

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

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

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

WARD(S): Swanley Christchurch & Swanley Village

ITEM FOR DECISION

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

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

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

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

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

Note to Applicant

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

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

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

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

In this instance the applicant/agent:

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

Description of Proposal

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

Description of Site

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

Constraints

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

Policies

Sevenoaks District Local Plan

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

Sevenoaks Core Strategy

10 Policies - SP1, SP3, L07, L08

Other

11 SDC Residential Extensions SPD 2009

12 Affordable Housing Supplementary Planning Document 2011

13 National Planning Policy Framework (NPPF)

Planning History

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

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

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

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

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

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

Consultations

Swanley Town Council

15 *No comment.*

English Heritage

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

Recommendation

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

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

Representations

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

Chief Planning Officer’s Appraisal

Background

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

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

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

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

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

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

Principal Issues

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

Impact on Listed Buildings

Policy

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

24 Furthermore, paragraph 130 of the NPPF states:

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

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

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

27 Finally, paragraph 133 states:

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

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

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

Demolition of outbuilding

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

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

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

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

Replacement outbuilding

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

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

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

Use

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

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

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

Affordable Housing

- 50 Policy SP3 of the Sevenoaks core strategy states that in residential developments of less than 5 units that involve a net gain in the number of units a financial contribution based on the equivalent of 10% affordable housing will be required towards improving affordable housing provision off-site.
- 51 The applicant/agent maintains that the proposal is for an annexe and that the affordable housing contribution is not relevant to this case. The applicant/agent has also offered to enter into a legal agreement to ensure that the existing dwelling and proposed building could not be physically separated and sold off as separate residential units.
- 52 Paragraph 4.4 of the Council's Affordable Housing SPD states that:
- "The requirement for affordable housing will be applied to the conversion and change of use of any building, whether or not it is already in residential use, where that change results in a net increase in the number of units. The policy will not however be applied to:*
- residential accommodation which is to be used as incidental to the main dwelling ie staff accommodation/granny annexe, and whose independent occupancy is restricted by condition....."*
- 53 In the circumstances that apply to this application the Council is not satisfied that the proposed annexe will be incidental to the main property as, as stated in the preceding paragraphs, it remains of a sufficient size and continues to have all the facilities to be occupied independently. In dismissing the appeal referred to previously, the Inspector in determining that the new building would be

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

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

Visual Impact and Impact on the Conservation Area

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

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

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

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

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

Green Belt

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

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

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

Infilling in the Green Belt

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

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

Impact on Neighbouring Amenity

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

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

Highways

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

Very Special Circumstances

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

Conclusion

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

Background Papers

Site and Block plans

Contact Officer(s): Claire Baldwin Extension: 7367

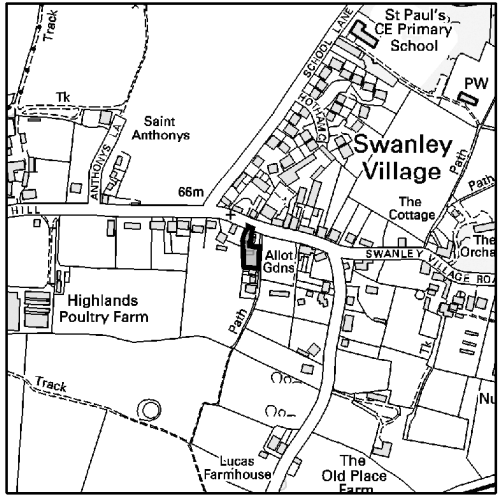
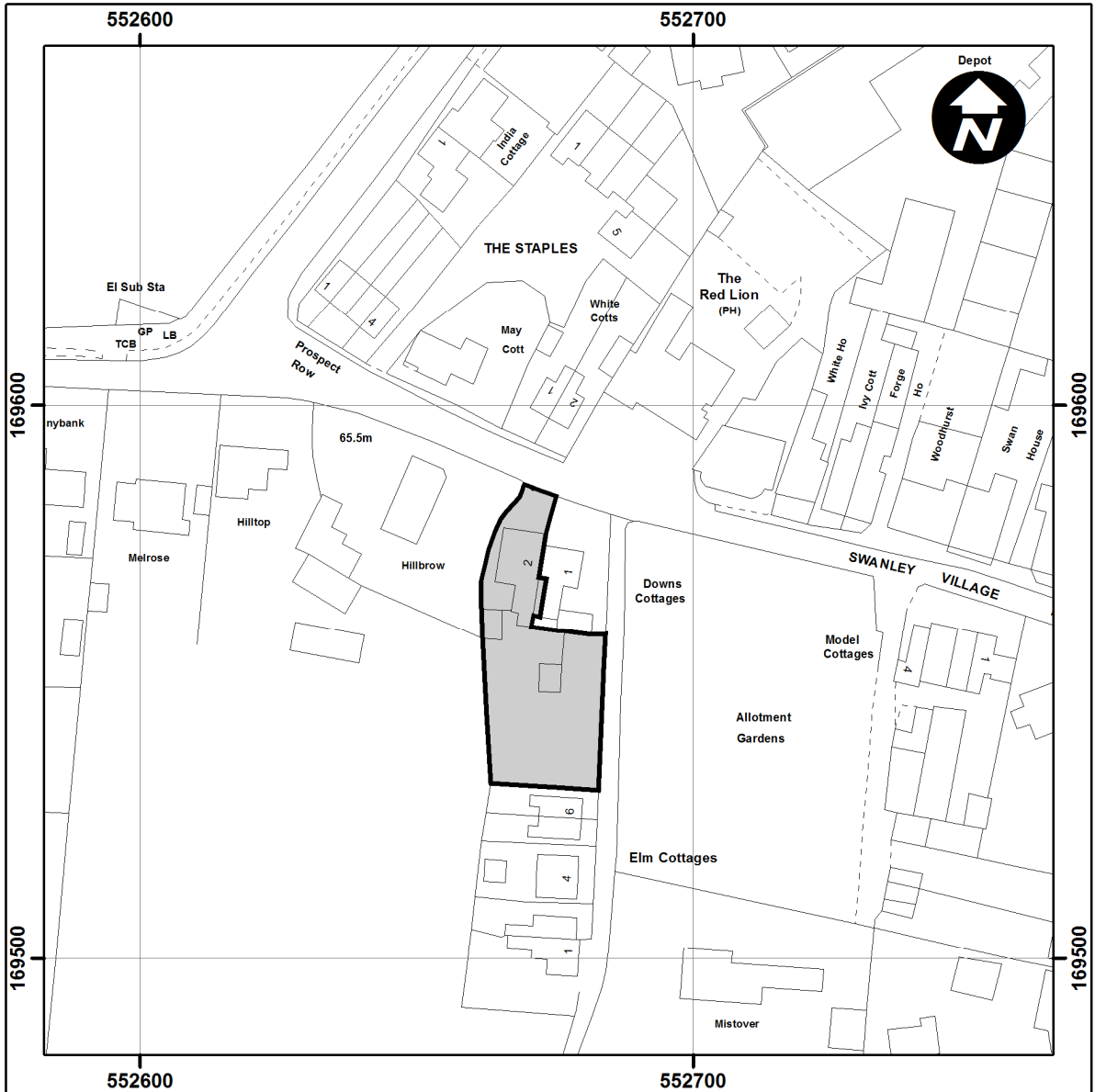
Richard Morris - Chief Planning Officer

Link to application details:

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


Link to associated documents:

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



Site Plan

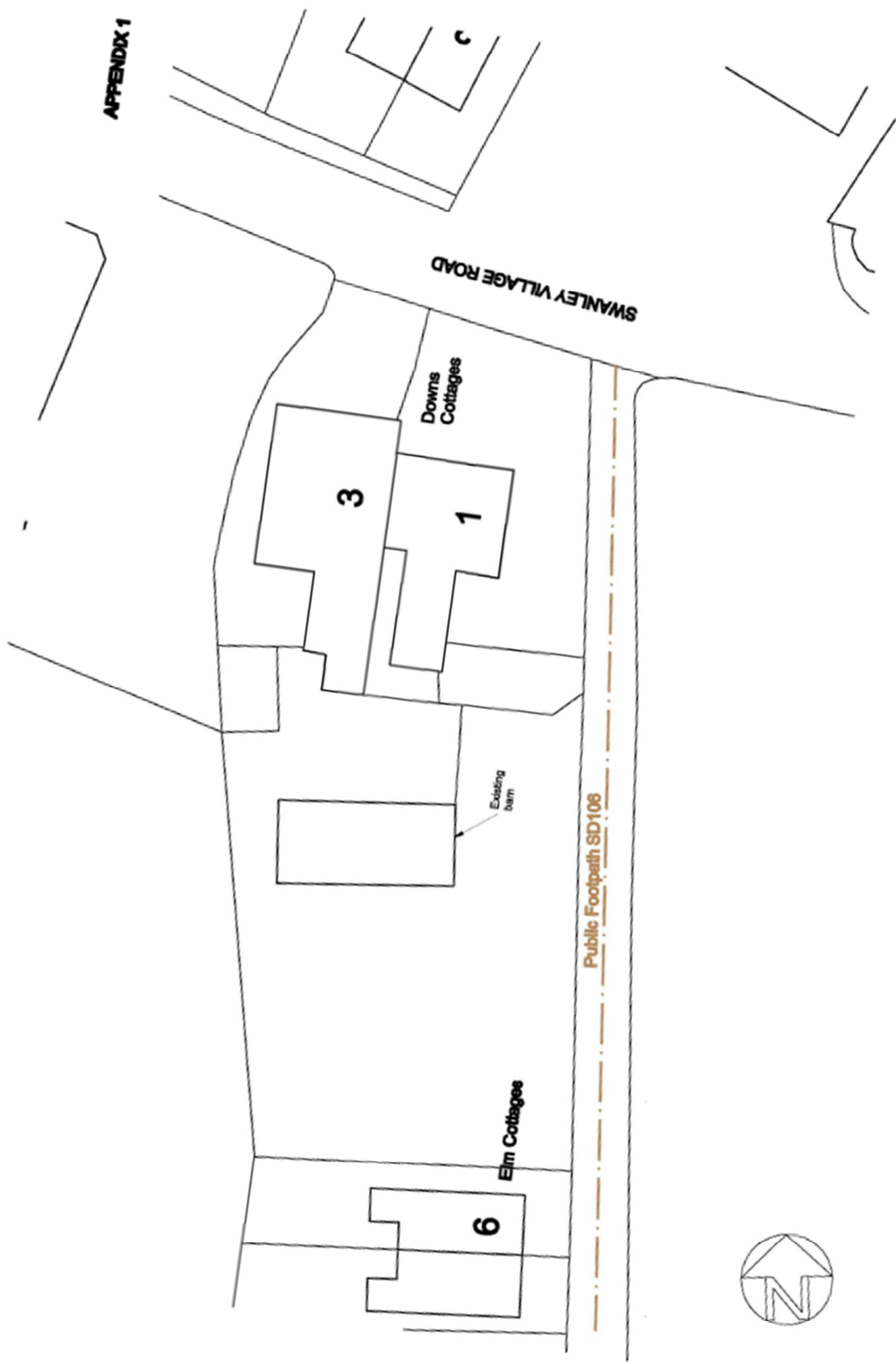
Scale 1:1,250
Date 19/09/2013



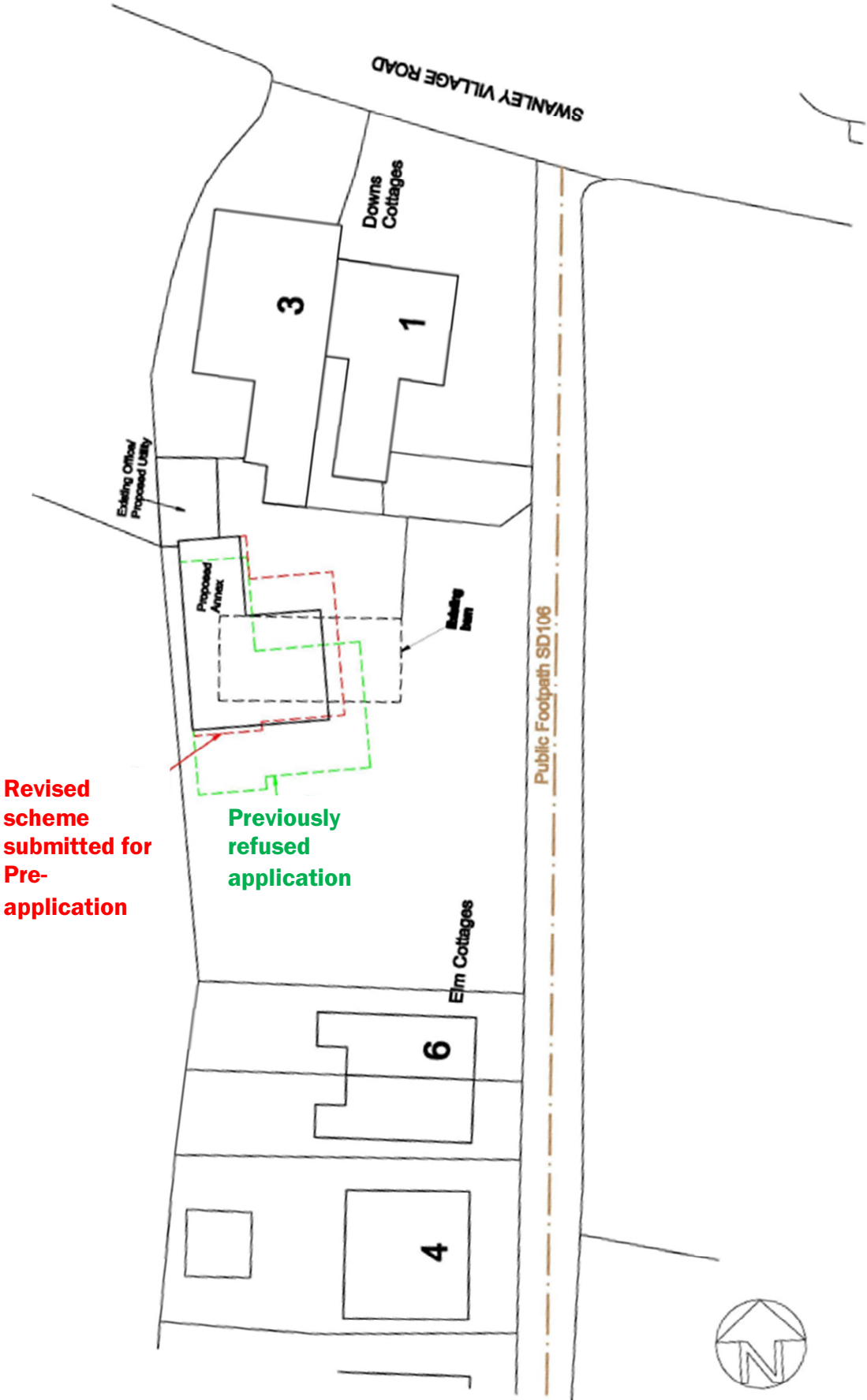
Sevenoaks
DISTRICT COUNCIL

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BLOCK PLAN



BLOCK PLAN (PREVIOUS SCHEME)



Appeal Decision

Site visit made on 25 February 2013

by **J L Cheesley BA(Hons) DIPTP MRTPI**

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

Decision date: 1 March 2013

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

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

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

Decision

1. The appeal is dismissed.

Planning Policy

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

Main Issues

5. I consider the main issues to be:

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

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

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

Reasons

Independent Dwelling and Character of the Area

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

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

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

Privacy

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

Affordable Housing

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

Conclusion

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

J Cheesley

INSPECTOR