

4.1- SE/14/01565/FUL Date expired 14 July 2014

PROPOSAL: Installation of a mobile home.

LOCATION: Five Ways Nursery, Swanley Lane, Swanley BR8 7LD

WARD(S): Swanley White Oak

### **ITEM FOR DECISION**

This application has been referred to the Development Control Committee by Councillor Ball to consider issues of Green Belt and Human rights

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

The proposed development would constitute inappropriate development within the green belt, harmful by reason of inappropriateness and by virtue of harm to the openness of the green belt. The very special circumstances advanced are not considered to be sufficient to clearly outweigh the harm to the green belt. This is contrary to the provisions of the National Planning Policy Framework, policy LO8 of the Core Strategy, policy H18 of the Sevenoaks District Local Plan and policy GB6 of the emerging Allocations and Development Management Plan.

### **Note to Applicant**

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

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

In this instance the applicant/agent:

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

## Description of Proposal

- 1 This application seeks permission for the installation of a mobile home on the site of a nursery, currently under construction, on the northern boundary of Swanley, fronting Swanley Lane between Swanley and Hextable.
- 2 At present the site comprises a bungalow on the northern end of the site with garage/storage building sited alongside. A new single storey building is under construction - that will in future be used as an office/ potting shed/packaging area, vehicle maintenance and storage area. Permission was granted for this building in 2004 and is extant by virtue of the foundations commenced within the life of the 2004 permission. As can be seen below further permissions have been granted for polytunnels on the site.
- 3 The proposed mobile home would comprise a two bedroom unit and would be sited to the rear of the car park, approximately half way back into the site and sitting in front of two poly tunnels. The mobile home would be 12.192m in length x 6.012m's in depth. These dimensions comply with those required to comply with the definition of a caravan. We are advised that the home is required to provide onsite security and a monitoring presence on site for the nursery – referred to in the Design and Access Statement as an established horticultural business, but in reality one that is under construction. We are further advised that the existing bungalow is occupied by a Mrs Fullager who was given the right to occupy the dwelling as long as she needed/wanted, when the applicants purchased the site. The applicant advises that although they would prefer a permanent permission they would accept a temporary permission of three years if considered more appropriate.
- 4 The applicant has submitted a business plan setting out (briefly):
  - their experience (20 years in the nursery business),
  - mission– to provide a quality choice of product for homeowners looking for plant and garden supplies as well as serving contractors who require a reliable source of products in a pleasant environment and finally those who rent properties and want garden products.
  - projected start up costs (£100k),
  - products – bedding plants, trees, vegetables, garden accessories such as fountains, stepping stones, tools, fertilisers and potting soils with most plants to be sourced off site initially, although some plants and plugs to be grown on site;
  - a brief analysis of the projected market – based upon becoming an attractive choice for homeowners and landscape contractors who will use the nursery because of a diverse stock and competitive prices. The immediate geographic area is north west Kent with an estimated population of 200,000. A 50 mile geographic area would utilise the services of the nursery as they become more established with a total market estimated at 500,000 people.

## Description of Site

- 5 The site lies on the northern edge of Swanley adjacent to houses on the south west boundary and on the opposite side of Swanley Lane. To the north lies a parcel of land that originally formed part of the wider nursery site. This is fenced off by a low fence to the north of the bungalow and foundations and a base have been constructed on the site which is otherwise surrounded by long grass.
- 6 As described above the site is currently largely open apart from the bungalow, associated garage/storage building and the building under construction. The front boundary comprises an earth bank topped with fencing, the southern most boundary comprises timber close boarded fencing, the rear boundary with the public right of way is a green spiked metal fence whilst the boundary to the north of the bungalow is a low timber fence. The site is covered in hardcore with an access road laid in.

## Constraints:

- 7 Metropolitan Green Belt

## Policies

### *Sevenoaks Core Strategy*

- 8 Policies – SP1, L08.

### *Sevenoaks District Local Plan*

- 9 Policies - EN1 VP1 H18

### *Allocations and Development Management Plan (draft)*

- 10 Policies – EN1, EN2, GB6

## *Other*

- 11 National Planning Policy Framework
- 12 Supplementary Planning Document Consultation Draft - Development in the Green Belt

## Relevant Planning History

- 13 88/00699/HIST Demolition of existing glasshouses, buildings and bungalow and erection of 5 detached houses. Refuse. Appeal Dismissed.
- 14 88/02250/HIST Retention of existing bungalow and part glasshouse. Erection of four detached houses. Refuse.
- 15 98/02532/HIST Erection of two dwellings with garages. (Deemed Refusal) Refuse. Appeal Dismissed.
- 16 98/02599/HIST Demolition of derelict glasshouses and erection of four

detached houses with garages. (Deemed Refusal). Refuse. Appeal Dismissed

- 17 99/02667/FUL Erection of a replacement store, potting shed, toilet and washroom demolition of greenhouse and provision of turning/parking area, as amended by letter dated 13.09.00 and revised plan 557/4. Grant.
- 18 99/02671/FUL Erection of a replacement store, potting shed, toilet and washroom and provision of turning/parking area, as amended by letter dated 13.09.00 and revised plan 557/4. Grant.
- 19 01/00117/DETAIL Details pursuant to condition 2 (visibility splays) of planning permission SE/99/02667. Grant.
- 20 04/01109/FUL Erection of a polytunnel. Grant. Machinery, potting, packaging, staff facilities and office. Refuse.
- 21 04/01776/FUL Erection of building for storage of machinery, potting, packaging, staff facilities and office. Grant.
- 22 04/02429/DETAIL Details pursuant to condition 2 (materials) of SE/04/01109. Grant.
- 23 04/03107/DETAIL Details pursuant to condition 2 (facing materials) of consent reference number SE/04/1776. Grant.
- 24 05/00479/FUL Erection of building for storage of machinery, potting, packing, staff facilities, office, sales and erection of a polytunnel. Grant.
- 25 05/02337/FUL Erection of building for storage of machinery, potting, packing, staff facilities, office, sales. (The application seeks minor amendments to approved application SE/05/00479 including an increase in ridge and eaves height). Grant.
- 26 05/02803/FUL Minor amendments to approved application (SE/04/01776/FUL) including an increase in ridge height and addition of brick plinth. Grant.
- 27 06/00569/FUL Revised application for the erection of a building for storage of machinery, potting, packing, staff facilities, office and sales. Grant.
- 28 06/00585/FUL Revised application for the erection of a building for storage of machinery, potting, packing, staff facilities, office and sales. Grant.
- 29 06/01780/DETAIL Revised roofing material pursuant to condition 2 of planning permission SE/04/01776/FUL. Grant.
- 30 06/01782/DETAIL Details pursuant to condition 2 (materials) of SE/05/00569/FUL. Grant.

- 31 07/01505/FUL Erection of two Polytunnels. Grant.
- 32 10/03448/FUL Erection of x3 no polytunnels, alterations to access, new internal access track. Grant.
- 33 11/01413/DETAIL Details pursuant to condition 3 (access track) of planning permission SE/10/03448/FUL. Grant.
- 34 11/01424/DETAIL Details pursuant to condition 4 (surface water run off) of planning permission SE/10/03448/FUL. Grant.

### Consultations

#### *Rural Planning Consultant*

- 35 At the pre-application stage for this proposal, I advised:
- Any planning application would need to be supported by a clear and detailed business plan including full budgets for production over (say) the next three years, including commentary on the type and number of plants proposed, what market outlets have been identified, a CV of the applicant's horticultural experience, and details of his current accommodation. In terms of the claimed functional need to live on the site, any planning application would also need to be supported by an explanation of growing techniques and an analysis of why this venture would need a full-time on site presence, at most times of the day or night.*
- 36 The business plan now submitted assumes a high level of sales, (£82 k in year 1, rising to £108.5 k in year 3) but gives no detail as to exactly what these figures represent in terms of different items and prices, or what the costs comprise per item.
- 37 The assumed size of those plants, and their value, relates to the use of the available protected/unprotected space for plants, and the annual turnover.
- 38 Basically there is nothing to show how the figures have been arrived at, so as to be confident that this is a feasible and sound business plan as matters stand. Furthermore, it appears that the plan is largely based not on growing plants and trees on site, but on retailing brought-in plants, and garden supplies.
- 39 This would mean operating more as a small garden centre than a production nursery per se, and as I understand the position that would require its own Planning consent, which has yet to be sought, and which may or may not be acceptable here. This is another flaw in sound business planning.
- 40 Consequently, based on the current business plan, I would have to advise that the proposal would fail the usual criteria by which a new agricultural mobile home would be judged.

#### *KCC Public Rights of Way*

- 41 No objection.

*Parish/Town Council*

- 42 Swanley Town Council objects to this application on the grounds that no apparent horticultural use has taken place in recent years
- 43 Hextable PC object on the basis that there appears to be no need for a mobile home to tend horticultural plants: there is no horticultural nursery on this site as stated so there is no need for a mobile home to tend these non-existent plants.

Representations

- 44 34 letters of objection have been received raising the following issues:
- this contravenes green belt policy
  - there is no existing business to justify this home and hasn't been for the 26 years I have lived opposite the site
  - the business plan is very weak –with very optimistic projections for future growth when there are so many other such businesses nearby.
  - This is an as yet untested business so how accurate can the projections for profit be
  - This is agricultural land and this is not in keeping with the designation of the land
  - The office under construction would be sufficient to monitor the site
  - Potential highways safety issues
  - Is already a dwelling on site
  - References to previous crimes on the site are unsubstantiated
  - A similar application at Sutton at Hone resulted in the use of the site for a caravan site when the original application was not implemented
  - Caravan sites are generally sited away form permanent residential areas
  - Swanley does not need another caravan site
  - This is a back door method to gain permission for a permanent dwelling
  - Potential gypsy site with associated activities such as pony/trap racing –leads to potential highways safety issues
  - One unit would act as a precedent for more residential units
  - Health and Safety concerns
- 45 One letter raising concerns about the need for more accommodation but expressing support for a properly considered and operated nursery in this location

## Chief Planning Officer Appraisal

### Principal Issues

- 46 The main issues concern compliance with green belt policy, impact upon highways safety and impact upon neighbours' amenities.

### *Green Belt:*

- 47 The NPPF at paragraph 55 seeks to promote sustainable development in rural areas locating housing where it will enhance or maintain the vitality of rural communities. We are advised to avoid isolated new homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.
- 48 Whilst not specifically referred to in the NPPF, guidance contained in Annexe A of PPS7 remains useful in assessing such development proposals. Whilst it is accepted that in some cases it is more appropriate for a worker to live in a nearby village or town it explains that there will be some cases where the nature and demands of the work concerned make it essential for one or more people engaged in the enterprise to live at, or very close to the site of their work. It is considered essential that such proposals are scrutinised thoroughly and it is important to establish whether the stated intentions are genuine, reasonably likely to materialise and are capable of being sustained for a reasonable period of time. The Annexe provides guidance on both a functional assessment ie why is it necessary for someone to live on site and a financial test ie assessment of evidence regarding the ability and size of the business to support the unit proposed.
- 49 The NPPF is clear at paragraph 87 that inappropriate development is by definition harmful to the green belt and should not be approved except in very special circumstances. At paragraph 89 it sets out those categories of development that are considered appropriate development in the green belt and includes buildings for agriculture and forestry. However that refers to buildings actually used for agriculture and forestry and not associated residential buildings.
- 50 Paragraph 89 also refers to the limited infilling or the partial or complete redevelopment of a previously developed site whether redundant or in continuing use which would not have a greater impact on the openness of the green belt. This land is partially developed at present by virtue of the bungalow on the site – but that definition does not extend to the rest of the site. Permission has been granted for a horticultural business on the site but that development has only just commenced construction. It is not considered therefore that this site falls within the definition of previously developed land. Therefore it must be concluded that the development comprises inappropriate development in the green belt.
- 51 Policy H18 of the SDLP advises that subject to access, amenity and location, proposals for the temporary location of a mobile home or caravan for residential accommodation associated with an agricultural or forestry activity will be permitted where there is a proven need. This policy needs to be considered in the light of the functional and financial assessments referred to in para 47 above. Compliance with those 'tests' would comprise the very special circumstances required to outweigh harm to the green belt, whilst non compliance would render such development inappropriate development which causes harm by virtue of inappropriateness and any other harm identified.

- 52 Policy GB6 of the emerging ADMP, which is to be accorded limited weight at this time, advises that proposals for a temporary or permanent location of a mobile home in the greenbelt will be permitted - subject to the accommodation being associated with an agricultural or forestry activity with a proven need and the siting being acceptable in terms of location access environmental and local amenity considerations.
- 53 The Green Belt SPD refers to the provision of accommodation for agricultural or forestry workers and advises of the need to fulfil the relevant functional and financial tests of their businesses, as set out in Annex A to PPS7, as referred to above).
- 54 The very special circumstances (vsc) provided would appear to relate to the need for on site management and security of the facility that is under construction. Central to this case is the need to demonstrate that a viable business is achievable and to explain why permanent on site accommodation is required. To comply with the first part of this demonstration a detailed business plan is required. As can be seen from the Rural Consultants response sufficient details have not been included that demonstrate a sound business plan and therefore do not give any assurance that the business proposed will be a viable and an ongoing concern. Turning to the second explanation required ie why someone is needed full time on site, the applicant also fails to provide adequate explanation. We are advised it is for full time monitoring of the nursery and for security purposes and reference is made to previous criminal attacks on the site. However this statement has not been substantiated either in terms of what processes are being carried out that require full time monitoring of the plants – particularly when most appear to be brought into site rather than grown on the site, nor in terms of evidence regarding previous attacks on the site.
- 55 In addition it has not been explained why the office being currently constructed could not be used for onsite security during the night time – the approved plan shows a kitchen area and bathroom facilities which would enable such on site security without the need for a further building.
- 56 The location of the mobile home at the rear of the car park would add further built form to the site that would be clearly visible against the background of the polytunnels. It would introduce a form of development that is clearly not horticultural or agricultural and would cause harm to the openness of the green belt.
- 57 In summary, the proposed scheme would fail to comply with all the national and local policies referred to above. It is not considered that very special circumstances have been demonstrated that would support the new mobile home such as to clearly outweigh harm to the green belt caused by inappropriateness and by harm to openness.

#### *Highways Safety*

- 58 The access which the mobile home would utilise has already been granted permission pursuant to previous applications. It is not considered that the additional traffic resulting from the provision of a mobile home on this site would create such additional traffic levels as to cause safety issues to the adjacent highway.



### *Neighbours Impact*

- 59 The mobile home would be sited away from surrounding boundaries with the packing/potting/office building lying between it and the nearest other dwelling and it is not considered that it would cause any loss of amenity to nearby residents.

### Other Issues

- 60 *Human Rights:* Article 1 of the Human Rights Act entitles people to the peaceful enjoyment of their possessions, whilst Article 8 gives everyone the right to respect for his private and family life his home and correspondence. These two Articles seem those most likely to be relevant to this application. This application has been made on the basis that the mobile home is required for security and monitoring purposes for the horticultural business and it is unclear how either of these Articles is therefore breached by the recommendation being made.
- 61 *Gypsy/Traveller Site:* A number of comments have been made about the use of this site as a gypsy and traveller site. This application does not seek such permission and has not been assessed as such.

### Access Issues

- 62 Would be resolved as part of any Building Regs application.

### **Conclusion**

- 63 The application seeks permission for a mobile home on the site to act as on site monitoring and security facility for the nursery under construction. Within the green belt such accommodation constitutes inappropriate development. All relevant policies are clear that applications for such accommodation need to provide sufficient functional and financial justification for such a unit. Such information has not been submitted. Furthermore the issue of the office being built on the site has not been addressed as a possible location for someone involved in the provision of night time security on the site. Consequently this proposal constitutes inappropriate development that would cause harm to the green belt by virtue of both inappropriateness and harm to the openness of the greenbelt.

### **Background Papers**

Site and Block Plans

Contact Officer(s): Lesley Westphal Extension: 7235

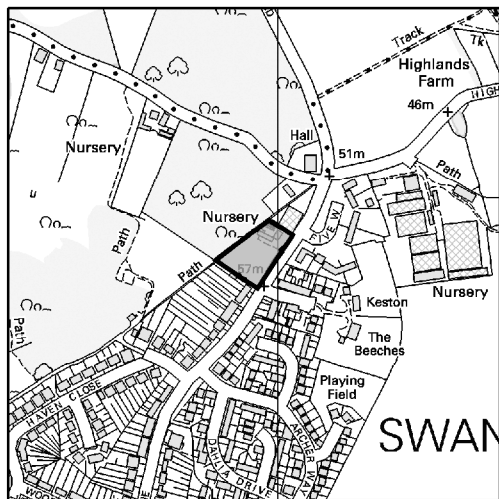
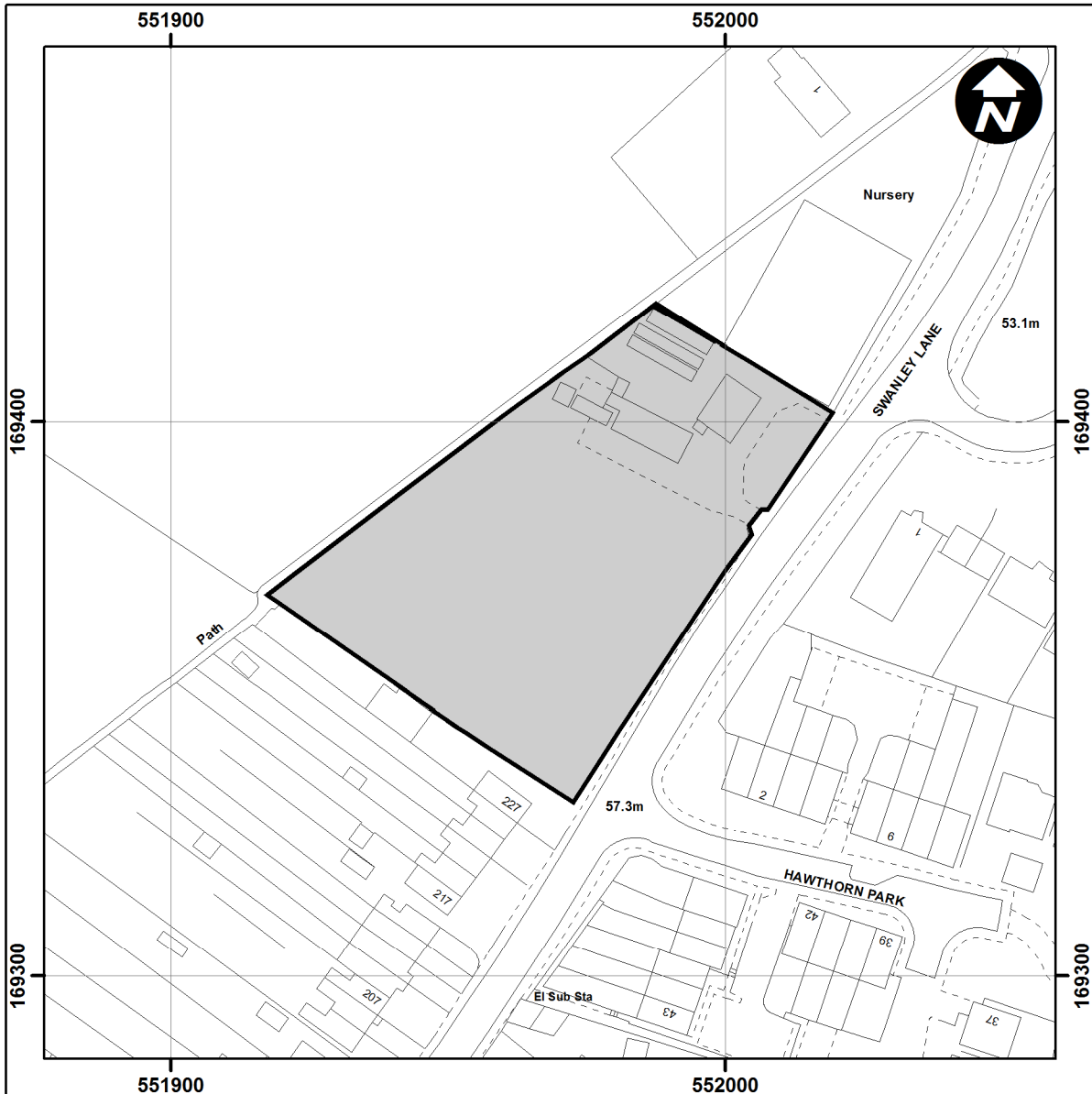
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=N5VI2JBK0L000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=N5VI2JBK0L000>



# Site Plan

Scale 1:1,250

Date 09/07/2014



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Ordnance Survey 100019428.

Block Plan

