

4.1 - SE/16/02300/HOUSE Date expired 19 September 2016

PROPOSAL: Erection of single storey garden room.

LOCATION: 49 Penshurst Road, Leigh TN11 8HN

WARD(S): Leigh & Chiddingstone Causeway

ITEM FOR DECISION

The application has been referred to the Development Control Committee by Councillor Lake for the following reason: supports the Parish Council that the 50% rule should apply and does not agree that very special circumstances exist.

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

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

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

- 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing building.

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 Allocations and Development Management Plan..

- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 101 - Date Stamped 25.7.16, Drawing No 104 - Date Stamped 25.7.16, Drawing No 102 - Date Stamped 25.7.16, Drawing No 103 - Date Stamped 25.7.16.

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

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

To prevent inappropriate development in the Green Belt as supported by GB1 of the Sevenoaks Allocations and Development Management Plan.

- 5) No building or enclosure other than those shown on the approved plans shall be erected within the curtilage of the dwelling hereby approved, despite the provisions of any Development Order.

To prevent inappropriate development in the Green Belt as supported by GB1 and GB3 of the Sevenoaks 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),
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Did not require any further assistance as the application was acceptable as submitted.
- 2) The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Description of Proposal

- 1 It is proposed to demolish the existing rear pergola and erect a single-storey garden room.

Description of Site

- 2 The application site comprises of a detached, two-storey house with accommodation in the loft space and is located on the Southern side of Penshurst Road. The house is set within an elongated plot which backs onto a railway line. The house has previously been extended through the addition of a two-storey rear extension and a porch to the front elevation. A large pergola exists on the rear elevation which does not benefit from planning permission however; it has been in situ for more than 4 years. The site is situated within the Leigh & Chiddingstone Ward and sits within the High

Weald - Area of Outstanding Natural Beauty and the Metropolitan Green Belt.

Constraints

3 Area of Outstanding Natural Beauty - High Weald

4 Metropolitan Green Belt

Policies

Allocations and Development Management (ADMP)

5 Policies - SC1, EN1, EN2, EN5, GB1

Core Strategy (CS)

6 Policies - LO1, SP1

Other

7 Leigh Village Design Statement

8 National Planning Policy (NPPF)

Planning History

9 08/00353/FUL - Two storey rear extension. REFUSE

08/01322/FUL - Two storey rear extension. GRANT

16/00606/PAE - Prior notification of a single storey rear extension which extends 6.15m beyond the rear wall of the original dwelling house with a maximum height of 3.4m and eaves height of 2.3m. REFUSE

16/01590/LDCPR - Erection of a single storey garden room. GRANT

Consultations

10 Leigh Parish Council objects to this application because we feel strongly that the Green Belt 50% rule should be adhered to.

Representations

11 None

Head Of Development Services Appraisal

Principal issues

12 The main issues for consideration are

- Impact on the Green Belt

- Very Special Circumstances
- Impact on the High Weald - AONB
- Design
- Neighbouring Amenity

13 Of particular relevance to this application is the following guidance:

Presumption in favour of sustainable development:

Para 14 of the NPPF confirms that the NPPF has a presumption in favour of sustainable development, and that development that accords with the development plan should be approved unless material considerations indicate otherwise. (See paras 11, 12, 13 of NPPF.)

Para 14 of the NPPF (and footnote 9) also advises that where the development plan is absent, silent or relevant policies are out of date, permission should be granted unless there are specific policies in the NPPF that indicate that development should be restricted. This applies to a variety of designations, including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

Green Belt considerations

- 14 Having established that the site is within the Green Belt the Authority must consider both its own Development Plan Policy and edicts of the NPPF.
- 15 As set out in para 87 of the NPPF, where a proposal is inappropriate development in the Green Belt, it is by definition harmful and should not be approved except in very special circumstances.
- 16 Para 88 of the NPPF advises that LPAs should give substantial weight to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
- 17 Therefore, the harm in principle to the Green Belt remains even if there is no further harm to openness because of the development.
- 18 Openness is an essential characteristic of the Green Belt and is different from visual impact. Openness is about freedom from built form. Even if there is absence of harm to openness, there can be harm in principle to the Green Belt from inappropriate development.

Area of Outstanding Natural Beauty (AONB)

- 19 The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development.

- 20 There are therefore two considerations directly related to a site's AONB status when determining a planning application. Firstly does the application conserve the AONB and secondly, if it does conserve the AONB does it result in an enhancement. A failure to achieve both of these points will result in a conflict with the requirements of the Act.

Appraisal

Green Belt

- 21 The NPPF dictates that the construction of new buildings in the Green Belt is inappropriate, with a few exceptions. In this case the proposed type of development is one of the specified forms of development considered to be an exception as the NPPF allows 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. The Council is therefore satisfied in principle that the proposed form of development would be, by definition appropriate development in the Green Belt.

Development plan policy summary:

- 22 Policy GB1 of the ADMP outlines that proposals to extend an existing dwelling within the Green Belt which would meet the following criteria will be permitted:
- a) The existing dwelling is lawful and permanent in nature; and
 - b) The design responds to the original form and appearance of the building and the proposed volume of the extension, taking into consideration any previous extensions, is proportional and subservient to the 'original' dwelling and does not materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion; and
- If the proposal is considered acceptable when considered against criteria a) and b), the following criteria will then be assessed and must also be met for the proposal to be considered appropriate:
- c) The applicant provides clear evidence that the total floorspace of the proposal, together with any previous extensions, alterations and outbuildings would not result in an increase of more than 50% above the floorspace of the 'original' dwelling (measured externally) including outbuildings within 5m of the existing dwelling.

Assessment against development plan policy:

- 23 The agent has confirmed in their planning statement that they acknowledge that the property has been extended up to the permitted 50%.
- 24 From looking at the history and from the plans submitted I have measured the property to have an original floorspace of 102.89 square metres meaning 50% would be 51.445 square metres. The property has been extended through the addition of a two-storey rear extension and the creation of a porch canopy. These extensions have added 50.46 square metres. From visiting site it has become apparent that there is a large, wooden pergola

which projects from the existing rear wall. The pergola covers a floor area of 31.08 square metres. The plans submitted show the demolition of the pergola and that the proposed single-storey rear extension will add 24.09 square metres. The existing floor space (50.46) plus the pergola (31.08) equals a floorspace of 81.54 square metres. The existing floor space (50.46) plus the proposed floorspace (24.09) equals a floorspace of 74.55 square metres - a reduction in floorspace by 6.99 square metres. Although the proposed extension exceeds the 50% floorspace limit it is a reduction in what currently exists on site.

Impact on openness:

- 25 In addition, when assessing an application in the Green Belt the resultant volume and bulk is assessed. Policy GB1 of the ADMP states that a proposal to extend an existing dwelling will be permitted if the proposed volume of the extension, taking into consideration any previous extensions, is proportional and subservient to the 'original' dwelling and does not materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion.
- 26 The proposed extension would result in an addition over the 50% floor space limit and therefore in principal results in harm to the openness of the Green Belt

Very special circumstances

- 27 There has been a claim made of very special circumstances.
- 28 In this case there are material considerations that may amount to or contribute to a case for very special circumstances.
- 29 This issue is considered in more detail later in this report, as very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by any other considerations. It is therefore necessary to first identify the extent of harm.

AONB

- 30 Policy EN5 of the ADMP outlines that proposals within the Area of Outstanding Natural Beauty (AONB) will be permitted where the form, scale, materials and design would conserve and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance.
- 31 The proposed works would respect the scale of the host dwelling and would be constructed out of materials that match the existing dwelling. The proposed works would be situated at the rear of the dwelling. It is considered that the proposed works would conserve and enhance the character of the landscape.

Design and Impact on Street Scene

- 32 Policy SP1 of the Core Strategy states that all new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated.
- 33 Policy EN1 of the ADMP states that the form of the proposed development should respond to the scale, height, materials and site coverage of the area. This policy also states that the layout of the proposed development should respect the topography and character of the site and the surrounding area.
- 34 The Residential Extensions SPD outlines that the scale, proportion and height of an extension should respect the character of the existing building and should normally fit unobtrusively with the building, its setting and be compatible with surrounding properties

Single-storey rear extension

- 35 The Residential Extensions SPD states that the acceptable height of a rear extension will be determined by the ground levels distance from the boundaries and also the size of the neighbouring garden/amenity space.
- 36 It is proposed to demolish the existing pergola and construct a single-storey rear extension to create a garden room that would extend the full length of the rear elevation. The extension would project 3.3 metres beyond the existing rear wall; would have an eaves height of 2.3 metres and an overall height of 3.4 metres. The design of the proposed extension would respond positively to the host dwelling by using brickwork and roof tiles that match the existing dwelling. The proposed roof form would be pitched with glazed gable ends. It is considered that the proposed extension fits well with the host dwelling and with the area.

Amenity

- 37 The NPPF identifies that there is a set of core land-use principles that should underpin decision-taking. One of these principles is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. (Paragraph 17)
- 38 Policy EN2 of the ADMP outlines that proposals will be permitted where they would provide adequate residential amenities for existing and future occupiers of the development, and would safeguard the amenities of existing and future occupants of nearby properties by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity or vehicle movements, overlooking or visual intrusion and where the build form would not result in an unacceptable loss of privacy, or light enjoyed by the occupiers of nearby properties.
- 39 The Residential Extensions SPD outlines that to protect against overlooking, the side wall facing a neighbour should not normally contain windows unless privacy can be retained. The proposed extension does not contain windows

in the side walls and therefore protects against overlooking to neighbouring properties.

- 40 The Residential Extensions SPD states that a '45 degree test' should be used to assess whether the proposal would cause a significant loss of daylight or the cutting out of sunlight for a significant part of the day to habitable rooms in neighbouring properties or private amenity space. For a significant loss of light to occur, the proposal would need to fail the test on both plan and elevation form.
- 41 Due to the close nature of the houses along Penshurst Road the proposed extension has the potential to impact on both neighbouring properties, Oaklea and Pinfarthings. In relation to Pinfarthings, I have applied the 45 degree test and I am satisfied that the proposed extension passes this test. In relation to Oaklea, their side elevation contains a number of windows. The three windows to the rear of this elevation are obscure glazed and one window is clear glazed, but it is a secondary window. I am therefore satisfied that the extension would not result in a significant loss of light to habitable rooms of Oaklea. It is considered that the proposed works would not result in a significant loss of light to neighbouring properties.
- 42 In light of the above it is considered that the proposed works would not result in a loss of privacy, daylight or private amenity space to the surrounding properties or to the site.

Assessment of any very special circumstances that may apply for this Green Belt proposal:

- 43 Para 88 of the NPPF states that when considering any planning application, LPAs should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by any other considerations.

Possible very special circumstances:

- 44 These can be summarised as:
- Permitted development fall back position (SE/16/01590/LDCPR)
 - Removal of existing wooden pergola
 - Removal of Permitted Development Rights (Part 1 of Schedule 2; Class A, B, E and a Unilateral Undertaking to support this

Assessment of very special circumstances:

- 45 The harm in this case has been identified as:
- The harm in principle from inappropriate development in the Green Belt, which must be given significant weight.
 - The harm to the openness of the Green Belt which is also given significant weight.

- 46 A 'very special circumstance' argument has been raised that the proposed rear extension would be a reduction in scale and bulk than what can be erected under 'permitted development' and as such should be granted regardless of the fact the 50% increases limit has been breached.
- 47 A Lawful Development Certificate (LDC) has recently been granted for 'Erection of a single storey garden room' under 16/01590/LDCPR. The garden room is sited 1.5 metres away from the rear wall of the house, so in reality is very close to the house. The garden room would extend into the rear garden by 7.6 metres which is 3.9 metres deeper than the existing pergola and 4.3 metres deeper than the proposed single-storey rear extension.
- 48 It is argued by the agent that because the proposed single-storey rear extension would have a lesser floorspace, a reduced height and would be attached to the main dwelling (unlike the granted detached single-storey garden room) it would be less harmful on the openness and permanence of the Green Belt.
- 49 The floor area of the granted single-storey garden room under 16/01590/LDCPR measures 27.3 square metres and would have an overall height of 3.9 metres. The works proposed within this application add 24.09 square metres and would have an overall height of 3.4 square metres - a reduction in both floorspace and height. When assessing planning applications within the Metropolitan Green Belt, the assessment is made not just on floorspace, but also that of scale and bulk. It is considered that the difference in overall height of 0.5 metres reduces the bulk, and therefore the harm to the Green Belt.
- 50 The construction of the proposed extension would cover part of the area for the LDC outbuilding. In effect the granting of the planning permission for this extension would negate the ability to implement the LDC application for the larger structure.
- 51 A wooden pergola exists in the position of the proposed rear extension, which will be demolished. Although this is an open structure it does add mass to the existing building. The pergola covers a floorspace of 31.08 square metres and the proposed single-storey rear extension has a floorspace of 24.09 square metres - a reduction of 6.99 square metres. This would benefit the openness of the Green Belt.
- 52 Substantial weight can be given to the permitted development fall back position as a 'very special circumstance' given the fact the extension approved as permitted development would have a greater floorspace, be greater in height and would extend further into the garden than what is being applied for in this application. Given that the accommodation in both the application scheme and the permitted development scheme is the same, this indicates that the permitted development scheme is reasonably likely to be carried out should permission be refused.
- 53 The permitted development scheme could not physically be built if planning permission is granted and therefore a Section 106 Unilateral Undertaking is not considered necessary. However, the removal of permitted development

rights for any other alterations, extensions and outbuildings would contribute to the case for very special circumstances. For this reason I propose to attach a condition removing permitted development rights for any other alterations, extensions and outbuildings.

Conclusion on very special circumstances:

- 54 In reviewing the extent of harm and the potential very special circumstances, it is concluded that the cases for very special circumstance would clearly outweigh the harm to the openness of the Green Belt through inappropriateness and any other harm. The proposal would therefore be in accordance with the NPPF.

CIL

- 55 This proposal is not CIL liable.

Conclusion

- 56 I consider that the proposed development would not harm neighbouring amenity but would result in a disproportionate addition over and above the size of the original dwelling. The case for very special circumstances submitted overcomes the harm to the Green Belt through inappropriateness. Therefore the proposal does comply with the NPPF and Policy GB1 of the ADMP.

Background Papers

Site and Block Plans

Contact Officer(s): Rebecca Fellows Extension: 7390

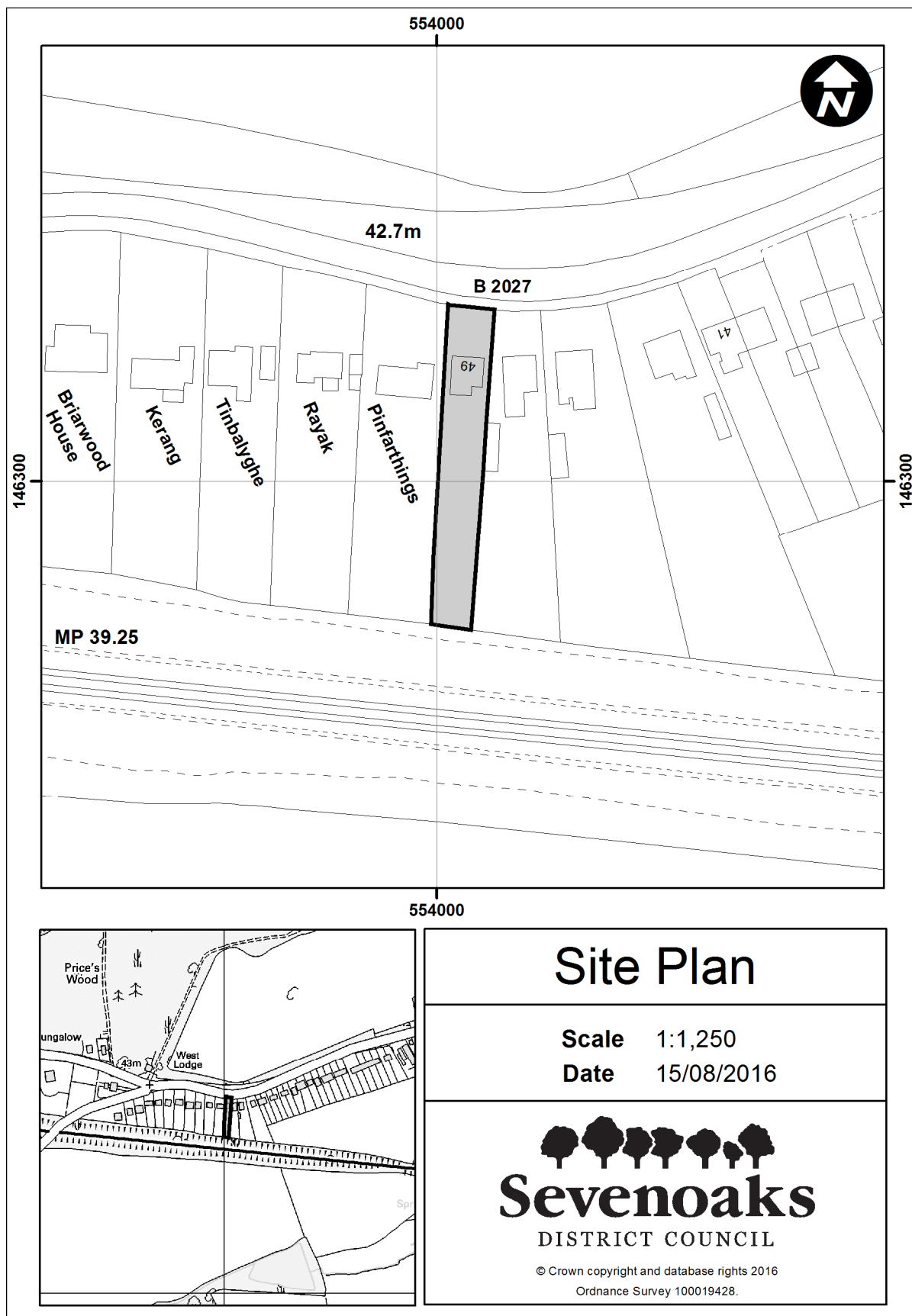
Richard Morris
Chief Planning Officer

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=OAVOINBKL3V00>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OAVOINBKL3V00>



Block Plan

