



**Late Observations Sheet
DEVELOPMENT CONTROL COMMITTEE
16 March 2017 at 7.00 pm**

Late Observations

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DEVELOPMENT CONTROL COMMITTEE

Thursday 16 March 2017

LATE OBSERVATION SHEET

Item 4.1 - SE/16/03117/FUL 19 Mount Close, Sevenoaks TN13 3EG

Further information

The erection of the additional dwelling on this site would create a density of 44 dwellings per hectare (dph). This figure is generally consistent with the expected density of 40dph as cited by Policy SP7 of the Sevenoaks Core Strategy for the Sevenoaks urban area.

Amendment to Report

Paragraph 38 should read:

“Off Street parking would be provided to the frontage of the site. Whilst nearby dwellings have off street parking to the front and sides of the houses. Two off-street independent parking spaces are proposed for both plots and can benefit with some small scale soft landscaping treatment that can be secured by condition. Comments have been made in relation to the loss of the amenity area/grass verge to the front of site. Whilst the amenity land/verge will be occupied a new driveway, it would be upon land under the control of the applicant. The driveway would occupy a small part of the land, a majority of it would be retained as a grass verge. In this regard it is not considered that this element of the scheme would be harmful to the general quality of the surrounding street scene.”

With reference to paragraph 53 - 55 should read:

“Section 43 of the Deregulation Act will stop section 1(1)(c) of the Planning and Energy Act 2008, applying to construction of or any other work on dwellings in England. Section 43 of the Deregulation Act is in force and the development plan cannot require energy efficiency standards to be applied on dwellings - new or adaptations.

Therefore, whilst the application has been considered against the development plan in this respect, material considerations dictate that in this instance the required conditions should not be imposed as of 30 March 2015.”

Paragraph 56 should be deleted.

Recommendation

That permission is granted, as per the main papers and late observations.

Item 4.2 - SE/16/03359/FUL 19 Mount Harry Road, Sevenoaks TN13 3JJ

Further information

The erection of the additional dwelling on this site would create a density of 13 dwellings per hectare (dph). This figure is below the intended target figure of 40dph as cited by Policy SP7 of the Core Strategy, but that the development reflects the low density character of the local area.

There are trees to the front boundary of the site, namely to the front of proposed 'House B' whereby a new access is being proposed that could affect the existing trees. It is probable that the existing Sycamore and Holly would be removed and the existing Sweet Chestnut tree would remain. The plans show the creation of the new access and turning/parking to the frontage of both plots, but it is unclear to how the ground levels would change and how it would affect the remaining tree. With the proposed removal of the existing Sycamore and Holly, these trees can be replaced as a compensatory measure in a forthcoming landscaping scheme as proposed by condition 4. Furthermore to afford sufficient protection to the remaining tree the access would need to be reduced. By revision of the proposed access, would still allow for safe vehicle ingress and egress and benefit health for the remaining tree and allow for compensatory trees to be planted to the front of the site. Therefore it is proposed amend condition 7 and include an additional condition to allow the submission of a Arboricultural Method Statement to ensure that during construction works do not compromise the health of the remaining trees within the site.

Amendment to Report

With reference to paragraph 55 - 56 should read:

"Section 43 of the Deregulation Act will stop section 1(1)(c) of the Planning and Energy Act 2008, applying to construction of or any other work on dwellings in England. Section 43 of the Deregulation Act is in force and the development plan cannot require energy efficiency standards to be applied on dwellings - new or adaptations.

Therefore, whilst the application has been considered against the development plan in this respect, material considerations dictate that in this instance the required conditions should not be imposed as of 30 March 2015."

Paragraph 57 should be deleted.

Amendments/additions to recommended conditions

Condition 7 should now read:

"Notwithstanding the access and parking details as shown of dwg no. P-300, no development shall take place until further details on the new access, parking and

turning area within the site has been submitted to and approved by the local planning authority. The parking areas approved shall be kept available for vehicular parking at all times.

Reason: In the interest of highway safety and visual amenity of the area in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan the Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.”

Recommended additional condition 12 to apply:

“No development shall take place until an Arboricultural Method Statement (AMS) has been submitted and approved in writing by the local planning authority for approval. The details shall include details of any works or operations in the vicinity of retained trees both on and off site, detailing construction or installation methods to avoid damage to trees. The AMS should be in accordance with the recommendations of BS5837 (2012) and include a schedule of any proposed pruning works to retained trees.

Reason: To ensure the successful long-term retention of retained trees in the interests of the visual amenity of the area in accordance with Section 197 of the Town and Country Planning Act 1990 and to preserve the appearance and character of the site and locality in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.”

Recommendation

That permission is granted, as per the main papers and late observations.

Item 4.3 - SE/16/03811/FUL The Mount, Church Street, Shoreham TN14 7SD

- 1 A late written representation supporting the planning application has been received from Cllr Roger Gough, Kent County Councillor for Darent Valley as summarised below:
 - The Mount is a very successful local business and valued part of the local community;
 - Proposal is central to competitiveness of the vineyard;
 - Recommendation gives inadequate weight to the economic benefits to Shoreham and surrounding area of continuing success and development of The Mount;
 - Refusal of planning permission would block business’s development.

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- 2 This letter of support does not change the planning merits of the case and specifically the fact that the application as submitted does not facilitate or allow for a full assessment of the potential impacts of the development. See **paragraphs 69-74** of the officer's report relating to residential amenity and highways.
- 3 The agent has provided a detailed written response to the officer's report. A number of points raised relate to a failure to refer to the very special circumstances (VSC) put forward as part of the planning application, specifically the potential economic and tourism benefits of the development. Whilst officers' consider there is potential for VSC to exist, it is not possible to make this assessment on the basis of the application submitted. Members' attention is drawn to **paragraph 78** of the officer's report.
- 4 The agent states that the existing tasting facilities on the site are incidental to the viticulture practised on the agricultural unit and do not need a separate planning permission. However the extent to which the existing facilities may be ancillary to the agricultural unit is not known and has not been assessed through a Certificate of Lawful Development application. Whilst the existing facilities may be ancillary, the development would facilitate the use of an additional 159sqm of floor area throughout the year. The provision of a tasting room and potential events space would not comprise a 'building for agriculture' and is therefore not capable of being appropriate development in the Green Belt for the purposes of paragraph 89 of the NPPF.
- 5 The nature of the use of the development could not be controlled (on the basis that no change of use is being sought). The development could therefore have wider impacts, including in terms of highways and residential amenity that it has not been possible to assess as part of this application. Members are requested to review **paragraphs 82 - 86** of the officer's report.
- 6 In response to legal advice the recommended reasons for refusal have been slightly amended to be more specific and directly related to the Development Plan. It is recommended the reasons for refusal be amended as detailed below

Recommendation to refuse remains unchanged, subject to the following grounds of refusal:

- 1 *The cumulative impact of the proposed development and previous extensions would fail to be proportionate to the original building. The proposals would represent inappropriate development in the Green Belt and be harmful to openness, contrary to policy GB8 of the Sevenoaks Allocations and Development Management Plan and the NPPF.*

- 2 *The proposed development, by reason of its siting, size and design would cause harm to the character of the landscape and fail to both conserve and enhance the character of the Kent Downs Area of Outstanding Natural Beauty, contrary to policy EN5 of the Sevenoaks Allocations and Development Management Plan and policies SP1 and LO8 of the Sevenoaks Core Strategy.*
- 3 *The proposed development, by reason of its inappropriate materials and finishes, would fail to respond to or conserve or enhance the character and appearance of the Shoreham High Street Conservation Area, contrary to policies EN1 and EN4 of the Sevenoaks Allocations and Development Management Plan and policy SP1 of the Sevenoaks Core Strategy.*
- 4 *The application lacks sufficient detail to assess whether amenity of nearby residential properties and highway safety would be safeguarded, contrary to policies EN2 and T2 of the Sevenoaks Allocations and Development Management Plan.*

Item 4.4 - SE/16/01655/FUL Unit E, Ryedale Court, Riverhead TN13 2DN

Further Information

Linked to the applicant demonstrating that the development would be unviable if an affordable housing provision was made (either on site or off site), officers have given further consideration to the matter of inserting a claw back mechanism into a legal agreement to be signed by the applicant. Such a mechanism would allow the viability of the development to be reviewed after an agreed period of time (for example two or three years) and would potentially allow an affordable housing provision to be made.

However, there are recent appeal decisions that relate to this matter whereby Inspectors have not supported the approach by Councils to impose such mechanisms on applicants for developments that are very similar to this proposed scheme.

One such decision also resulted in a full award of costs against the Council due to unreasonable behaviour through their approach to the matter.

These developments comprised residential schemes within a single building that were not due to be built out in phases. In addition, no local or national policy exists to support this approach.

The application at Ryedale Court would comprise a single building that would not be built out in phases and no local or national policy exists to support the imposition of a claw back mechanism.

The Council have included claw back mechanisms in legal agreements in the past, the most notable instance being that of the West Kent Cold Store. This development being

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a large scale, phased housing scheme that has taken a number of years to build out. Clearly in that time period of development there have been changes in the housing market that affect the viability of the development.

However, given the above facts officers would not consider that this is a route that would mean that the Council would be able to impose a claw back mechanism given the scale of the development proposed.

Amended paragraphs within the officer's report

Paragraph 4 of the officer's report states that the development is proposed to be served by 40 vehicle parking spaces. This should read as 38 parking spaces. The remainder of the report correctly states this proposed figure.

Paragraph 12 of the officer's report makes reference to two applications from 2015 that actually relate to Ryedale Court, the block of residential flats to the south of the site.

On the basis of the information available, there is a possibility that the building could be converted to a residential use without the need for planning permission under Schedule 2, Part 3, Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This would result in the loss of an allocated employment site and no Community Infrastructure Levy payment would result from the change of use.

Amended conditions

The following amendments should be made to condition 6 -

No development shall be carried out on the land until:

- (a) A Phase II Intrusive Investigation has been undertaken and submitted to and approved in writing by the Local Planning Authority; and
- (b) Any necessary remediation strategy, based on the results of the site investigation in above, giving full details of remediation required has been undertaken and submitted to and approved in writing by the Local Planning Authority.

If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

The following condition should be added to the list of recommended conditions -

Prior to the habitation of the development hereby permitted a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To protect the amenities of the future occupiers of the development in accordance with the requirements of the National Planning Policy Framework. The

Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

The following amendments should be made to condition 10 -

No development shall be carried out on the land until a construction management plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall take account of the provision of the following on site for the duration of the construction works:

- Wheel washing facilities;
- Vehicle loading/unloading and turning facilities; and
- Parking facilities for site personnel and visitors.

The development shall be carried out using the approved management plan.

The following amendments should be made to condition 14 -

No development shall be carried out on the land until details of the installation of fixed telecommunication infrastructure and High Speed Fibre Optic connections to multi point destinations within the building have been submitted to and approved in writing by the Local Planning Authority. This shall provide sufficient capacity, including duct sizing to cater for sufficient flexibility to meet the needs of existing and future residents. The infrastructure shall be laid out in accordance with the approved details and at the same time as other services during the construction process.

The following amendments should be made to condition 15 -

The development shall achieve a BREEAM minimum rating of "Very Good". Evidence shall be provided to the Local Authority -

i) Prior to the commencement of development, of how it is intended the development will achieve a BREEAM Design Certificate minimum rating of "Very Good" or alternative as agreed in writing by the Local Planning Authority; and

ii) Prior to the occupation of the development, that the development has achieved a BREEAM Post Construction Certificate minimum rating of "Very Good" or alternative as agreed in writing by the Local Planning Authority.

Conclusion

Aside from the amended paragraph and conditions above, the overall conclusions and recommendation for approval held within the main papers remains unchanged.

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