5.1 Reference: 310/11/257

ENFORCEMENT OF PLANNING CONTROL

Amberley, Packhorse Road, Sevenoaks TN13 2QP

ITEM FOR DECISION

This matter has been referred to the Development Control Committee as the Chairman of the Development Control Committee requires the case to be considered by the Development Control Committee.

Planning permission was granted for the building of a double garage with an artist studio above, under SE/11/00718/CONVAR, which was then built not in accordance with the approved plans.

A new application was then submitted to retain the garage and artists studio, SE/12/00250/HOUSE, which was refused. The building remains on site without the benefit of planning permission.

As a result of this refusal, an Enforcement Notice was issued on 15 October 2012 to demolish the garage and artist studio within 6 months. The owner then appealed the Notice which was upheld, giving a compliance date of 30 October 2013.

RECOMMENDATION:

That authority be given to vary the Enforcement Notice, requiring that:

(a) The time needed for compliance be extended to 3 months from the date of this meeting. Plus a further 3 months if a valid planning application is received for alterations to the garage within the initial 3 month period.

FOR THE FOLLOWING REASONS

1 To allow time for any new scheme to be reviewed.

2 To allow time for any new scheme if approved to be implemented.

1 The owner has submitted (prior to 30 October 2013) various schemes to retain part of the garage with alternative schemes for alterations, which are currently being considered under the Pre Application process. These alternative schemes involve changes to the existing structure such as the removal of the staircase, removal of the dormers, the blocking in of all remaining windows on both levels and the artist studio to return to a loft space over the garage. These new proposals, if acceptable would reduce the existing bulk of the existing building and may have less impact than the approved schemes that could be built.

2 Legal advice was sought about the options of securing compliance with the enforcement notice as the garage had not been demolished by the date required. The Legal Services Manager has stated as follows:-

"Prosecuting Mr Toms for non-compliance, or seeking an injunction should be a last resort measure when and if it becomes clear he does not intend to seek a

solution or comply with the notice. Enforcement is not meant to be punitive but simply aimed at resolving the breach of planning control. I could not support this at this time nor would the enforcement concordat.

If you as planning officers consider that there is merit in exploring the re-use of a part of the existing garage then it would be better to extend the compliance period for a short while to allow a report to be considered by DCC if necessary."

3 It is proposed to extend the compliance period for three months to give time for a planning application to come forward for alterations to the garage. If a valid application is received in this period a further three months will be allowed for compliance.

Appendices

Delegated Enforcement Report dated 18 September 2012

Enforcement Notice dated 15 October 2012

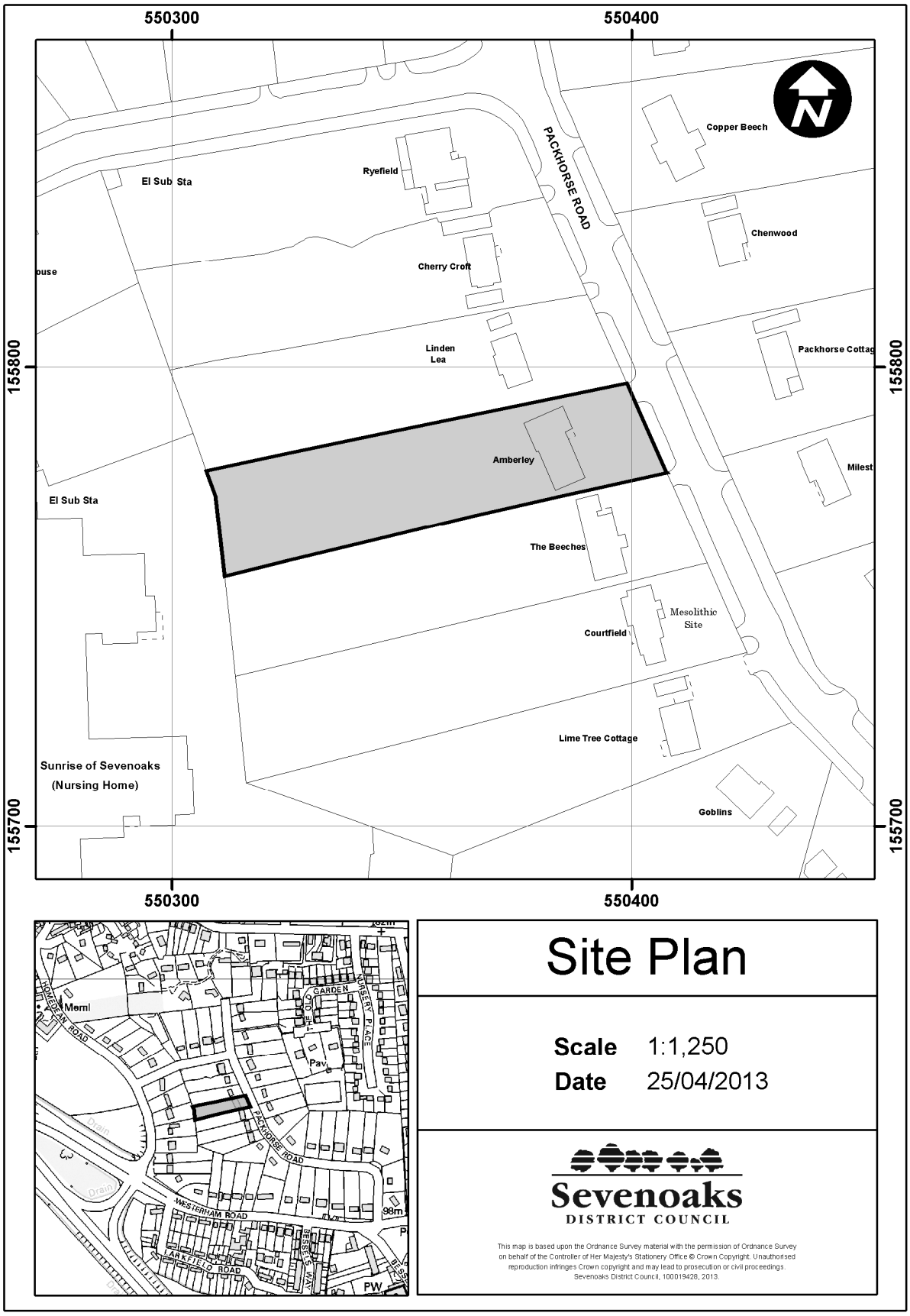
Appeal Decision dated 30 April 2013

Planning Decision SE/11/00718/CONVAR

Planning Decision SE/12/00250/HOUSE

Contact Officer(s): Alan Dyer Extension 7361

Richard Morris
Chief Planning Officer


550300
550400
155800
155700
Copper Beech
Ryefield
El Sub Sta
PACKHORSE ROAD
Chenwood
Cherry Croft
Linden Lea
Packhorse Cottag
Amberley
Milest
El Sub Sta
The Beeches
Mesolithic Site
Courtfield
Lime Tree Cottage
Sunrise of Sevenoaks (Nursing Home)
Goblins
550300
550400
Site Plan
Scale 1:1,250
Date 25/04/2013
Sevenoaks
DISTRICT COUNCIL
This map is based upon the Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Sevenoaks District Council, 100019428, 2013.

Delegated Enforcement Report
Amberley, Packhorse Road, Sevenoaks, Kent, TN13 2QP

Executive Summary
This report advises of a breach of planning control namely unauthorised operational development defined by Section 55 of the Act (as amended), being the erection of a double garage, chimney, privacy guard and windows on the northern elevation of the dwelling.

It recommends that authority be given to issue an Enforcement Notice and seek to enforce the provisions of the Notice.

Recommendation
That authorisation be given to serve an Enforcement Notice requiring the permanent removal of the garage under delegated powers.

Breach of Planning Control

Operational development as defined by Section 55 of the Act (as amended) has occurred within the last four years being the building of a detached garage, the erection of a chimney, rear privacy guard and windows on the northern elevation of the dwelling.

Planning Policy and Material Considerations

National Planning Policy Framework

South East Plan
Policy CC6 Sustainable Communities and Character of the Environment

Sevenoaks District Council Core Strategy 2011
Policy SP1 Design of New Development and Conservation

Sevenoaks District Council Local Plan 2007
Policy EN1 The Environment
Policy H6B Residential Extensions

Others:
Sevenoaks District Council's Residential Character Assessment Supplementary Planning Document.

Site
Amberley is a detached dwellinghouse located on the western side of a residential road which is characterised by individually designed detached house set back behind hedged and treed front gardens.

Relevant History
98/01575/HIST Proposed single storey utility side extension GRANT 09.09.98

10/02828/HIST	Erection of single storey rear extension and first floor extensions to north and south elevation. Removal of two chimneys. Change of fenestration. Erection of double garage.	GRANT 16.12.10
11/00718/CONVAR	Application to vary condition 4 (The development hereby permitted shall be carried out in accordance with the following plans 1038-P-01(B), P-02(B), SUR-01 of SE/10/02828/FUL. To allow the creation of an artists studio within the roof space over double garage.	GRANT 06.06.11
11/00732/DETAIL	Details pursuant to condition 3(privacy guard) of planning permission SE/10/02828/FUL	REFUSE 17.05.11
11/01549/DETAIL	Details pursuant to condition 3(privacy guard) of planning permission SE/10/02828/FUL	GRANT 30.06.11
11/01743/CONVAR	Removal/Vary of condition 4 (alternation of balustrade detail to glass and insert window for additional ventilation) of planning permission SE/10/02828/FUL	GRANT 01.09.11
12/00250/HOUSE	Retention of single storey rear extension, balcony and first floor extensions to north and south elevations. Change of fenestration. Retention of double garage with room above, dormer windows, external staircase and air source heat pumps. Corrected plans received 02.04.12.	REFUSE 09.07.12

Background

Planning permission SE/10/02828/FUL was granted on the 16th December 2010 for the erection of a single storey rear extension and balcony, first floor extensions to north and south elevations, the removal of two chimneys, change of fenestration and the erection of a double garage. On the 6th November 2011 a variation of condition was granted (11/00718/CONVAR) to allow the creation of an artist's studio.

Subsequently it was identified that parts of the development were built not in accordance with the permission granted, as set out below.

	Previously granted m^2	Built garage m^2	Material/Non Material
Garage			
Dimensions	6.0 x 6.5	6.5 x 6.5	Material
Staircase	4.1 x 1.2	6.5 x 1.0	Material - size and location
Height	6.0	6.3	Material
Dormers			Material - wrong elevation
Relocation on site			Material – moved 0.5m closer to highway and 0.3m from southern boundary
Re-orientation of garage			Material
Air source heat pumps			Placed on garage without planning permission - Material

Chimney	Built externally - Material
Windows inserted on north elevation ground floor (shown on plans for SE/11/01549)	Permitted development if materials match the existing dwelling
Privacy screen on northern elevation balcony	Not built to correct design – angle of the wall is incorrect – Material Permitted min and max height: 1.2m and 2.4m Built height: 1.6 and 1.7m

The garage as built is on a different part of the site from that for which it was granted planning permission and it has been built with a different footprint in respect to the size of the garage. In consequence the roof reorientation, height, dormer reorientation and change in external stairway cannot be amended to comply with SE/10/02828 and SE/11/00718.

A revised planning application was submitted which was refused on the 6th July 2012 due to the proposal representing an over development of the site, detrimental to the street scene, particularly due to the large two storey garage at the front of the site. The development also results in an unacceptable loss of privacy to the adjoining property, The Beeches from the garages first floor and stairway. As a result the proposal is contrary to Policy EN1 of the Sevenoaks District Local Plan, relevant provisions of the Sevenoaks Residential Character Area Assessment and the design policies of the National Planning Policy Framework, notably paragraph 64. The rear extension was implemented in accordance with planning permission SE/10/02828 and is lawful. The chimney could potentially impact upon the visual amenities of the adjacent property, The Beeches and the privacy screen potentially impacts upon the amenities of the adjacent property, Linden Lea.

Principal Issues
The main issues for consideration are whether it is expedient to take enforcement action in relation to the impact of the breaches on the amenities of the locality and to protect the privacy of residents.

Expediency
The garage cannot be rebuilt to comply with SE/10/02828 or SE/11/00718 and with the development on site being refused planning permission it is accordingly necessary to consider whether it is expedient to take enforcement action.

In respect to the chimney and screen on the northern balcony these could potentially be resolved through a new planning application. This would also enable public consultation on the merits of these parts of the development. The windows in the northern elevation are potentially permitted development, and this can be checked with a site visit.

The opportunity exists to under-enforce, as set out within section 173(11) of the Town and Country Planning Act 1990 by for example requiring only the removal of the garage. However if the notice refers to the full alleged breach of planning control but then only requires remedy through partial steps by virtue of section 173(11), planning permission will be taken to have been granted for any development against which enforcement action could have been but was not taken, provided that all the requirements of the notice have been complied with. The effect of under-enforcement would however be to avoid any further analysis on the merits of retention of any parts of the breach that may potentially be resolved through other means, removing the ability for public consultation. In addition, in this case, there are no obvious amendments that could be proposed to the garage that would enable the harm to be addressed, without partial or full demolition.

Human Rights Act
Section 6 of the Human Rights Act 1998 imposes a duty on public authorities, including Local Authorities, not to act in a way which is incompatible with the European Convention on Human Rights.

Article 1 of the First Protocol to the Convention provides that every person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and the general principles of International law. Article 1 permits a State to enforce such laws, as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

The service of an Enforcement Notice could be interpreted as an interference with the rights of a property owner to use his property as he sees fit. Such interference is permitted by the Convention if it is in the general interest, but the interference must be 'proportionate', which means that it must not be in excess of what is needed to prevent harm to the general interest.

In the case of unauthorised development, the Government considers that there is a genuine public interest in preventing development, which is determined as detrimental to the street scene, represents over development and impacts upon the privacy of neighbouring properties.

Recommendation

That the Group Planning Manager be authorised to issue an Enforcement Notice or Notices for:

a) The erection of a detached garage not in accordance with the permission granted.

The operational development has taken place in the last four years and it is expedient to take enforcement action because the garage as built is an over development of the site, is detrimental to the street scene being at the front of the site. The development also results in an unacceptable loss of privacy to the adjoining property, The Beeches due to views from the stairs and first floor. As a result the development is contrary to Policy EN1 of the Sevenoaks District Local Plan, relevant provisions of the Sevenoaks Residential Character Area Assessment and the design policies of the National Planning Policy Framework, notably paragraph 64.

The steps to comply are:

- To demolish the garage and remove the materials permanently from the site.

- The period for compliance is six months.

For the other breach of planning control:

b) Privacy screen built not in accordance with details approved for application SE/11/00732.

Seek completion of the privacy screen in accordance with the plans. Reason: To protect the amenities of the adjacent property, Linden Lea. This is contrary to policy EN1 of the Sevenoaks District Local Plan.

The steps to comply are:

- To erect the privacy screen in accordance with the details approved for application SE/11/00732;
- Period for compliance is 3 months.

c) Erection of chimney

Invite a planning application. Reason: To protect the visual amenities of the adjacent property, The Beeches. This is contrary to policy EN1 of the Sevenoaks District Local Plan.

Sources
Enforcing Planning Control; Good Practice Guide for Local Authorities;
Circular 10/97 Enforcing Planning Control: Legislative Provisions and Procedural Requirements;
Planning Applications 10/02828/HIST, 11/00718/CONVAR, 11/01549/DETAIL, 11/01743/CONVAR, 12/00250/HOUSE
South East Plan 2009
Sevenoaks District Local Plan 2000
National Planning Policy Framework
Sevenoaks District Councils Residential Character Assessment Supplementary Planning Document.

Signed:

Guy Martin
Senior Planning Officer

Date: 18/09/12

Signed:
Team Leader

Date: 18/9/12

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)

ENFORCEMENT NOTICE

ISSUED BY THE SEVENOAKS DISTRICT COUNCIL ("the Council")

1. THIS IS A FORMAL NOTICE which is issued by the Council because it appears to them that there has been a breach of planning control, under section 171A(1)(a) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations.

2. THE LAND AFFECTED

Land at Amberley, Packhorse Road, Sevenoaks, Kent, TN13 2QP, shown edged with a bold black line on the attached plan ("the Land").

3. THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, the carrying out of building operations namely the erection of a garage in the approximate position shown hatched on the attached plan.

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last four years.

The development represents an over development of the site, detrimental to the street scene. The development also results in an unacceptable loss of privacy to the adjoining property, The Beeches. As a result the proposal is contrary to Policy EN1 of the Sevenoaks District Local Plan, relevant provisions of the Sevenoaks Residential Character Area Assessment and the design policies of the National Planning Policy Framework, notably paragraph 64.

5. WHAT YOU ARE REQUIRED TO DO

(a) Demolish the garage.

(b) Remove the resultant materials from the land.

6. TIME FOR COMPLIANCE

Six (6) months from the date on which this notice takes effect:

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 18th November 2012 unless an appeal is made against it beforehand.

Date 15th October 2012

Kristen Paterson
Community and Planning Services Director
Head of Development Services
On behalf of Sevenoaks District Council
Council Offices
Argyle Road
Sevenoaks
Kent TN13 1HG

ANNEX

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990 as amended.

Enforcement Notice relating to Land at Amberley, Packhorse Road, Sevenoaks, Kent, TN13 2QP

This local planning authority, (Sevenoaks District Council), has issued an enforcement notice relating to the above land and I now serve on you a copy of that notice as you have an interest in the land. Copies of the notice are also being served on the parties listed at the end of this letter who, it is understood, also have an interest in the land.

There is a right of appeal to the Secretary of State (at The Planning Inspectorate) against the notice. Unless an appeal is made, as described below, the notice will take effect on 18th November 2012 and you must then ensure that the required steps, for which you may be held responsible, are taken within the period specified in the notice.

Please see the enclosed information sheet from The Planning Inspectorate which tells you how to make an appeal.

If you decide that you want to appeal against the enforcement notice you must ensure that you send your appeal soon enough so that normally it will be delivered by post/electronic transmission to the Secretary of State (at The Planning Inspectorate) before 18th November 2012.

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

(a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;

(b) that those matters have not occurred;

(c) that those matters (if they occurred) do not constitute a breach of planning control;

(d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

(e) that copies of the enforcement notice were not served as required by section 172;

(f) that the steps required by the notice to be taken, or the activities

required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

If you appeal under Ground (a) of Section 174(2) of the Town and Country Planning Act 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £300.00. You should pay half of the fee (£150.00) to the Sevenoaks District Council (made payable to Sevenoaks District Council) and the other half of the fee to the Planning Inspectorate (made payable to the Department for Communities and Local Government). Joint appellants need only pay one set of fees.

If you decide to appeal, when you submit it, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.

Parties on whom the enforcement notice has been served:

Steven Peter Toms, Amberley, Packhorse Road, Sevenoaks, Kent, TN13 2QP

Gayle McFadyen, Amberley, Packhorse Road, Sevenoaks, Kent, TN13 2QP

Santander UK Plc, (Co. Regn No,. 2294747) Mortgage Customer Services, Customer Service Centre, Narborough, Leicester, LE19 0AL

Sevenoaks DISTRICT COUNCIL	Scale: 1:1,250 Date: 19/09/2012	ENFORCEMENT NOTICE	
		310/11/257 Planning Ref: 12/00004/BRCN	Amberley, Packhorse Road, Sevenoaks, TN13 2QP

The Planning Inspectorate

Appeal Decisions

Site visit made on 15 April 2013

by M A Champion BSc CEng FICE FIStructE FCIHT FHKIE

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

Decision date: 30 April 2013

Appeals A and B: APP/G2245/C/12/2186542 and 2186543
Land at Amberley, Packhorse Road, Sevenoaks, Kent, TN13 2QP.

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against an enforcement notice issued by Sevenoaks District Council.
- The appeals are made by Mr S P Toms (Appeal A) and Ms G McFadyen (Appeal B).
- The Council's reference is: 310/11/257.
- The notice was issued on 15 October 2012.
- The breach of planning control as alleged in the notices is:
  Without planning permission the carrying out of building operations namely the erection of a garage in the approximate position shown hatched on the plan attached to the notice.
- The requirements of the notice are to:
  (a) Demolish the garage;
  (b) Remove the resultant materials from the land.
- The period for compliance with the requirements is six months.
- Appeal A is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered. Since the prescribed fees for Appeal B have not been paid, this appeal is proceeding on grounds (f) and (g) only.

Summary of decisions: The appeals are dismissed and the enforcement notice is upheld as set out in the Formal Decision.

Preliminary Matters

1. The Council states that an air source heat pump has been attached to the garage wall where it faces Packhorse Road, but has not been specifically referred to in the enforcement notice. It invites me to amend the notice to include the air source heat pump in both the alleged breach of planning control and in the requirements of the notice.

2. S176(1) of the Act as amended sets one test for determining whether an enforcement notice can be corrected in this way, that is that the correction will not cause injustice to the appellant or the local planning authority.

3. In this case the Council seeks to increase the scope of the notice by adding additional development to be enforced against.

4. An air source heat pump comprises two connected parts: the external unit which extracts heat from the air, and an internal unit which transfers this heat

to the heating system of the building. It is in fact the external unit to which the Council objects, the internal unit being located inside the garage. The Council states, and the appellants do not dispute, that this is unauthorised. From the information available to me it appears that the external unit does not fall to be considered as permitted development under The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011, and planning permission is therefore required.

5. The appellants state that it is not necessary to remove the pump as it could be incorporated into a smaller building. However, this presupposes that at least that part of the garage wall supporting the unit could be adapted to be part of such a building. No details of this proposed building have been submitted and I do not have sufficient information to consider it. It would be more appropriate if an application were made in the normal way to allow public scrutiny of such an alternative. It would also allow proper consideration of the visual and noise impacts of the external unit, as raised by the Council and neighbouring residents.

6. I consider therefore that correction of the enforcement notice as suggested would prejudice the appellants in proposing an alternative scheme, and I shall not therefore correct it in this way.

Appeal A on ground (a) and the deemed application

Main Issues

7. I consider that the main issues are the effect of the development on the character and appearance of the street scene, and on the living conditions of residents of The Beeches with particular regard to overlooking and privacy.

Policies

8. Policy EN1 of the Sevenoaks District Council Saved Local Plan Policies Compendium 2008 (LP) sets out general principles for all development. It is supported by Supplementary Planning Document (SPD) *Sevenoaks Residential Character Assessment*.

9. This policy is generally consistent with the aims of the National Planning Policy Framework (NPPF), policies from which have also been considered. The NPPF reinforces the local plan as the main consideration in planning decisions. It requires development not to undermine the quality of life, emphasising the importance of sustainable development, high quality design, attractive places and a good standard of amenity for residents. It expects developments to contribute to the overall quality of the area. In particular paragraph 64 requires permission to be refused for poor designs that fail to take the opportunities available for improving the character and quality of an area and the way it functions.

Reasons

Effect on character and appearance

10. The appeal site lies in a residential area and is a detached dwelling house on the western side of Packhorse Road. The area is characterised by similar properties to a variety of designs on established plots with mature hedges and

trees. The dwellings are generally set back from the road with narrow entrances in the front hedges, resulting in a green and spacious appearance.

11. A detached double garage with a room over has been constructed in the front garden, but not in accordance with the grant of planning permission. The differences concern the location, the orientation, size and height of the building, the location of the dormers, the size and location of the external staircase, and the attachment to the garage wall of the external part of an air source heat pump.

12. My attention has been drawn to other unauthorised alterations to the main house, but these do not form part of this appeal. However, the Council has prepared an extensive list of discrepancies between the approved drawings and those submitted with a later application in 2012 purporting to show the house as constructed. So great are these differences, both in number and in content, that the Council considers that the works could not have been carried out in accordance with the approved drawings if the later versions are correct. I do not have sufficient information to know which drawings, if any, are correct. Pending the production of accurate drawings, which the Council indicates are in preparation, these discrepancies cast doubt on the reliability of all the drawings submitted.

13. The garage is a larger structure than permitted, has been constructed nearer the highway and further from the southern boundary. Notwithstanding the tree screen along the highway boundary, it is a massive building that is visible from the road and occupies a large proportion of the front garden. Its scale, mass and height result in a cramped, overdeveloped appearance that is out of context with the street. The garage does not fit unobtrusively within the garden or the street as advised by SPD. In this part of the road there is only one other instance of a garage in the front garden. This is a more modest structure and in keeping with its surroundings.

14. Additionally, the gable ends of the garage as built face along the road and are thus more visible than those approved which would be better screened by the boundary trees. This prominence is exacerbated by the white render of the walls which emphasises the presence of the building compared to the more subdued colour of roof tiles which would be seen on the approved building.

15. Furthermore, the external staircase, which would have been screened from view on the west elevation in the approved scheme, has been constructed on the south elevation close to the boundary with The Beeches. It thus increases the bulk of the building and appears as an incongruous addition when viewed from the neighbouring property.

16. The Council also expresses concern at the impact of the development on the front boundary trees. While these provide, at present, a degree of screening from directly in front of the site, the siting of the building as constructed could have an adverse effect on them. While it states that the trees are not worthy of protection by a Tree Preservation Order, they could die or be removed. Their loss would have a significant effect on the street scene and the impact of the building within it.

Effect on living conditions of residents of The Beeches

17. Having regard to the siting of the building and the position of the windows therein, as well as the external staircase, I consider that the development results in significantly increased overlooking of the adjoining house, The Beeches. These views are mainly of the side path and area in front of the garage (which lies to the rear of the house) but also of the side windows in the house. While views of these windows may be obtained from the road, the impact of long term, sustained views from a high level is significantly more intrusive than those from passers by at ground level.

18. While the growth of boundary planting would reduce this adverse impact, removal of it would exacerbate the effect. Were planning permission to be granted it would be necessary to secure the level of boundary screening by condition, as well as requiring the first floor windows to be obscure glazed and fixed closed.

Conclusion

19. I conclude that the development results in significant adverse effects on the character and appearance of the street scene, and on the living conditions of the residents of The Beeches with by way of overlooking and privacy, contrary to the policies and guidance cited above. The appeal on ground (a) fails.

Appeals A and B on ground (f)

20. This ground of appeal is that the steps required to comply with the notice are excessive and that lesser steps would overcome the objections. The appellants state that the building should not be completely removed, but the objections could be overcome by, for example, simple alterations to the roof. Demolition of the garage would require relocation of the air source heat pump equipment, the cost of which would be excessive, and could result in damage to the trees.

21. While suggestions have been made regarding possible alterations to the building no firm proposal has been submitted. I do not therefore have sufficient information to consider any alternative scheme. Moreover, alterations, without complete removal, would not overcome objections in terms of siting, and the Council's concern with regard to the proximity of the building to the trees has been noted. Neither is cost a material planning consideration.

22. I therefore consider that no lesser steps which would overcome the harm and address the reasons for issuing the notice have been identified. The appeals on ground (f) fail.

Appeals A and B on ground (g)

23. This ground of appeal is that the period specified in the notice falls short of what should reasonably be allowed. The appellants seek a period of one year to allow the air source heat pump to be relocated as this may require the provision of a new building for which planning permission may first have to be obtained.

24. The specified period of six months appears entirely reasonable to me for carrying out the requirements of the notice. It allows time for planning the works, seeking any permissions that may be necessary and undertaking the

works. In any event, s173A(1)(b) of the Act enables the local planning authority to extend the period specified at its discretion.

25. The appeals on ground (g) fail.

Conclusions

26. For the reasons given above I conclude that the appeals should not succeed. I shall uphold the notice.

Formal decisions

Appeal A: APP/G2245/C/12/2186542

27. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: APP/G2245/C/12/2186543

28. The appeal is dismissed and the enforcement notice is upheld.

M A Champion

INSPECTOR

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

Sevenoaks
DISTRICT COUNCIL

Mr Steve Toms
C/O Mr J Bullock
11-13 High Street
Tunbridge Wells
Kent

SE/11/00718/CONVAR
Valid on 12th April 2011

TOWN AND COUNTRY PLANNING, ENGLAND
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

GRANT OF PLANNING PERMISSION

Site : Amberley Packhorse Road Bessels Green Sevenoaks Kent TN13 2QP

Development : Application to vary condition 4 (The development hereby permitted shall be carried out in accordance with the following approved plans 1038-P-01(B), -P-02(B) -SUR-01) of SE/10/02828/FUL. To allow the creation of an artists studio within the roof space over double garage.

Sevenoaks District Council, as the District Planning Authority, pursuant to powers in the above mentioned Act and Order, HEREBY GRANTS PLANNING PERMISSION for the development described above, to be carried out in accordance with the application and plans submitted therewith, SUBJECT TO THE CONDITIONS set out below :-

1) The development hereby permitted shall be begun before the expiration of three years from the date 21st October 2010.

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

2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on drawing 1038-P-01

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

Chief Executive: Robin Hales
Community & Planning Services, P.O. Box 183, Argyle Road, Sevenoaks, Kent TN13 1GN
e-mail: community&planning.services@sevenoaks.gov.uk www.sevenoaks.gov.uk
Telephone: 01732 227000 Fax: 01732 451332 DX 30006 Sevenoaks
Switchboard Times: Monday - Thursday 8.45 a.m. - 5.00 p.m. Friday 8.45 a.m. - 4.45 p.m.

INVESTORS IN PEOPLE | Gold

3) No development shall take place until details of a privacy guard to be located on the southern side of the external stairway serving the artists studio has been submitted to the Council for approval in writing. The scheme shall be carried out in accordance with the approved details.

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

4) The proposed artists studio shall be used solely for a purpose incidental to the enjoyment of the dwellinghouse and for no other purpose.

To prevent overdevelopment of the land as supported by policy EN1 of the Sevenoaks District Local Plan.

5) The development hereby permitted shall be carried out in accordance with the following approved plans: 1038-P-01

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

6) No development shall take place until details of a privacy guard to be located on the north and southern parapet walls and above the external rendered stairway has been submitted to the Council for approval in writing. The scheme shall be carried out in accordance with the approved details.

To safeguard the residential amenities of Linden Lees and The Beeches.

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

The South East Plan 2009 - Policies CC1, CC4
Sevenoaks District Local Plan - Policies EN1, H6B
Sevenoaks District Core Strategy 2011 - Policies N/A

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

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

Kristen Paterson
Community and Planning Services Director DATED THIS: 6th day of June 2011

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

Sevenoaks
DISTRICT COUNCIL

Mr S Toms
C/O John Bullock Design
11 -13 High Street
Tunbridge Wells
Kent
TN1 1UL

SE/12/00250/HOUSE
Valid on 3rd April 2012

TOWN AND COUNTRY PLANNING, ENGLAND
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010

REFUSAL OF PLANNING PERMISSION

Site : Amberley Packhorse Road Sevenoaks Kent TN13 2QP

Development : Retention of single storey rear extension, balcony & first floor extensions to north & south elevations. Change of fenestration. Retention of double garage with room above, dormer windows, external staircase & air source heat pumps. Corrected plans received 02/04/12

Sevenoaks District Council, as the District Planning Authority, pursuant to powers in the above mentioned Act and Order, HEREBY REFUSES PLANNING PERMISSION for the development described above, FOR THE FOLLOWING REASON(S) :-

1) The proposal represents an over development of the site, detrimental to the street scene, particularly due to the large two storey garage at the front of the site. The development also results in an unacceptable loss of privacy to the adjoining property, The Beeches. As a result the proposal is contrary to Policy EN1 of the Sevenoaks District Local Plan, relevant provisions of the Sevenoaks Residential Character Area Assessment and the design policies of the National Planning Policy Framework, notably paragraph 64.

Kristen Paterson
Community and Planning Services Director

DATED THIS: 9th day of July 2012

Please remove any site notice that was displayed on the site pursuant to the application.

Chief Executive: Robin Hales
Community & Planning Services, P.O. Box 183, Argyle Road, Sevenoaks, Kent TN13 1GN
e-mail: community&planning.services@sevenoaks.gov.uk www.sevenoaks.gov.uk
Telephone: 01732 227000 Fax: 01732 451332 DX 30006 Sevenoaks
Switchboard Times: Monday - Thursday 8.45 a.m. - 5.00 p.m. Friday 8.45 a.m. - 4.45 p.m.

INVESTORS IN PEOPLE | Gold

DEVELOPMENT MANAGEMENT PROCEDURE (ENGLAND) ORDER 2010

PART 2

TOWN AND COUNTRY PLANNING ACT 1990

Notification to be sent to an applicant when a local planning authority refuses planning permission.
Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- As this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
- Appeals must be made using a form which you can get from the Planning Inspectorate at Customer Support Unit, Room 315A (E), Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/appeal
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.