 11) has increased from between 1.3m – 2.3m to 3.8m
  - The gap between the proposed house and Badgers Sett to the west has reduced from 3.8m to 2.7m.
- 23 Overall the previously proposed house clearly had a greater presence than the current scheme.
- 24 The proposed scheme clearly shows a much smaller house that has been moved closer to the western boundary in an effort to provide as much open space as possible on the eastern side of the site, which is the part of the site that is most visible from West End. It would appear as a smaller 'insert' between the two larger adjacent houses. However it is not considered that the changes proposed and the increase in distance between no.11 and the proposed house would be so great as to overcome the harm identified by the previous inspector. The house would still be visible from West End and the gap that currently provides easy and unrestricted views through to the countryside beyond would be reduced to just under a 4 m gap between the two houses. Consequently it is still considered that the gap should be retained in its entirety rather than being eroded in the manner proposed: this land is considered of positive benefit to the character of the surrounding area as vacant land rather than as developed land.
- 25 This would be harmful to the character of the surrounding area and Conservation area and therefore contrary to policies EN1 and EN23 which both recognise the importance of the form, scale and height of a development upon the amenities of a locality. EN23 particularly refers to the new development paying special attention to the desirability of preserving or enhancing the character or appearance of a conservation area and its setting.
- 26 Policies SP1 and LO7 both refer to the need for new development to respect the character of the local character. By eroding this space it is considered that this scheme fails to do that and is therefore non compliant with these policies.
- 27 Planning permission has been granted for a two storey side extension to Badgers Sett. This extension is 5m in width but the officer's report comments that a 9m gap would be retained and the views through the trees and open land would be largely preserved, which would not be the case with the current proposal.

### *Impact upon Highway*

- 28 Although this house would clearly generate more traffic, it is not considered that this one additional unit could be demonstrated to cause such harm to the adjacent highway as to justify a refusal of permission. The parking spaces and access are considered acceptable.

### *Neighbours Amenities*

- 29 The scheme would not adversely impact the neighbours amenities other than affecting the spatial characteristics of the surrounding area.

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### *Affordable Housing*

- 30 Policy SP3 seeks to ensure that all new housing development makes a contribution towards the Councils Affordable Housing Strategy either by means of an on or off site contribution. In the case of a single house this should be a financial contribution. This scheme would therefore generate a requirement for an off site contribution towards the Councils affordable Housing scheme. No legal agreement has been supplied although officers are advised that should permission be forthcoming such a contribution would be made. In the absence of completed agreement however this remains contrary to established policy.

### Other Issues

- 31 The site plan has been amended to remove that part of the rear garden originally in the green belt so that the rear boundary now runs along the line of the village with the green belt. Consequently this application will have no impact upon the green belt.

### Access Issues

- 32 Would be resolved as part of any Building Regulations application.

### **Conclusion**

- 33 This scheme proposes a single detached house on space lying between two other houses, space that currently forms garden space for the adjacent houses. A previous appeal decision for a new house identified that this space has an important role to play in providing views from the High Street through to the countryside beyond and to prevent the quite densely developed scheme in front of the site appearing to be over developed. In officers opinion this scheme would produce just that result and is therefore contrary to established policy.
- 34 Additionally no financial contribution has been made in respect of the Councils affordable housing scheme and the scheme is therefore not in accordance with policy SP3 of the Core Strategy.

### **Background Papers**

Site & Block Plans

Contact Officer(s): Lesley Westphal Extension: 7235

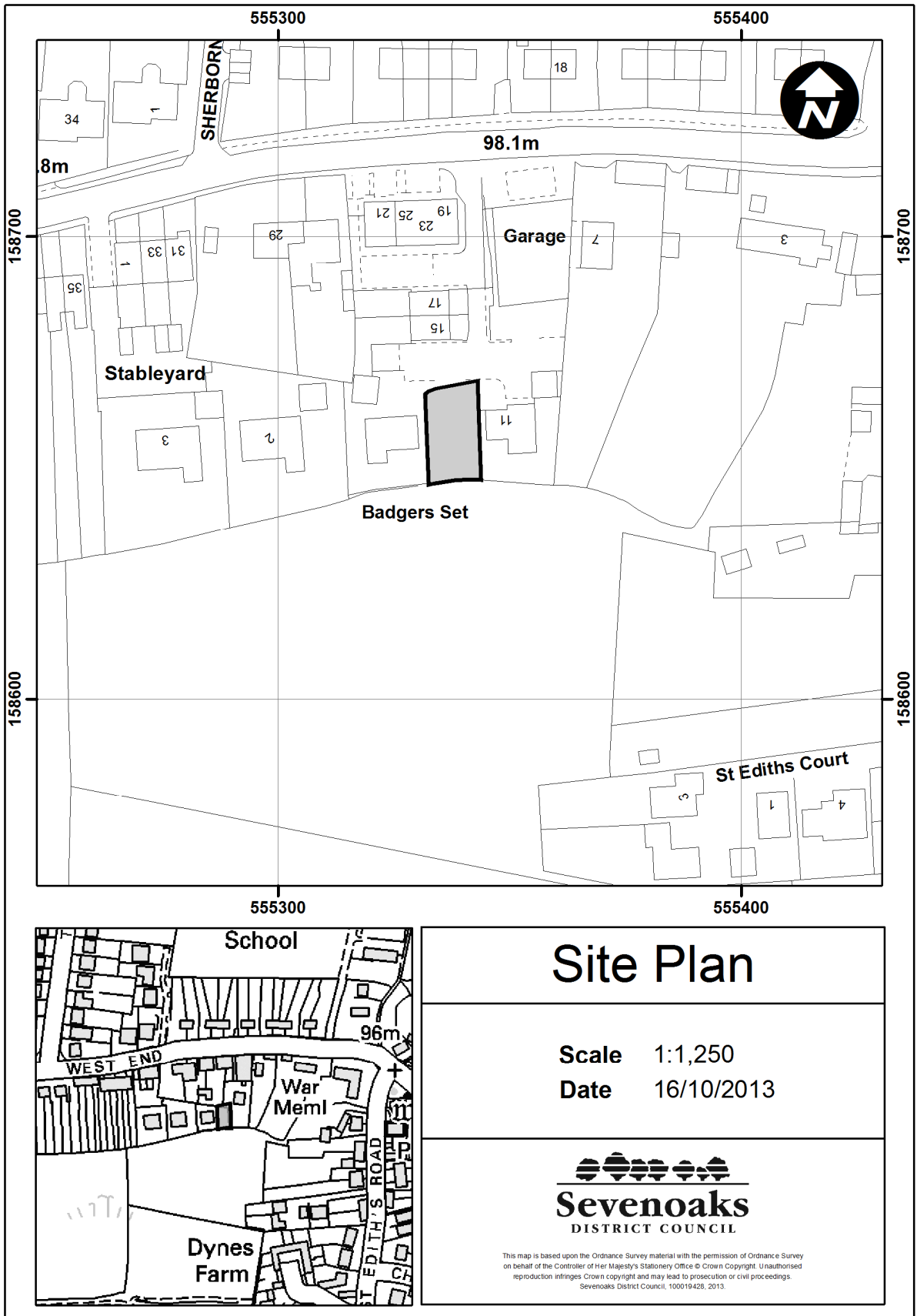
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MPTKGQBKOL000>

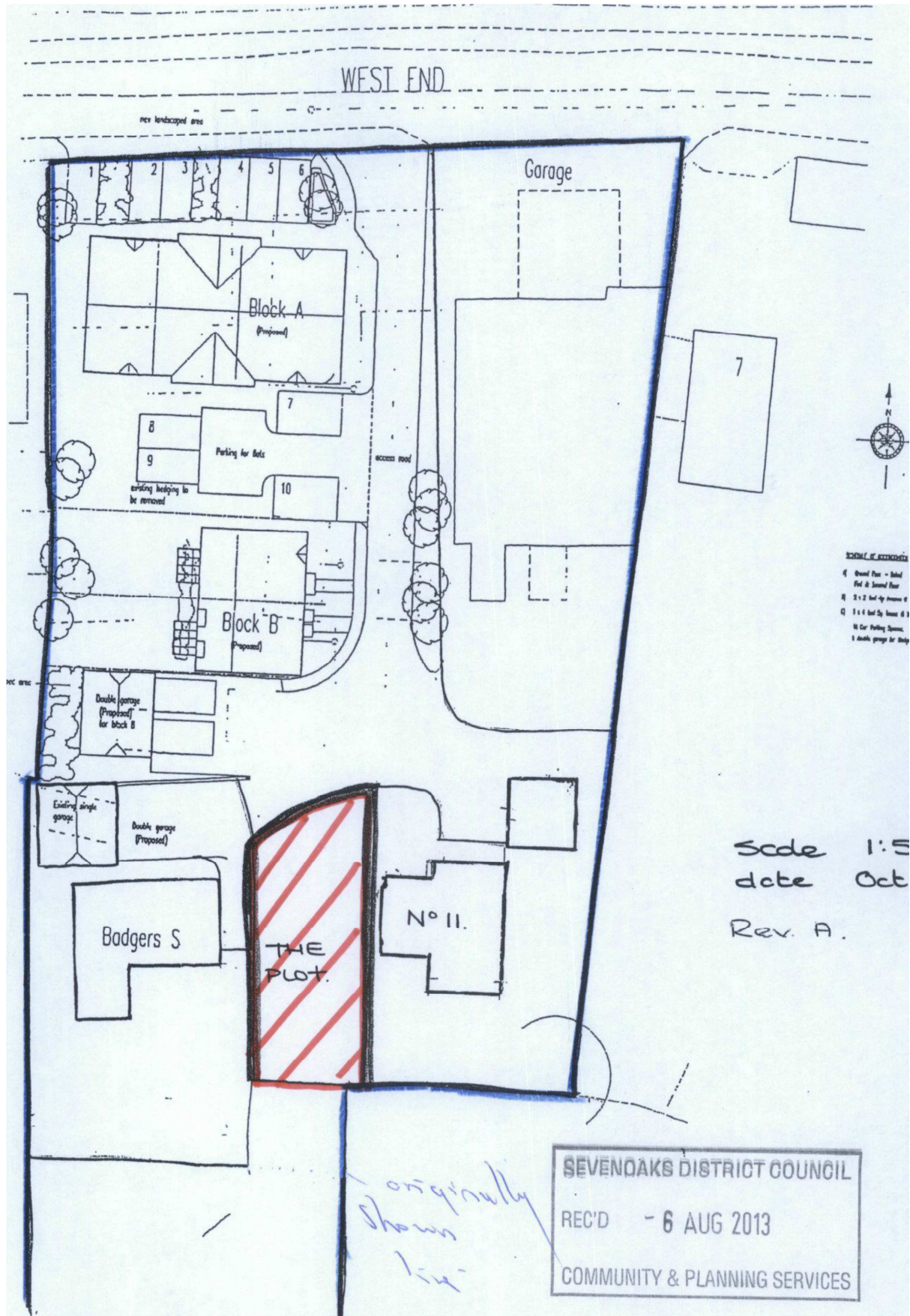
Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MPTKGQBKOL000>



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## Block Plan





|   |  |   |
|---|--|---|
|  | <h2>Appeal Decision</h2>   | <p>The Planning Inspectorate<br/>4/11 Eagle Wing<br/>Temple Quay House<br/>2 The Square<br/>Temple Quay<br/>Bristol BS1 6PN</p> |
|   | <p>Site visit made on 6 July 2010</p>  |   |
|   | <p>by <b>R J Marshall</b> LLB Dip TP MRTPI</p>   | <p>☎ 0117 372 6372<br/>email: enquiries@pins.gsi.gov.uk</p>   |
|   | <p>an Inspector appointed by the Secretary of State<br/>for Communities and Local Government</p> | <p><b>Decision date:</b><br/>7 September 2010</p>   |

**Appeal Ref: APP/G2245/A/10/2122366**  
**Land adjacent Badgers Sett and formerly Chart View, West End, Kemsing, Sevenoaks, TN15 6PX**

- 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 Ian McLaughlan against the decision of Sevenoaks District Council.
- The application Ref SE/09/02723/FUL, dated 2 November 2009, was refused by notice dated 4 February 2010.
- The development proposed is "Redevelopment of land between Badgers Sett and formerly Chart View to a new detached 3 bedroom house".

**Decision**

1. I dismiss the appeal.

**Background and main issue**

2. Kemsing is an attractive village at the base of the North Downs. Policy H10A of the Sevenoaks District Local Plan (2000) allows for minor development and infill within its confines. The site appears to be within the built-up part of the village and at application stage the Council raised no "in principle" objection. Its sole concern was on the impact of the scheme on the character and appearance of the area.
3. Thus the main issue in this appeal is the effect of the proposed development on the character and appearance of the surrounding area which includes the Green Belt to the south of the site and the Kemsing Conservation Area which the site partly lies within.
4. I shall also, however, take into account the fact that after the appeal was lodged the Government amended Planning Policy Statement 3: Housing (PPS3). I have now received the views of the principal parties on how or whether this affects their respective cases.

**Reasons**

**Main issue**

5. The historic central core of the village is within the Kemsing Conservation Area. This area extends along village roads including the southern side of West End. Along this road, leading away from the village crossroads, are large properties in well landscaped grounds. This gives this part of the Conservation Area a fairly spacious appearance.

6. Further to the west along West End, and still within the Conservation Area, are a commercial garage and an attractive terrace of recently built shops with flats above. Fronting West End to the north of this development is 1920's style housing comprising short terraces and semi-detached properties. Given the fairly sizable front gardens, and the gaps between dwellings, this group of houses has a reasonably spacious appearance.
7. Between the garage premises and the new shops is an access road, in the form of a short cul-de-sac, leading to a new backland development. To one side of this road are newly constructed semi-detached houses. Two modern detached houses face onto the end of the cu-de-sac. The houses off the cul-de-sac and the shops with flats above have the appearance of a comprehensive scheme. The development is attractively set out and the properties well designed.
8. The appeal site, which is partly in the Conservation Area, lies within a gap between the 2 detached houses at the rear of the cul-de-sac. It is said to form part of the side garden of one of these houses. Retaining this land undeveloped performs a useful function. It ensures that views are obtained from West End over the access road towards trees and open countryside beyond. This prevents the recently constructed shops and houses, with its otherwise close-knit pattern, and extensive areas of hardstanding, appearing unduly harsh and overdeveloped.
9. The benefit this gives would be negated by the presence of the proposed development. This would especially be so given the substantial extent that it would cover the plot and its proximity to the 2 adjoining houses. Added harm would be created by the proposed linked carport. By occupying much of the front garden of the house it would make the scheme as a whole appear an over-development of the plot. This would be so notwithstanding the forward location of the garages for the 2 adjoining houses.
10. Given the above the proposed development would detract from the character and appearance its immediate surroundings.
11. I do not share the Council's concern that it would harm the character and appearance of the Green Belt to the south. This is because extensive woodland to the rear of the site would keep any effect on the appearance of the Green Belt to a minimum. However, lack of harm in this respect does not make the proposed development acceptable given the other harm identified.
12. On the main issue, I conclude that the proposed development would detract from the character and appearance of the surrounding area including the Kemsing Conservation Area which the site adjoins and partly lies within. As such it would be contrary to Policy EN1 of the Local Plan which requires new development to be in harmony with its surroundings. It would also conflict with Policy EN23 of the Plan which reiterates the statutory requirement on the desirability of preserving or enhancing the character or appearance of Conservation Areas. This harm would not be outweighed by the alleged advantages of the proposed development being in a reasonably sustainable location and removing the pressure to develop Green Belt land.



**Other matters**

*Amendment to PPS3*

13. Amongst other things the amendment to PPS3 makes the following change, "*private residential gardens are now excluded from the definition of previously developed land in Annex B*". This means that the appeal site no longer falls within the definition of "*previously developed land*". Thus the provisions in PPS3 on such land no longer relate to it. However, given the Local Plan Policy support for small-scale development in Kemsing this alone would not have stood against the proposal. The determining factor in this appeal has been the impact of the proposed development on the character and appearance of the surrounding area.

*Other matters generally*

14. There is local objection to the proposed development on grounds of inadequate car parking and access dangers. However, sufficient car parking spaces would be provided on site and one additional house would not result in substantial additional use of the road junction. However, lack of harm in this respect does not make the proposed development acceptable given the other harm found.
15. The appellant says that as the appeal site is currently the side garden of an existing house that property could be extended over it. I have taken this comment as a reference to a potential fall back position. However, on the generalised observation made I have no substantial evidence on the probability of such development occurring nor upon the impact that it would have. This is a matter to which I therefore attach little weight.

**Conclusion**

16. For the reasons given above I conclude that the appeal should be dismissed.

*RJ Marshall*

INSPECTOR

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4.5 - SE/13/02815/FUL Date expired 15 November 2013

PROPOSAL: Demolition of existing house and garage and erection of replacement dwelling with integral garage, creation of additional hard standing to facilitate two car parking spaces at front, landscaping, new steps and terrace with retaining wall and steps at rear.

LOCATION: 63 Brittains Lane, Sevenoaks TN13 2JR

WARD(S): Sevenoaks Kippington

**ITEM FOR DECISION**

This application is referred to Development Control Committee as the applicant is a Local Councillor.

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

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

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

2) The first floor window(s) in the side elevation(s) shall be obscure glazed at all times and non openable.

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

3) The materials to be used in the construction of the development shall be those indicated on part 9 of the application form.

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

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

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

5) 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

## Agenda Item 4.5

for Sustainable Homes post construction certificate minimum level 3 or alternative as agreed in writing by the Local Planning Authority.

In the interests of environmental sustainability and reducing the risk of climate change as supported in NPPF and Policy SP2 of the Core Strategy.

6) The development hereby permitted shall be carried out in accordance with the following approved plans: 404/A1/04-05-06

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

### **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](http://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 considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.
- 2) Did not require any further assistance as the application was acceptable as submitted.

### Description of Proposal

- 1 It is proposed to erect a replacement dwelling at No 63 Britains Lane.
- 2 The two storey traditionally designed dwelling will have hipped roof with a front gable feature and an integral garage.

- 3 The development will also introduce additional hard standing to the front (for two parking spaces) along with landscaping to the rear.
- 4 The replacement dwelling will be sited in the same position as the existing, in keeping with the building line.

### Description of Site

- 5 The property is a large detached property located on Brittain's Lane, in Sevenoaks.
- 6 Brittain's Lane is characterised by large detached properties of varying appearance, scale and character. The street has a spacious open character, with the properties set back considerably from the road.

### Constraints:

- 7 None.

### Policies

#### *Sevenoaks District Local Plan*

- 8 Policies - EN1, VP1

#### *Sevenoaks Core Strategy*

- 9 Policies - SP1, SP2

#### *Other*

- 10 Supplementary Planning Documents 'Residential Extensions' 'Sevenoaks Residential Character Area Assessment'.
- 11 NPPF.

### Planning history

- 12 None.

### Consultations

- 13 None.

### Town Council

#### *Sevenoaks Town Council*

- 14 Sevenoaks Town Council recommended approval

### Representations

- 15 Two letters of objection has been received, which are summarised as follows:
  - The new property will reduce the amount of light reaching our primary living accommodation significantly.

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- The side elevation window facing our property will be detrimental to our privacy.
- The development will affect our television signal.
- I am concerned that I have not been consulted on this application.
- The proposed building would be in the site line from my own property and reduce the level of sunlight reaching my property. The existing trees in the garden of No 63 already restrict light in this respect.
- The proposal would be out of keeping with the surrounding properties.

### **Chief Planning Officer's Appraisal**

16 The main considerations of this proposal are:

- The impact upon the character and appearance of the existing property and area;
- Impact upon residential amenity.

#### *Impact upon the character and appearance of the existing dwelling and wider area*

17 Policy EN1 (from SDLP) state that the form of the proposed development, including any buildings or extensions, should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. This policy also states that the design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard.

18 Also relevant is policy SP1 from the Sevenoaks Core Strategy which states 'All new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated'.

19 The Sevenoaks Residential Character Area Assessment states that for the Redlands Road/ Brittain's Lane states that with regards to future development:

- Regular building lines and space between buildings should be respected
- The harmonious palette of red/brown brick, pastel painted render, red/brown or brown plain hung tiles and roof tiles should be respected
- The characteristic designs and roofline should be respected
- Traditional detailing should be retained
- Mature trees and hedged boundaries which contribute to the character of the road should be retained
- Views of the countryside should be protected
- The setting of the Brittain's Farm Conservation Area should be protected or enhanced

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- 20 The existing dwelling is a two storey 60's looking property, with a flat roofed front projection. The dwelling appears at odds with the surrounding both in terms of scale (i.e being smaller than the surrounding dwellings) and appearance, having none of the traditional character or detailing supported by the SPD above.
- 21 The proposed replacement dwelling will be 1.7m taller than the existing (8.5m compared to 6.8m) however this is in keeping with the neighbouring dwellings, as would be the resultant bulk and massing.
- 22 The replacement dwelling incorporates a traditional design, with a characteristic hipped roof and materials – red clay tiles, render and red brick which are more in keeping with the street scene.
- 23 A 1m gap is retained to both side boundaries and therefore the pattern of spacing between the properties is retained.
- 24 The hard standing to the front is similar to that of neighbouring properties and utilises the existing access. The existing short front boundary wall will be retained, as will the side boundary hedging to the front of the property.
- 25 It is therefore considered that the proposal would comply with the above policies and SPD guidance.

### *Impact upon residential amenity*

- 26 Policy EN1 from the Sevenoaks District Local Plan states that the proposed development 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.
- 27 The existing dwelling has a gap of approximately 0.8m from the side elevation of its single storey side/front addition to the northern boundary with No 61, and 1m from the side of the attached single storey garage and the southern boundary, No 65. However the two storey element of the dwelling is more centrally sited, with a gap of 4.1m to the northern boundary and 3.5m to the southern boundary.
- 28 As stated above, the proposed replacement dwelling property will extend up to 1m from both side boundaries at two storey level. The massing along these boundaries is therefore increased.
- 29 Both of these dwellings however have their attached garages adjacent to the side boundary.
- 30 No 61 has no side elevation fenestration in the main part of the house, however does have some fenestration facing the boundary from the single storey rear projection.
- 31 This projection sits approximately 6m from the side boundary (7m from the dwelling) and these windows are secondary fenestration serving a lounge/dining area.
- 32 The two storey element of the replacement dwelling will therefore be sited 7m from these windows. The replacement dwelling would not conflict with the 45 degree line when drawn vertically and horizontally from the centre of these windows and therefore it is not considered that the overbearing or overshadowing

## Agenda Item 4.5

impact of the dwelling on these windows and rooms is sufficient to warrant a recommendation of refusal.

- 33 In terms of outlook, the Supplementary Planning Document 'Residential Extensions' (the principles of which apply in this instance) explains that the District Council '*is primarily concerned with the immediate outlook from neighbours' windows, and whether a proposal significantly changes the nature of the normal outlook. For example, it would be unacceptable for the resulting outlook from a main window to be of a large, obtrusive and dominating extension. However, the planning process is not able to protect a view from a private property.*'
- 34 The main windows in this respect are usually the rear facing windows of a property. It is not considered that outlook from any of the rear windows is significantly altered, compared to the existing development, albeit being 3.1m nearer to the boundary at 2 storey level.
- 35 The rear 3.5m of the dwelling will sit adjacent to the patio area of No 63, which is located to the side of the single storey rear projection. Whilst, given its siting to the south, the dwelling will have some minimal overshadowing impact upon this patio area. Again, it is not considered that this impact is sufficient to warrant a recommendation of refusal.
- 36 Turning to No 65, again this property has its integral garage sited on the boundary, with its two storey element sited a further 3m approx. from the boundary. The first floor element does have two small first floor windows facing the application site.
- 37 It is unclear as to whether these two windows serve habitable rooms or are secondary windows however again, given the distance between the properties, in this case, over 5m, the replacement dwelling would not conflict with the 45 degree line when drawn vertically from these windows.
- 38 The proposed replacement dwelling will not extend to the rear past the rear elevation of this neighbour. It is not therefore considered that the dwelling will have an unacceptable overbearing or overshadowing impact upon this neighbour.
- 39 Turning to overlooking, the proposed dwelling has one small first floor window on each side elevation. These serve either an en-suite or a dressing room. It is considered that they should both be conditioned as obscure glazed to prevent unacceptable direct overlooking.
- 40 The rear facing first floor fenestration face directly down the rear amenity space of the property and would only offer oblique overlooking similar to that currently experienced.
- 41 It is not therefore considered that the dwelling would have an unacceptable overlooking impact upon either adjacent neighbour.
- 42 The neighbours to the rear, Nos. 21 and 20 The Middlings remain a significant distance (approx. 75m+) from the replacement dwelling. The development will therefore have no detrimental impact upon these neighbours.



Other matters

- 43 Notwithstanding the above, two letters of objection have been received, the relevant issues pertaining to which have been addressed above. In terms of the television signal being disrupted, this is not a material planning consideration. Direct neighbours of the application site were notified of the proposal in line with the regulations. The existing trees in the garden of the application property are not part of this application.

**Conclusion**

- 44 In summary, it is considered that the proposed replacement dwelling and associated works will not detract from the character and appearance of the street scene, or have a detrimental impact upon the amenities of the neighbouring properties. The proposal therefore complies with Policy EN1 of the Local Plan and SP1 of the Core Strategy, and the Supplementary Planning Guidance Document 'Sevenoaks Character Area Assessment'
- 45 The Officer's Recommendation is to approve the application.

**Background Papers**

Site and Block Plans

Contact Officer(s): Ben Phillips Extension: 7387

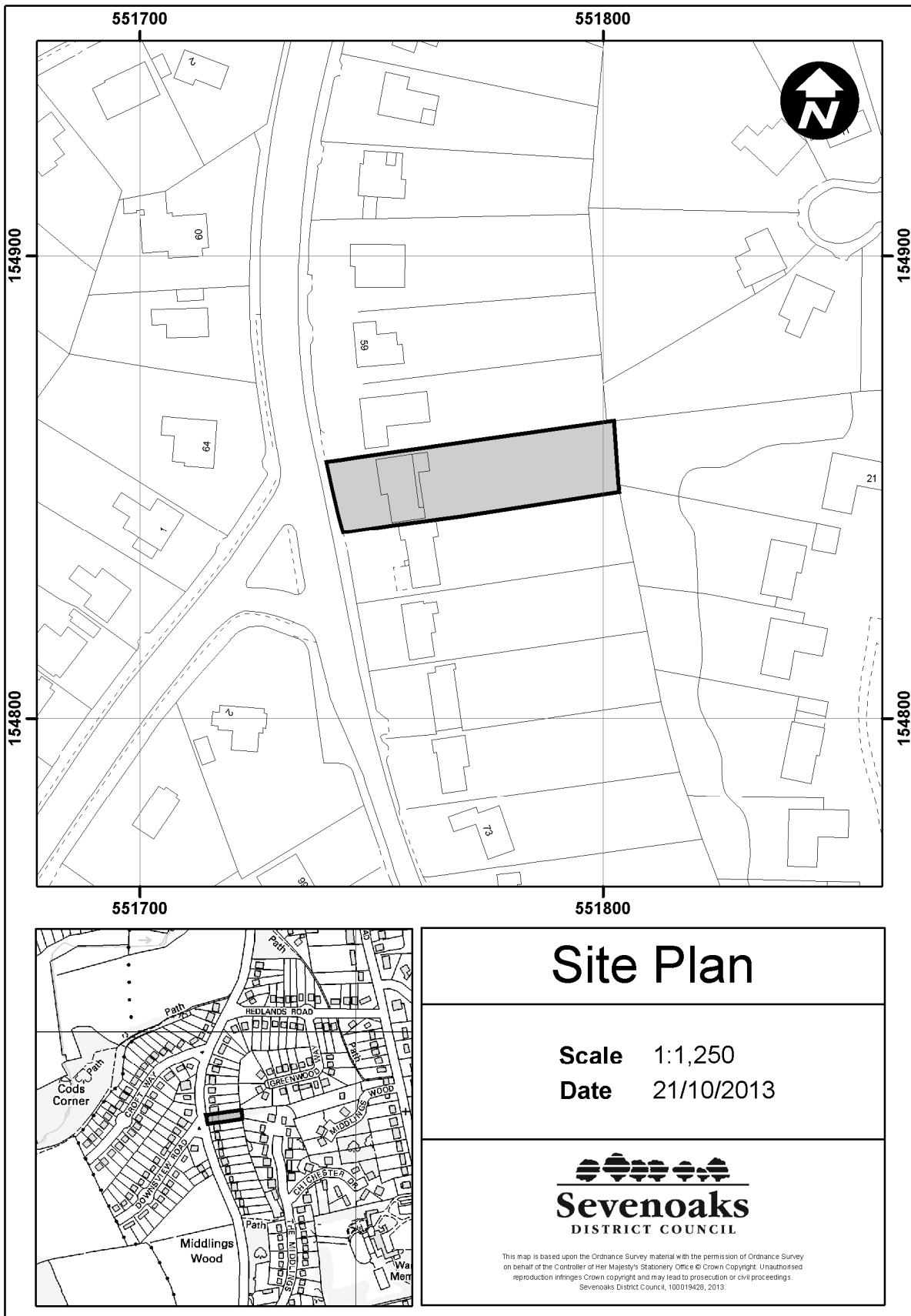
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MTEWSXBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MTEWSXBK8V000>



**Block Plan**



**PROPOSED SITE  
BLOCK PLAN**



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