

5.7 SE/12/00189/FUL Date expired 17 May 2012

PROPOSAL: Retention of mobile home in its original location at
Pembroke Business Centre

LOCATION: Aspen Lodge, College Road, Hextable Kent BR8 7LT

WARD(S): Swanley White Oak

ITEM FOR DECISION

Referred to Development Control Committee by Councillor Sargeant due to concerns about the weight to be attached to the very special circumstances.

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

1) The development hereby permitted shall be carried out in accordance with the following approved plans: JE/24-04-2010/SWAN, SEVN/21-03-2012/PL

To protect the openness of the Green Belt and the character of the landscape as supported by the National Planning Policy Framework.

2) The use hereby permitted shall be carried out only by Ms Anne Ellis whilst she is resident on the site.

The personal circumstances of the Applicant and her occupation of the mobile home is considered to be a very special circumstance which outweighs the harm to the Green Belt by reason of inappropriateness, without which permission would not be granted.

3) Within 3 months of when the land ceases to be occupied by Ms Ellis, the use hereby permitted shall cease and the mobile home and work undertaken on the land in connection with the use shall be removed and the land restored to grassed open land where it has been developed by the siting of a mobile home.

To ensure compliance with policies that restrict development within the Green Belt, and the National Planning Policy Framework.

4) No more than one caravan as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.

To protect the openness of the Green Belt and the character of the landscape as supported by the National Planning Policy Framework

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

The South East Plan 2009 - Policy SP5

Sevenoaks District Local Plan - Policy EN1

Sevenoaks District Core Strategy 2011 - Policy L08

National Planning Policy Framework

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

The following very special circumstances exceptionally outweigh any harm by reason of inappropriateness and any additional harm to the Metropolitan Green Belt by reason of other factors. The medical condition of the Applicant and the implications of moving house on her health. The imposition of a condition rendering the permission as personal.

Description of Proposal

- 1 Retention of mobile home in its original location at Pembroke Business Centre

Description of Site

- 2 The application site lays to the North of Pembroke House on College Road. It is accessed via the Pembroke Business Centre which lies within the application boundary.

Constraints

- 3 Metropolitan Green Belt

Policies

South East Plan

- 4 Policy – SP5

Sevenoaks District Local Plan

- 5 Policy - EN1

Sevenoaks Core Strategy

- 6 Policy – L08

Other

- 7 NPPF

Planning History

- 8 08/03414/FUL - Relocation of mobile home, known as 'Aspen Lodge', to site adjacent to mobile home, known as 'Ashleys'. Allowed at appeal.

Consultations

Parish / Town Council

- 9 Swanley Town Council has objected to the application as the site is within the Metropolitan Green Belt where strict planning policies apply.

Representations

- 10 1 email of support has been received from a local resident which states the Applicants health as grounds to allow retention of the mobile home.
- 11 2 objections have been received which raise the following points:
- 12 There is no need for a mobile home on the site.
- 13 Pembroke House was, and still could be a lovely property. Its use as a childrens home has resulted in increased litter and fires in the undergrowth in the park. The Applicant could rent out another home with the rental income from Pembroke House.
- 14 The mobile home is visible from Laydenhatch Lane and from the footpath running adjacent to Aspen Lodge.
- 15 The mobile home is not in keeping with the area

Group Manager - Planning Appraisal

- 16 A temporary planning permission was granted at appeal on 15/12/09 for retention of the mobile home. The Inspector found that the mobile home would be inappropriate and harmful to the openness of the Green Belt. He gave significant weight to the medical circumstances of the Applicant at the time but found that combined with the financial considerations, it did not clearly outweigh the substantial weight of harm to the Green Belt and therefore very special circumstances to justify the development in this regard did not exist. As such, permanent permission would be unacceptable. He considered however that a temporary permission to allow the Applicant time to find solutions to her security, financial and accommodation problems while avoiding immediate disruption which could be damaging to her psychological wellbeing and that of her son would sufficiently reduce the harm to the openness of the Green Belt and the purposes of including it within it so that the other considerations combined would outweigh the degree of harm to the Green Belt.
- 17 The two year permission lapsed on 15/12/2011 and therefore the mobile home that is in situ no longer benefits from planning permission.
- 18 Since the grant of this temporary planning permission at appeal, the Applicants health has deteriorated significantly. The Design and Access Statement advises that during the period of the temporary planning permission, the Applicant has suffered from 2 strokes which have left lasting damage. Evidence of this has been submitted in the form of 2 letters dated 20/9/2011 and 1/5/2012 from her GP, and 2 letters dated 3/3/2011 and 24/11/2011 from her Consultant Neurologist. These confirm her physical health. Her GP advises in the two letters that:

'[The] condition can become potentially dangerous to Mrs Ellis if she is subjected to stress which result in an abnormal elevation of her blood pressure...I would advise that these [housing] matters should be handled with the utmost sensitivity to avoid any potential exacerbation of Mrs Ellis serious medical condition.'

'...she should endeavour to avoid any situation which would create significant stress and elevation of her blood pressure'.

- 19 Planning permission is now sought for the retention of the mobile home on a permanent basis owing to her medical condition.

Appropriateness in the Green Belt

- 20 The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate within the Green Belt. The proposal does not fall within any of the categories of exceptions to this that are provided.
- 21 Core strategy LO8 states that the extent of the Green Belt will be maintained. The countryside will be conserved and the distinctive features that contribute to the special character of its landscape and its biodiversity will be protected and enhanced where possible. Paragraph 4.5.22 of the preamble explains that within the outside settlements, priority will be given to protection of the countryside. Development should cause no adverse impact on the character of the countryside or the openness of the Green Belt.
- 22 Policy SP5 of the SE Plan relates to Green Belts and states that the existing broad extent of Green Belts in the region is appropriate and will be retained and supported.
- 23 The mobile home is sited within an open area between Pembroke House and the Pembroke Business Centre. The openness of nearby land in the Green Belt has been affected significantly by a substantial amount of development but this only emphasises the importance of protecting the remaining open areas.
- 24 The location of the site is part of the countryside and the development would represent an encroachment into it. A further erosion of the already fragile part of the Green Belt would contribute to urban sprawl.
- 25 The development would be inappropriate and harmful to the openness of the Green Belt and the purposes of including land within it. It would therefore conflict with the aims of the NPPF, policy SP5 of the South East Plan and policy LO8 of the Core Strategy.
- 26 The 2009 appeal decision came to the same conclusion that the development was inappropriate and harmful to the openness of the Green belt.

Whether Harm Clearly Outweighed by Other Considerations

- 27 The NPPF states that very special circumstances will only exist where the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
- 28 The letters from her GP and Consultant as detailed above explain that her physical condition is such that any act which would elevate her blood pressure should be avoided. Ordinarily, a health condition would not be a very special circumstance which would justify such inappropriate development within the Green Belt. The very special nature of this circumstance is not related to the

severity of her condition, but that as a result of the condition, the physical act of moving house and the associated stress and raised blood pressure could be potentially dangerous.

- 29 Further clarification has been sought on the nature of Mrs Ellis' medical condition and how it may change in the future. Her GP has confirmed that the condition is chronic. It will never improve and can only be managed. He also added that Mrs Ellis had a stroke previously and stress had been a large factor in causing it. He considered that there was a significant chance that if Mrs Ellis were put under additional stress, her condition would worsen and she would be at risk of another stroke.
- 30 The evidence submitted has been verified and is considered to be an extraordinary consideration and therefore significant weight should be attached to it.
- 31 This very special circumstance only applies for the duration of the Applicants occupation of the mobile home. Once she is no longer in occupation, the circumstance no longer exists. Therefore a personal permission related to occupation by the Applicant would take account of the very special circumstance while ensuring that the inappropriateness and harm to the Green Belt would be rectified.
- 32 Appropriate conditions could be attached to the permission to ensure that the mobile home and associated paraphernalia is removed, and the land restored to grassed open land upon cessation of the occupation.

Expediency of Enforcement Action

- 33 The stationing of the mobile home currently does not benefit from planning permission and therefore if permission were not granted for its retention, the Council could seek its removal. In the absence of planning permission for the mobile home, the Council would need to ensure that it was expedient to take enforcement action.
- 34 Paragraph 2.19 of Circular 10/97 – Enforcing Planning Control, states that
'the personal circumstances, including such matters as health, housing needs and welfare, of persons suspected of acting in breach of planning control must be taken into account when deciding whether to take enforcement action.'
- 35 Case law advises that if a defendant was genuinely incapacitated or genuinely incapable of complying with a notice, then this should be taken into account when considering prosecution and may be an appropriate defence.
- 36 If it were served, the Applicant would be genuinely incapable of complying with a notice. As such, within the considerations of case law and advice contained in Circular 10/97, it would not be expedient to take enforcement action against the breach.

Other Matters

- 37 Concern has been raised about parking on the site. The adjacent business centre which is included within the red line plan provides sufficient parking spaces which

could be used in connection with the mobile home. A pedestrian gate leads from the parking area to the area of the mobile home.

- 38 In order to avoid any harm to the Green Belt's visual amenities or the areas character and appearance, the permission could be conditioned to restrict the use to one mobile home and to remove permitted development rights in respect of means of enclosure. The mobile home would not benefit from any permitted development rights attached to a dwellinghouse and so removal of these would not be necessary.

Conclusion

- 39 The potential physical harm to the Applicant by moving out of the mobile home, as verified by medical evidence, along with a personal planning permission for the duration of occupation by the Applicant is considered to be a very special circumstance which outweighs the harm to the Green Belt by reason of inappropriateness.
- 40 Therefore it is recommended that planning permission personal to the Applicant is granted

Background Papers

Site and Block plans

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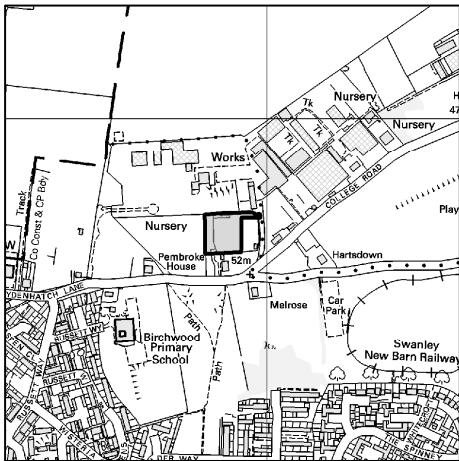
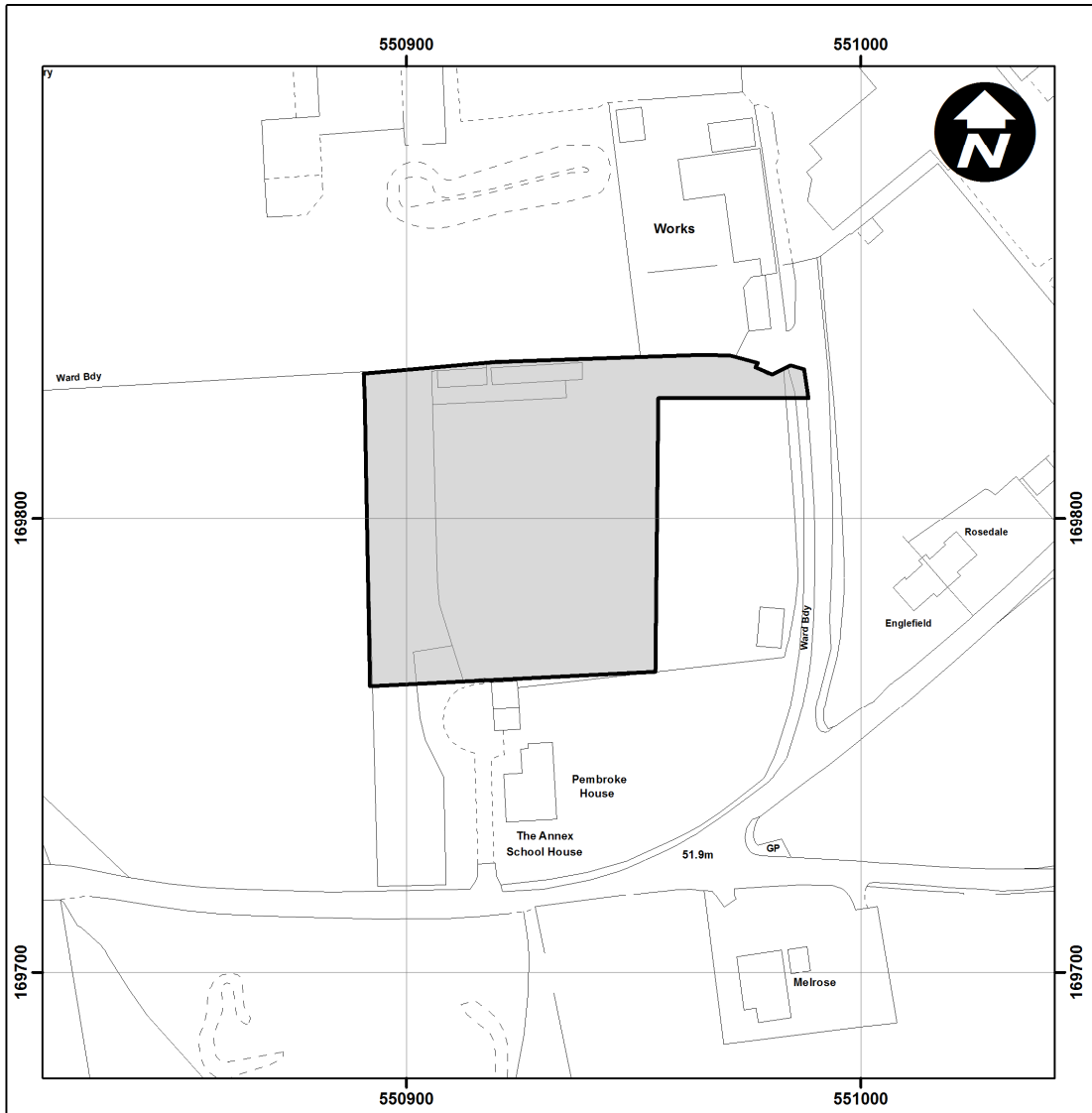
Kristen Paterson
Community and Planning Services Director

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LYB451BKOCR00>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=LYB451BKOCR00>



Site Plan

Scale 1:1,250
Date 01.05.2012



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