



Late Observations Sheet
DEVELOPMENT CONTROL COMMITTEE
19 January 2012 at 7.00 pm

Late Observations

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DEVELOPMENT CONTROL COMMITTEE

19 JANUARY 2012

LATE OBSERVATION SHEET

Item 5.02 SE/11/02684/FUL Land to rear of Lynchets, Clarendon Road, Sevenoaks

Additional Representations

Additional letters have been received from two local residents. These letters raise and reiterate the following issues:

- a) The access is too steep for two large houses and may be dangerous in certain conditions.
- b) The development will result in increased traffic, causing congestion, increasing the risk of accidents and making access more difficult for emergency and service vehicles.
- c) Concern is raised that the proposed bin store is not big enough. If it is made big enough, it may be a hazard to road users.
- d) It is suggested that the bin store may be on, or impinge on, adjacent land.
- e) Screening landscaping should be sought for the properties 'Lunch House' and 'Full Point' to be carried out before work is commenced.

Matters a), b), c) and e) are considered in the main papers. With regards to d), the applicant has again confirmed in writing that the bin store is entirely within the application site and that the application site is entirely owned by the applicant and those parties named in Section 25 (Certificate B) of the application form.

Clarification

Paragraph 38 of the Officer's Report confirms that the previous decision of the Council to in the case of SE/11/01316/FUL is a material consideration in this case. The Officer's report for SE/11/01316/FUL is appended for reference and a discussion of the principle of the development and its density is included in section (a) of this report.

The second paragraph of section (a) of Appendix A remains relevant to this consideration. This paragraph relates to the status of 'garden land' having been excluded from the PPS3 definition of 'previously developed land'.

For clarification and with this in mind, members will be aware that the Government amended PPS3 (Housing) to remove garden land from the definition of "Previously Developed Land" in 2010. This has led to some people to believe that gardens have now been protected from development. This is not the case. In short, the Government through PPS3 sets a target of 60% of all housing development nationally to take place on Previously Developed Land. This logically means that 40% of new housing development will still take place on land not designated as being previously developed. Therefore, gardens within built confines such as Sevenoaks that are capable of accommodating a dwelling without harm to planning interests are still acceptable.

Supplementary Information

Conditions

An amendment is recommended to the wording of suggested conditions no 8 and no 13. The conditions should read:

8) Prior to the commencement of development, details of boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the provision of privacy screening along the western side of the retained dwelling 'Lynchets'. The boundary treatments and screening shall be provided prior to the first occupation of either of the dwellings hereby approved and shall thereafter be maintained as such, despite the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification).

13) Notwithstanding the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification), no additional windows or dormer windows [other than those expressly authorised by this permission] shall be formed or inserted in the north facing flank elevation of Plot 2 nor the south facing flank elevation of Plot 1.

The effect of the amended wording is to give greater precision relating to the restrictions of the conditions as recommended by Circular 11 of 1995. The effect of the conditions would be as previously set out.

Officer's Recommendation

Subject to the above amended conditions, the Officer's Recommendation remains unchanged.

Item 5.03 SE/11/02379/FUL 1 Harrison Way, Sevenoaks

The applicant, West Kent Housing Association has submitted further information clarifying their programme of works:

I confirm that it is West Kent Housing Associations intention to replace the remaining windows to properties on this estate with the same style of white PVCu windows, proposed for number 1 Harrison Way, as and when the condition of the windows to the other properties have deteriorated to an extent where they require replacing. We operate a 'Just in Time' policy at West Kent and so do not replace whole streets on a planned basis in one annual programme. It will therefore take a few years to replace windows to all properties on the estate but, eventually the intention is to have all the property with white PVCu replacement windows.

Officer: All residential properties backing or fronting onto the Harrison Way flats are all finished in either white upvc or white painted timber windows.

For clarification, a planning application is required for change of windows on this property, as it is a flat and not a dwelling-house. Flats do not enjoy any permitted development rights.

Recommendation - Remains unchanged.

Item 5.04 SE/11/02034/FUL East Wing Paddock, Knotley Hall, Chiddingstone Causeway,

This item has been WITHDRAWN from the Agenda, subject to further Section 106 considerations.

Item 5.05 SE/11/01874/FUL The Red Barn, Stack Road, Horton Kirby, Dartford

6 letters of support have been received in connection with the application. The main issues of support include the following:-

- That the proposal would improve and enhance the character and appearance of the area.
- The site is an eyesore and that accepting a dwelling would represent a change of use, the would markedly improve an otherwise derelict agricultural site.
- The conversion would enable the younger branch of the family to remain on the farm
- The building has been unused for some years, it is in a state of dereliction and an eyesore.
- The conversion would use some of the original structure, and reduce the overall footprint and improve the openness of the site.
- The plans are sensitive to the original design of the building.
- It is an improvement on the landscape visually and in practical ways e.g. a smaller footprint and size compared to the existing building.
- It would be a sustainable form of development
- Improve the security of the area

1 letters of objection have been received in connection with the application. The main issues include the following:-

- The site has deliberately been left to fall into disrepair
- The proposal constitutes a new build in the Green Belt
- The paddock behind would turn into a garden, set the flood gates for further development.

In terms of the letter of objection the applicant has written in comment and states the following:-

The objectors have said they are "very aware of the previous plan to develop the field behind us in School Lane and Churchill Road". (See their email to the Authority of 12 January 2012).

This is my family's land, but can it please be placed on the record that so far as I know my family:

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- 1) has never submitted any planning application for this land so far as I know, or
- 2) made any representation relating to the development of that land.

Further email received from the applicants on the 18th January 2012. The following issues have been raised:-

Renewable energy

I refer you to paragraph 13 of PPS 22. It states:

"developers will need to demonstrate very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources"

Family circumstances

That family circumstances can be very special circumstances is clearly shown by the various gypsy cases. It is therefore open to members to consider that our family circumstances are (or are capable of adding to the overall package of factors that are) "very special circumstances"

Very special circumstances

- *There is no comprehensive list of "very special circumstances": the list is endless. (Brentwood BC v Secretary of State for the Environment and Gray (1996) 72 P&CR 61);*

It is therefore open to members to consider that any factor they like can contribute to "very special circumstances", including such factors as appearance, improvement of the openness of the green belt, and family circumstances.

- *Circumstances do not have to be "rare" to be "very special". (R (On the Application of Wychavon DC) v Secretary of State for Communities and Local Government [2009] 1 P&CR 15. I attach a copy of the case report and refer you to paragraph H5 of the headnote. I suggest that improving the openness of the greenbelt, although perhaps not "rare", is certainly special. That is what green belt policy is all about. Similarly production of renewable energy state is stated to be capable of being a "very special circumstance" in PPS 22 even though it will not be rare. Similarly family circumstances are almost by definition not "rare - the issue is whether they are very special.*

Unfortunately the report to committee suggests that both the renewable energy contribution and the family circumstances are not "rare" and therefore are not "very special" (see paragraphs 87, 88, 92 and (especially) 93.)

- *Very special circumstances describes an overall state of affairs and therefore may comprise a number of circumstances which are more than the sum of their parts(R (Basildon BC) v First Secretary of State and Temple (2004) EWHC 2759);*

Accordingly it is all the circumstances together that must be considered. Any individual factor may not be sufficient to establish very special circumstances, but together a number of individual factors may establish very special circumstances.

In terms of the additional issues raised by the applicant, my comments are set out below:-

Renewable energy

PPS22 is the planning policy statement on Renewable Energy. This guidance states that:-

Local planning authorities and developers should consider the opportunity for incorporating renewable energy projects in all new developments. Small scale renewable energy schemes utilising technologies such as solar panels, Biomass heating, small scale wind turbines, photovoltaic cells and combined heat and power schemes can be incorporated both into new developments and some existing buildings. Local planning authorities should specifically encourage such schemes through positively expressed policies in local development documents.

When looking at development proposals in the Green Belt, PPS22 states:.

“Policy on development in the green belt is set out in PPG2. When located in the green belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the green belt. Careful consideration will therefore need to be given to the visual impact of projects, and developers will need to demonstrate very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.”

It is clear that the government strongly supports and encourages the use of sustainable energy in development proposals. In the green belt however, there is a need to prevent inappropriate development unless there are special circumstances that clearly outweigh the harm to the Green Belt.

In this case the applicant has not provided any information about how sustainable this dwelling would be. All the information given is that the dwelling would have solar panels but it is not known whether the solar panels would provide just for the proposed dwelling or whether a contribution would be expected to be made to the national grid. The proposed solar panels are part of the consideration for very special circumstances. Whilst in themselves the solar panels may be acceptable in the Green Belt, it should be remembered that policy SP2 of the Sevenoaks Core Strategy requires the proposal meets the Code for Sustainable Homes, at level 3. In this respect the proposal to include them as part of a case for very special circumstances could not in my view be given much weight. The code can include provision of renewal energy in addition to other factors.

In paragraph 92 of the report, it states that the use of sustainable energy could be “used across the district”. The point that the officer was making is that solar panels are used frequently throughout the District on many different types of development proposals. For clarification, it is recognised that sustainability can be used a special circumstance in terms of assessing whether something should be granted in the Green Belt. Whether the circumstances make up very special circumstances, is a matter of assessing whether the potential very special circumstances clearly outweigh the harm in principle and all other harm, such as to justify overcoming the presumption against inappropriate development in the Green Belt. In this particular case, the potential environmental and sustainable benefits

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that the case may possess are not considered to be factors that would amount to very special circumstances that clearly outweigh the harm and any other harm to the Green Belt.

Family circumstances

The applicant has made the point that “family circumstances can be very special circumstances and this is clearly shown by the various gypsy cases. It is therefore open to members to consider that our family circumstances are (or are capable of adding to the overall package of factors that are) “very special circumstances”

It is acknowledged in the report that the personal situation of the applicant can be factor that can attribute to very special circumstances. However each case has to be assessed on its merits - the **Wychavon** case related to an appeal against temporary planning permission for a caravan stationed in the Green Belt and whether the Inspector had erred in finding that based on the particular facts, whether the personal circumstances of the appellant (taking into account the purpose of circular 01/2006) were capable of amounting to very special circumstances. There is no suggestion in this case that the applicant is a gypsy under the Circular definition or would lose their home.

The applicants make the point that this is a family farm, and that the proposal is required for the functioning and the viability of the business. In this case no financial or functional information has been included with the application to demonstrate the need for the dwelling under the tests set out in PPS7. In this respect limited weight has been attached to this argument. In addition to this, what may or not happen in the future to the farm would be matters for any future planning applications that may be submitted. If there is a functional and financial need for additional accommodation for that farm, then the applicants could consider in the future making a case based on the guidance in PPS7.

All of the reasons put forward by the applicant are material considerations that have the potential to either individually or cumulatively amount to very special circumstances that clearly outweighs that harm in principle to the Green Belt and all other harm.

For the reasons stated in the report, and in these late observations, the development is considered to be inappropriate development and it is therefore harmful to the Green Belt in principle, harmful to its openness, and does not make provision for affordable housing. Where very special circumstances are raised it is for the applicant to make the case and produce evidence in respect of them. Considerable harm has been identified in this case as set out in the main report. I do not consider that the reasons submitted by the applicant, either individually or cumulatively, clearly outweigh the harm identified in this case, and they do not therefore amount to very special circumstances.

Officer Recommendation - The officer's recommendation remains unchanged.