

**DEVELOPMENT CONTROL COMMITTEE**

**20 May 2014 at 7.00 pm**  
**Council Chamber, Argyle Road, Sevenoaks**

**AGENDA**

**Membership:**  
**(Membership possibly subject to change at Annual Council 13 May 2014)**

Chairman: Cllr. Williamson

Vice-Chairman Cllr. Miss. Thornton

Cllrs. Mrs. Ayres, Brookbank, Brown, Clark, Cooke, Mrs. Davison, Mrs. Dawson, Dickins, Edwards-Winsler, Gaywood, McGarvey, Orridge, Mrs. Parkin, Piper, Miss. Stack, Underwood and Walshe

**Pages**

**Apologies for Absence**

1. **Minutes** (Pages 1 - 6)  
To approve the minutes of the meeting of the Committee held on 24 April 2014 as a correct record.
2. **Declarations of Interest or Predetermination**  
Including any interests not already registered
3. **Declarations of Lobbying**
4. **Planning Applications - Chief Planning Officer's Report**
  - 4.1. **SE/13/03751/FUL - Birchwood County Primary School, Russett Way, Swanley BR8 7TP** (Pages 7 - 64)  
Demolition of the former Birchwood Primary School, and the construction of 65 No. dwellings with associated infrastructure provision. Additional information received 28 March 2014.
  - 4.2. **SE/13/03596/FUL - Former Site Of The Farmers, London Road, Sevenoaks, Kent** (Pages 65 - 90)  
Construction of a residential led mixed use scheme comprising 39 flats (5x one bed and 34 x two bed), 4x retail (A1/A2) units and car parking, service yard, landscaping and associated works.

- 4.3. **SE/13/03843/CONVAR - Land East Of, Park Lane, Swanley Village, Swanley, Kent** (Pages 91 - 106)  
Removal of conditions 3 (Residency), 4 (Occupation restriction) and 6 (Siting) of planning permission SE/07/02075/FUL - Change of Use to residential, stationing of two mobile homes (with associated mobility ramps), two touring caravans, a car port and associated hardstanding (Resubmission of SE/06/02550/FUL). In order to add/amend the names given for residency and occupation and new block plan submitted.
- 4.4. **SE/14/00188/FUL - Land West Of 9 Mount Harry Road, Sevenoaks TN13 3JJ** (Pages 107 - 122)  
Erection of 5 bedroom detached dwelling with integral garage
- 4.5. **SE/13/03811/ADV - Car Parks, Nightingale Way, Swanley, Kent** (Pages 123 - 130)  
Retention of Signage associated with existing surface pay and display car park.
- 4.6. **SE/13/03557/FUL - Hillway , Pilgrims Way East, Otford, Sevenoaks TN14 5RX** (Pages 131 - 166)  
Demolition of existing house and erection of new replacement dwelling.

#### **EXEMPT ITEMS**

(At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.)

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

**If you wish to speak in support or against a planning application on this agenda, please call the Council's Contact Centre on 01732 227000**

For any other queries concerning this agenda or the meeting please contact:  
The Democratic Services Team (01732 227241)

Any Member who wishes to request the Chairman to agree a pre-meeting site inspection is asked to email [democratic.services@sevenoaks.gov.uk](mailto:democratic.services@sevenoaks.gov.uk) or speak to a member of the Democratic Services Team on 01732 227350 by 5pm on Thursday, 15 May 2014.

The Council's Constitution provides that a site inspection may be determined to be necessary if:

- i. Particular site factors are significant in terms of weight attached to them relative to other factors and it would be difficult to assess those factors without a Site Inspection.
- ii. The characteristics of the site need to be viewed on the ground in order to assess the broader impact of the proposal.
- iii. Objectors to and/or supporters of a proposal raise matters in respect of site characteristics, the importance of which can only reasonably be established by means of a Site Inspection.
- iv. The scale of the proposal is such that a Site Inspection is essential to enable Members to be fully familiar with all site-related matters of fact.
- v. There are very significant policy or precedent issues and where site-specific factors need to be carefully assessed.

When requesting a site inspection, the person making such a request must state under which of the above five criteria the inspection is requested and must also provide supporting justification.

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**DEVELOPMENT CONTROL COMMITTEE**

Minutes of the meeting held on 24 April 2014 commencing at 7.00 pm

Present: Cllr. Williamson (Chairman)

Cllr. Thornton

Cllrs. Mrs. Ayres, Brookbank, Brown, Clark, Cooke, Mrs. Davison, Dickins, Edwards-Winser, Gaywood, McGarvey, Mrs. Parkin, Piper, Miss. Stack, Miss. Thornton, Underwood and Walshe

Apologies for absence were received from Cllrs. Mrs. Dawson and Orridge

Cllrs. Ayres, Ms. Lowe and Mrs. Morris were also present.

127. Minutes

Resolved: That the minutes of the Development Control Committee held on 27 March 2014 be approved and signed by the Chairman as a correct record.

128. Declarations of Interest or Predetermination

Councillor. McGarvey declared an interest in SE/13/03718/FUL – Land West of Dairy House, Shoreham that he was an employee of the business users landscaping services.

129. Declarations of Lobbying

Councillor Miss. Thornton declared that she had been lobbied in respect of Minute 131, SE/13/03131/FUL – The London Hire Stadium, Lower Road, Hextable BR8 7RZ.

Reserved Planning Applications

The Committee considered the following planning applications:

130. SE/13/03131/FUL - The London Hire Stadium, Lower Road, Hextable BR8 7RZ

The proposal sought permission of the installation of fencing to include 3 no. gates to the perimeter of the site. Installation of 2 no.100 seated spectator stands. Installation of pitch floodlighting sourced by 6 no. 14m high pylons. Alteration to existing car park to allow for additional car parking spaces. The application had been referred to Committee at the request of Councillor Mrs. Morris for consideration of the impact of the proposed development on the openness of the Green Belt.

Members' attention was brought to the Late Observation Sheet and an update which had since been received from the Planning Inspector to the emerging Allocations and Development Management Plan which advised that policy EN6 was now to be given moderate weight but this did not change the Officer's recommendation on the application. It was noted that a Members' Site Inspection had been held for this application.

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### Development Control Committee - 24 April 2014

The Committee was address by the following speakers:

Against the application:	-
For the application:	Mr. John Ball
Parish Representative:	-
Local Member:	Cllr. Mrs Morris

Members asked questions of clarification from the Speakers and Officers. Officers clarified that if the Floodlights were reduced to four, it would be a material change and new plans would need to be submitted. The current floodlights were lawful as there was no planning history for when they were originally put in. It was confirmed that the flood lights would only be used for league and cup games by the first team and the reserves.

It was moved by the Chairman and duly seconded that the recommendation in the report to refuse permission, be agreed.

Members discussed the material of the fencing. It would need to be secure to protect the ground but not be obtrusive within the Green belt. The palisade fencing could be more secure than the welded mesh fence as the mesh could be cut, however the palisade fencing could also urbanise the area. Concerns were raised over the visual appearance of the proposed car park and the material to be used. Members discussed that the site could have a positive impact in the community and provide a place for the youth in Hextable. It was also raised by a Member that the site could be one of the exceptions under paragraph 89 of the National Planning Policy Framework.

The motion was put to the vote and was lost.

Officers were invited to indicate appropriate conditions for the development if approved. These were presented to the Committee.

The Development Control Team Leader confirmed that the material of the fencing did not have to be agreed at the meeting and further details could be submitted. Car parking could also be a condition to be agreed. Members confirmed that a decision on the fencing would not be made.

The motion was put to the vote and was

Resolved: 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) No development shall be carried out on the land until details, including colour and finish, of the materials to be used in the construction of the external surfaces of the spectator stands hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development enhances the character and appearance of the Metropolitan Green Belt and surrounding countryside as supported by Policy EN1 of the Sevenoaks District Local Plan.

- 3) No development shall be carried out on the land until details of the perimeter fencing and gates, including materials, colour and finish have been submitted to and approved in writing by the Council. The development shall be carried out in accordance with the details so approved.

To ensure that the appearance of the development enhances the character and appearance of the Metropolitan Green Belt and surrounding countryside as supported by Policy EN1 of the Sevenoaks District Local Plan.

- 4) The floodlighting shall be implemented and maintained in accordance with the details approved. At all times a maximum of 2 floodlight luminaires shall be installed to each of the 6 floodlight pylons and no other floodlights or other means of illumination shall be installed on the pylons. The floodlights shall not operate outside of the match times specified on the hereby approved Programme of Use (Sheet 4g).

To safeguard residential amenity, biodiversity and the character and appearance of the Metropolitan Green Belt and surrounding countryside in accordance with policies EN1 and EN17B of the Sevenoaks District Local Plan.

- 5) Notwithstanding the provisions of Schedule 1, Class A of the Town and Country Planning (Control of Advertisements) Regulations 2007, no commercial advertisements shall be displayed within the site without the express consent of the Local Planning Authority.

To preserve the character and appearance of the Metropolitan Green Belt and surrounding countryside in accordance with policy EN1 of the Sevenoaks District Local Plan.

- 6) The existing floodlights and pylons located on the west boundary of the site shall be removed in their entirety prior to the first use of the floodlights hereby approved.

To prevent inappropriate development in the Green Belt in accordance with the National Planning Policy Framework.

- 7) No development shall be carried out on the land until details of the colour and finish of the floodlighting pylons hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development enhances the character and appearance of the Metropolitan Green Belt and surrounding countryside as supported by Policy EN1 of the Sevenoaks District Local Plan.

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### Development Control Committee - 24 April 2014

- 8) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, 1, 1a, 1b Rev1, 1c Rev1, 1d Rev1, 1e Rev1, 1f (Car Park), 1F Rev1 of 01/10/2013, 2 Rev One, 2a Rev1, 2b, 2c Rev1, 3 Rev One, 3 Rev 1 of 01/10/2013, 3a Rev1, 3b Rev1, 3c, 4, 4A, 4b, 4c, 4f, 4g (Floodlight Elevations), 4g (Programme of Use), Floodlighting Specification (Surfacelux Limited), Planning Statement (October 2013), Design and Access Statement (October 2013), Statement of Community Involvement (May 2013).

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

- 9) Notwithstanding the hereby approved plans, no permission is granted for the laying of tarmac on the site. No development shall be carried out on the land until details of the surface material of the car park hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development enhances the character and appearance of the Metropolitan Green Belt and surrounding countryside and mitigates against excess surface water runoff as supported by Policy EN1 of the Sevenoaks District Local Plan and policy SP2 of the Core Strategy.

- 10) No development shall be carried out on the land until details of proposed cycle parking and disabled parking facilities have been submitted to and approved in writing by the Council. The cycle parking facilities and dedicated disabled parking bays shall be provided in strict accordance with the details so approved prior to the first use of the car park.

To support sustainable modes of transport and to ensure appropriate provision for disabled users as supported by policy EN1 of the Sevenoaks District Local Plan.

- 11) The existing galvanised metal pallisade fencing and gates located around the pavilion building shall be removed in their entirety upon installation of the perimeter fencing and gates hereby approved.

To prevent inappropriate development in the Green Belt in accordance with the National Planning Policy Framework.

- 12) No development shall be carried out on the land until details of necessary improvements to the vehicular access and crossover, including surfacing to accommodate in and out movements, have been submitted to and approved in writing by the Council. The works to the vehicular access and crossover shall be completed in accordance with the details so approved prior to the first use of the reconfigured car park.

In the interests of road safety and convenient access.

- 13) Wheelwashing facilities shall be provided within the site confines and utilised throughout the construction phase of the hereby approved development.

To mitigate the impact during construction relating to highways safety and neighbouring amenities, in accordance with policy EN1 of the Sevenoaks District Local Plan.

- 14) No development shall take place until details of the existing levels of the land; any proposed slab levels and any changes in levels relating to the installation of the hereby approved spectator stands have been submitted to and approved in writing by the Council. The development shall be carried out in accordance with the approved details.

To protect the character of the landscape as supported by Policy EN1 of the Sevenoaks District Local Plan.

- 15) No development shall take place until details of a scheme for providing disabled access between the car park and hereby approved disabled seating area has been submitted to and approved in writing by the Council. The scheme shall be carried out in accordance with the approved details prior to the first use of the spectator stands.

In order to facilitate inclusive access.

Informative

- 1) That the car park surface materials be permeable so as not to cause too much run off.

131. SE/13/03718/FUL - Land West Of Dairy House, Shoreham Road, Shoreham TN14 7UD

The application sought permission for the demolition of an outbuilding within the curtilage of Dairy House, subdivision of the plot and the erection of a four bedroom dwelling with two parking spaces. As amended by revised Location Plan received 13/2/2014. The application had been referred to Committee by Councillor Ms. Lowe due to concerns about the function, design and location of the proposed development and the absence of any very special circumstances.

Members' attention was brought to the late observation sheet which included an additional condition of provision of Electrical Vehicle Charging Points.

The Committee was addressed by the following speakers:

Against the Application:	-
For the Application:	Mr. Andrew Montgomerie
Parish Representative:	Noel Wills
Local Member:	Cllr. Ms Lowe

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### Development Control Committee - 24 April 2014

Members asked questions of clarification from the Speakers and Officers. Officers clarified that if there were less harm to the Green Belt it then meant that less very special circumstances would then usually be required to overcome that harm.

It was moved by the Chairman and duly seconded that the recommendation in the report to grant planning permission subject to conditions be agreed.

Members expressed concerns over the harm to the Green Belt and that it could urbanise the Green Belt. Concerns were also raised over the lack of special circumstances that the building was a new build, and that it could set a precedent in the District. Members also expressed concerns at the increased size of the building and that the house would be a new build. It was clarified by the Legal representative that the barn was currently equivalent to any outbuilding at a domestic premises and that a change of use was required for it to be a dwelling in its own right.

The motion was put to the vote and it was lost.

It was moved by Cllr. Mrs. Davison and duly seconded that the planning permission be refused on the ground that the site lies within the Metropolitan Green Belt where strict policies of restraint applied. It would be harmful to its openness and the special circumstances put forward were not sufficient.

The motion was put to the vote and it was:

Resolved: that planning permission be REFUSED for the following reasons:

The land lies within the Metropolitan Green Belt where strict policies of restraint apply. The proposed dwelling would be inappropriate development harmful to the maintenance of the character of the Green Belt and to its openness and would not conserve or enhance the character and appearance of the Area of Outstanding Natural Beauty. The Council does not consider that the special circumstances put forward in this case are sufficient to justify development that would be contrary to the National Planning Policy Framework, policies SP1 and L08 of the Core Strategy (2011) and policy EN1 of the Sevenoaks District Local Plan (2008) and Policies EN1 and GB9 of the Allocations and Development Management Plan (Draft for Submission) November 2013.

THE MEETING WAS CONCLUDED AT 9.01 PM

CHAIRMAN

4.1 – SE/13/03751/FUL Date expired 17 April 2014

PROPOSAL: Demolition of the former Birchwood Primary School, and the construction of 65 No. dwellings with associated infrastructure provision. Additional information received 28 March 2014.

LOCATION: Birchwood County Primary School, Russett Way, Swanley BR8 7TP

WARD(S): Swanley White Oak

**ITEM FOR DECISION**

This application is referred to Development Control Committee at the discretion of the Chief Planning Officer

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

The proposed development of the site for 65 dwellings with associated infrastructure provision represents inappropriate development which by definition is harmful to the Green Belt. The proposals are therefore unacceptable in principle. Furthermore, by virtue of the scale, design and degree of the development on the site the proposals would be harmful to the purposes of the Green Belt, would significantly erode the openness of the Green Belt and adversely affect the character and appearance of the Green Belt in this location. The Very Special Circumstances advanced fail to clearly outweigh the harm identified above and the other harm identified. The proposals are thus contrary to Government advice in the form of the National Planning Policy Framework.

The application site is considered to have a predominantly open and verdant character, which acts as a visual buffer between the open land to the east and the dense urban area to the west and as such contributes positively to the setting of Swanley and Hextable and the separation of these urban areas. By virtue of the density, scale and extensive spread of development across the site, the proposals would introduce a form of development which would be seriously harmful to the landscape character and setting of the urban areas in this location and to the character and appearance of this part of the Green Belt. As such the proposals are contrary to policy SP1 of the Sevenoaks District Council Core Strategy Development Plan Document and supplementary Planning Guidance in the form of the Sevenoaks Countryside Assessment.

The proposed development would result in the loss of open space without a satisfactory justification or suitable replacement provision being made. Furthermore, the proposals do not include essential facilities for outside sport and recreation. As such the proposal is contrary to policy SP10 of the Sevenoaks District Council Core Strategy Development Plan Document, policies GI2 and CF1 of the emerging Sevenoaks District Council Allocations and Development Management Plan and Sevenoaks District Council supplementary planning guidance in the form of the Open Space, Sport and Recreation Study.

In the absence of full ecological surveys relating to reptiles and bats it cannot be demonstrated that the proposed development will not have a harmful impact on

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protected species and habitats, and wider biodiversity. This conflicts with Policy SP11 of the Core Strategy and paragraph 118 of the National Planning Policy Framework.

### **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.
- 2) The applicant was advised that the proposal did not accord with the development plan, that no material considerations were apparent to outweigh these matters and was provided with the opportunity to amend the application and provide further justification in support of it.

### **Site location and description:**

- 1 The site is located at the northern extremity of Swanley, approximately 1.7km from the town centre.
- 2 It comprises a large, roughly rectangular parcel of land. It lies immediately to the east of the edge of the built up area, which comprises rear gardens to the residential housing in Russett Way and Wisteria Gardens. The northern boundary of the site is bounded by Leydenhatch Lane, beyond which, opposite the site are several dwellings and a nursery garden. The south of the site is bounded by a footpath and rear gardens to houses in Alder Way. To the east and south-east, the land is open and undeveloped and is an extension of Swanley Park.
- 3 The application site area is 2.9ha in total and comprises the former Birchwood Primary School. Within the site are several buildings; the former single storey flat



roof school building itself, which is located just the north of the centre of the site, a single, 2-storey dwelling located at the north-west corner of the front of the site (fronting Leydenhatch Lane) and between the 2, a smaller ancillary school building. The buildings themselves cover an area of approximately 1,409m<sup>2</sup>.

- 4 The remainder of the site is open, with an area immediately to the north and south of the school comprising open tarmac areas, previously used for parking and play ground. Beyond the extent of the developed footprint is open grassland, which is presently overgrown. The boundaries to the site comprise open metal railings, with medium scale tree planting peppered along the northern, eastern and southern boundaries.
- 5 The site generally falls in level from the west to east, with the north-western corner the highest point and the south-eastern corner lowest.
- 6 The school was closed in August 2007 and the site has been vacant since.

### Proposals:

- 7 The proposals seek a mix of 25no. 3, 4 and 5 bed houses for private or market sale and 40 flexible tenure, 2 bed, affordable bungalows, together with associated landscaping and open space.
- 8 The market housing would occupy approximately the northern third of the site and would be served by the Leydenhatch Lane vehicular access. The affordable units would occupy the southern two-thirds of the site and would be served by access from Russett Way. Each element of the proposals would have its own distinct internal access road. The only link between the north and south would be a pedestrian access located close to the Russett Way entrance.
- 9 The market housing would be set around a roughly “U” shaped access drive, with the houses spread along both sides and also fronting Leydenhatch Lane. Several different house designs are proposed, as follows:
  - Ardleigh (10 units): This comprises a 2 storey, 4 bed house with total gross floor area (GFA) of approximately 140m<sup>2</sup>. The roof would pitch front and rear with gable ends. It would be 4.9m to eaves and 8.2m to ridge level. It would have a double width garage with 2 parking spaces in front.
  - Dersingham (4 units): This comprises a 2 storey, 3 bed house with total GFA of some 109m<sup>2</sup>. It would have a steep roof pitching to the sides with gabled front and rear elevation. It would be 4.9m to eaves and approximately 8.9m to ridge. Of these units 2 would have an attached single garage with additional forecourt parking; 2 would have forecourt parking for 2 vehicles.
  - Eversden (7 units): This comprises a 2 storey, 4 bed house with a total GFA of some 158m<sup>2</sup>. The roof would pitch front to rear with gabled flanks and would incorporate a shallow, 2 storey front projection with gabled roof above. It would be 4.9m to eaves and 8.5m to ridge. Each unit would have a double width garage also with gabled roof, with 2 additional forecourt parking spaces.
  - Victoria (4 units): This comprises a 2 storey 5 bed house with 2 of the bedrooms within a large roof, served by 2 small dormers to the front

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elevation and rooflights to the rear. It would have a total GFA of approximately 189m<sup>2</sup>. This design incorporates a modest 1 ½ storey, 1.1m deep rear projection. The main roof would pitch front and rear, with gabled flanks. It would be 5.7m to eaves and 9.5m to ridge. Each house would have a double with garage with gabled roof with 2 additional forecourt spaces.

- 10 The house designs are mixed through the layout and some are “handed” versions of the same design, with several small variations on the main theme.
- 11 The affordable units would be separately accessed from an extension to Russetts Way, which would enter the site, turn southwards and then turn eastwards, with a further spur extending south.
- 12 The affordable units would comprise 40no. 2 bed single storey bungalows, each with a total GFA of approximately 80m<sup>2</sup>. Of these units, 3 would be wheelchair accessible and would have a slightly greater floor area. Barring 1 modest variation, all units are arranged as semi-detached pairs, with several short terraces of 3 or 4 units. All are designed with a dual, mono-pitched roof form sloping up from the flanks with gabled front and rear. The highest ridge point would be approximately 4.7m high. Each unit would have a dedicated forecourt parking space, with 10 further visitor spaces dotted throughout the development.
- 13 The bungalows are to be designed to the Lifetime Homes Standard, which include features such as level access and turning circle space for wheelchairs and accessible bathrooms.
- 14 Means of enclosure through out the site would comprise largely 1.8m high close boarded timber fencing between dwellings, with the delineation between private amenity space and the public realm comprising of 1.8m high brick walling.
- 15 Materials for the buildings are intended to reflect those seen in the locality, with use of a variety of brick, render and some timber cladding with roof coverings including concrete interlocking tiles and for the bungalows a mixture of brick and coloured boarding under a single ply membrane roof. A comprehensive landscaping scheme is also proposed.
- 16 All dwellings are to be designed to Code for Sustainable Homes Level 4 with energy efficient measures and the incorporation of Low or Zero Carbon Technologies. They are to use the latest construction materials in additional photovoltaic panels are proposed to reduce carbon dioxide emissions.
- 17 The proposals include several pedestrian links through to the public open space to the east of the site. The south-western corner of the site is to remain open. A further pedestrian link to the south (to link to the footpath to the rear of Aisher Way) is shown as “potential link”.
- 18 A viability assessment has been submitted to show that the bungalows as affordable units would not be viable without the market housing also being provided.

### Additional Information & re-consultation:

- 19 Additional information was received on 28 March seeking to amplify and explain the context of the application. More specifically this included further information relating to the Kent-Kier Initiative (KKI), the demand for bungalows in Swanley,

the need for this particular site to be developed, the viability of the site and the loss of the open space/playing fields that would result. A draft S106 Planning Agreement was also submitted together with an explanation as to how the bungalows could be retained in perpetuity as affordable units. Whether or not this has been demonstrated is discussed later in this report.

- 20 A small scale drawing was also submitted indicating the use of a fully hipped roof form to the houses. However, as full amended drawings were not received, this re-design of the roof does not fall to be formally considered. Thus, in terms of the layout, scale and design, the proposals remain as originally submitted.
- 21 The main points, taken from the applicants submission and justification for the proposal, is summarised further below in the Very Special Circumstances section.
- 22 This information was subject to full re-consultation with third parties. Any additional comments received are report below the consultees original response.

### Planning History:

- 23 None relevant.

### Policies:

#### *Sevenoaks District Local Plan –*

- 24 Policies - EN1, EN17B, EN25A, VP1

#### *Sevenoaks Core Strategy:*

- 25 Policies - L01, L04, L08, SP1, SP2, SP3, SP4, SP5, SP7, SP10, SP11

### *Other:*

- 26 Sevenoaks District Council: Open Space, Sport and Recreation Study (2009)
- 27 Sevenoaks Countryside Assessment 2011
- 28 National Planning Policy Framework
- 29 Planning Practice Guidance
- 30 Following the recent examination of the emerging Allocations and Development Management Plan (ADMP), policies contained within the ADMP are in the final stages of preparation and can now be attributed some weight in decision taking. The relevance of these policies to the proposals and the degree of weight to be attributed to them are considered below. Limited weight is given to policies which may be subject of main modifications. Moderate weight can be given to those policies where there are objections but no main modifications are proposed. Significant weight is given to policies where there are no objections and no modifications are proposed.

### *Emerging Sevenoaks District Allocations and Development Management Plan (ADMP)(Nov. 2013):*

- 31 Policies - EN1, EN2, H1, H2, G12, CF1

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ADMP Policy	Weight	Amendment to recommendation required?
EN1 Design Principles	Moderate	No
EN2 Amenity Protection	Moderate	No
H1 Residential Development Allocations	Moderate	No
H2 Mixed Use Allocations	Moderate	No
GI2 Loss of Open Space	Moderate	No
CF1 Re-use of Redundant School Building	Moderate	No

### Constraints:

- 32 Green Belt, Area of Archaeological Potential (entire eastern edge, approx. 20m wide strip), Public Right of Way (just outside site adjacent to entire eastern boundary).

### Consultations:

- 33 The site is within the parish of Swanley.

#### *Swanley Town Council*

*(original comment):*

- 34 No objection subject to Green Belt constraints and the mix of housing.

*Response to additional information:*

- 35 No further comment received to date.

#### *Hextable Parish Council (neighbouring Parish)*

*(original comment):*

- 36 Object to building on green field site that is the border between Hextable and Swanley, not enough parking for the number of properties, numbers of private versus social housing is not balanced.

HPC strongly object to this overdevelopment.

### *Response to additional information:*

- 37 Have written raising strong objections to the loss of the open part of the application site which is within the Green Belt and promoting Egerton Nursery site in Egerton Road as a preferable alternative as it is a partly brownfield site and indents into Egerton Avenue. They have no objection to development on the footprint of the school itself.

### *Highway Authority:*

- 38 Thank you for your consultation in relation to the above planning application. I have the following comments to make with respect to highway matters:-

In principle a residential development of the scale proposed served partially from Russett Way and partially from Leydenhatch Lane is acceptable from a highway perspective. Vehicular access is proposed to be split between Leydenhatch Lane and Russett Way which will result in various available access routes in respect of connecting with the wider highway network. Ultimately, 25 units will have to use some part of Leydenhatch Lane for vehicular access and likewise, 40 units will have to use part of Russett Way for access but wider vehicular access routes will be dependent on approach direction and destination. As a result, associated increases in flow will be spread across a number of existing junctions and minimal at those junctions beyond the direct site access routes with the proposals not generating any measurable peak hour junction capacity increases on the classified road network above levels of potential daily background fluctuation.

However, there are some detailed on-site issues requiring clarification and/or amendment and it is therefore recommended that the following be addressed prior to the proposals being progressed to a formal approval:

- 1) Proposed highway adoption areas should be formally identified.
- 2) Carriageway widths should be secured at 4.8m minimum width.
- 3) An indication of the proposed drainage details (and proposed highway drainage adoption method) should be included.
- 4) Both access roads appear to combine areas of conventional segregated footway and carriageway with additional areas of shared surface. However, there are resulting concerns in respect of pedestrian accesses and links emerging directly onto the carriageway and secondary issues of reduced visibility in respect of vehicular accesses onto the highway where no service margins are apparent. There is a need to rationalise this issue by giving a clear and logical distinction between areas of conventional segregated footway/carriageway and areas of shared surface (plus any transitions between the two) which safely incorporates all pedestrian/cycle accesses and links and all residential vehicular accesses. There are particular areas of concern in respect of both site accesses at their junctions with the existing highway and in respect of the pedestrian link between the two separate halves of the development site where in each case pedestrians appear to have to use the carriageway in a locality where a shared surface is neither indicated or appropriate.
- 5) Overall off-street parking provision is well in excess of the recommended minimum guidance provision within the adopted IGN3 KCC residential vehicle parking guidance document and is therefore principally acceptable at the levels

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proposed. However, it should be noted that the length of proposed hardstanding for units no 15 and 26 (off the Russett Way access) is likely to result in residents attempting to park a second vehicle off-street on a hardstanding of insufficient length to do so and thus encroaching onto the adjacent footway. It is therefore recommended that both hardstandings be reduced in length to better reflect the length of a single off-street parking bay which is the necessary off-street parking requirement in each case.

In conclusion, I would strongly recommend that the above issues be adequately addressed in order to progress with a complete assessment of the proposals.

### *Response to additional information*

39 No further response received.

### *Environment Agency:*

40 Thank you for consulting us on the above. We object to the proposed development as submitted because there is insufficient information to demonstrate that the risk of pollution to controlled waters is acceptable.

There are two strands to this objection. These are that:

- We consider the level of risk posed by this proposal to be unacceptable
- The application fails to provide assurance that the risks of pollution are understood, as a preliminary risk assessment (including a desk study, conceptual model and initial assessment of risk) has not been provided. It requires a proper assessment whenever there might be a risk, not only where the risk is known.

Reason: The site is located on a source protection zone 3 and principle aquifer.

41 National Planning Policy Framework paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Paragraph 120 states that local policies and decisions should ensure that new development is appropriate for its location, having regard to the effects of pollution on health or the natural environment, taking account of the potential sensitivity of the area or proposed development to adverse effects from pollution.

Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

42 Overcoming our objection:

The applicant should provide information to satisfactorily demonstrate to the local planning authority that the risk to controlled waters has been fully understood and can be addressed through appropriate measures. This information should include a preliminary risk assessment.

*Response to additional information*

The Environment Agency have been provided with a more detailed site assessment by the developer and have considered this information. In summary, they consider planning permission could be granted subject to a number of conditions being attached to any permission. These relate to contamination and remediation, drainage and control of waste (including contaminated soil) from the site.

*Thames Water:*

43 Waste Comments

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.

Reason: - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

There are public sewers crossing or close to your development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of, a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings, but approval may be granted in some cases for extensions to existing buildings. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the options available at this site.

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

*Response to additional information:*

44 No further response received.

*KCC Regeneration Projects (In summary):*

45 The County Council has assessed the implications of this proposal in terms of the delivery of its community services and is of the opinion that it will have an additional impact on the delivery of its services, which will require mitigation either through the direct provision of infrastructure or the payment of an appropriate financial contribution.

46 They are seeking a contribution of £2360.00 per applicable house (25 market houses, not the bungalows if restricted to occupancy to those over 55 years of age) towards the provision of Primary School places.

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There is no requirement for Secondary Education contribution.

They seek a contribution of £8.90 per household towards Community Learning and £144.26 per household for Local Libraries.

Thus contributions sought total £68,979.42.

### *KCC Public Rights of Way (In summary):*

- 47 Public Rights of Way Footpath SD74 runs down the outside of the eastern boundary of the site. I note that nowhere in the information provided is there acknowledgement of this as a public highway, a recorded public right of way. Indeed in some places it is referred to as an informal footpath. The applicants should note that the location of SD74 is indicated on the attached extract of the Network Map of Kent. The Network Map is a working copy of the Definitive Map. The definitive Map and Statement provide conclusive evidence at law of the existence and alignment of Public Rights of Way.

However, I do not anticipate that it will be affected by any building on the site.

- 48 The design of the north east corner of the development as shown in the master plan appears to turn its back to the existing public footpath resulting in the path being enclosed on one side by rear gardens fences. This design does not accord with the Kent Design Guide nor the “Secure by design” philosophy which dictates that pedestrian routes should be overlooked and in open environment to ensure personal safety and security.

This design can also place an additional burden on the District and County Councils whereby some residents unwilling to pay district council fees for removal of garden waste take the opportunity to tip waste onto the public footpath, or open space to the rear of their gardens. As the area affected is only of relatively small distance the Service is minded not to object on the design layout but requests that mitigation be put in place against the potential littering. The Service therefore formally requests a condition be placed on the developer to either pay up front the fees for the green waste collection service for the development for a minimum of two years, or provides each new property with a minimum of 50 garden waste sacks, whichever the District authority deems most appropriate.

I would also request that the links through the eastern boundary onto SD74 have cycle barriers installed at the edge of the site.

I would suggest that a link is made through the southern boundary to connect up with Wisteria Way allowing pedestrian access to the centre of Swanley. This route could be created or dedicated as a public right of way footpath if the relevant landowners are willing. Details of the legal process involved can be obtained from the Definitive Map Team at the Public Rights of Way and Access Service, Invicta House, County Hall, Maidstone, ME14 1ZZ. I would suggest that this route is metalled. This could be funded by a Section 106 agreement of £8,800 for two radar gates, surfacing (around (£5,000) and legal agreements (around £2,500) including 10% for management of works, payable to the Public Rights of Way and Access Service of Kent County Council.

- 49 The granting of this permission confers no other permission or consent on the applicant. It is therefore important to advice the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways



Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way.

### *Response to additional information*

- 50 No further response received.

### *Natural England:*

- 53 Natural England's comments in relation to this application are provided in the following sections.

#### *Statutory nature conservation sites – no objection*

- 54 Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

#### *Protected species*

- 55 We have not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

#### *Local sites*

- 56 If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

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### *Biodiversity enhancements*

- 57 This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that *'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. Section 40(3) of the same Act also states that *'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'*.

### *Landscape enhancements*

- 58 This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

### *Response to additional information:*

- 59 No further response received.

### *KCC Ecology:*

- 60 Thank you for the opportunity to comment on this application. We have the following response to make:

Natural England has published Standing Advice on protected species and Ancient Woodland. When determining an application for development that is covered by the Standing Advice, Local Planning Authorities must take into account the Standing Advice. The Standing Advice is a material consideration in the determination of applications in the same way as a letter received from Natural England following consultation.

We have reviewed the ecological scoping survey in conjunction with the data we have available to us (including aerial photos and biological records) the information submitted with the planning application and we advise that additional information is required prior to determination of the planning application.

### *Additional Surveys:*

The ecological survey has detailed that there is a potential for reptiles and roosting bats to be present within the site and recommended reptile and bat surveys need to be carried out. As all the potential habitat will be lost as a result of the development we advise that there is a need for the surveys and details of

any mitigation require to be submitted for comment prior to determination of the planning application.

As the scoping survey was carried out in February 2013 it is very disappointing that the recommended surveys were not carried out last year and submitted with the planning application.

### *Breeding Birds:*

There is vegetation on site suitable for breeding birds. All nesting birds and their young are legally protected under the Wildlife and Countryside act 1981 (as amended). As such we recommend that the vegetation is removed outside of the breeding bird season (March – August inclusive). If that is not possible an ecologist must examine the site prior to work starting and if any nesting birds are recorded all works must cease in that area until all the young have fledged.

### *Bats:*

Lighting can be detrimental to roosting, foraging and commuting bats. We advise that the Bat Conservation Trust's *Bats and Lighting in the UK* guidance is adhered to in the lighting design (see end of this note for a summary of key requirements).

### *Enhancements :*

One of the principles of the National Planning Policy Framework is that "*opportunities to incorporate biodiversity in and around developments should be encouraged*".

The ecology survey has provided recommendations for ecological enhancements – we advise that the applicant confirms what enhancements will be incorporated in to the site.

### *Response to additional information:*

- 61 No further response received.

### *Kent Police:*

- 62 We have found this development on the weekly planning list, this is a development we would encourage to have a crime prevention input and Designing out of Crime.

We would also be grateful if you could draw the applicant attention to the Kent Design Initiative (KDI), Design for Crime Prevention document dated April 2013 which will also assist them when Designing out of Crime. We would welcome a meeting to discuss crime prevention any notes from a meeting would be forwarded to you.

If the applicant/agent fails to contact us then this may have an effect on the Secure By Design (SBD), Code for Sustainable Homes (CfSH) and BREEAM.

However we would like the following comments and recommendations to be taken into consideration if planning approval is given for this application and no further contact has been made to us by the applicant/ agent.

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- 63 We suggest that a condition can be added to ensure that this development has the appropriate crime prevention measures and can be worded something similar to the below :

“The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention Through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.”

Reason; In the interest of security and crime prevention and to accord with Policies of Sevenoaks District Council Core Strategy Plan.

*Response to additional information:*

- 64 No further response received.

KCC Archaeology:

- 65 The site lies within a possible dry valley system cutting through the chalk and these can be favoured areas for prehistoric activity. In addition there are ring ditches recorded as cropmarks to the east which may represent prehistoric or later human activity in this area.

As such, a condition requiring a watching brief is recommended on any forthcoming consent.

*Response to additional information:*

- 66 No further response received.

*Sport England:*

- 67 Thank you for consulting Sport England on the above application.

It is understood that the site forms part of, or constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184), in that it is on land that has been used as a playing field within the last five years, and the field encompasses at least one playing pitch of 0.2 ha or more, or that it is on land that allocated for the use as a playing field in a development plan or in proposals for such a plan or its alteration or replacement.

Sport England has therefore considered the application in the light of its playing fields policy. The aim of this policy is to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area. The policy seeks to protect all parts of the playing field from development and not just those which, for the time being, are laid out as pitches. The Policy states that:

"Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all or any part of a playing field, or land last used as a playing field or allocated for use

as a playing field in an adopted or draft deposit local plan, unless, in the judgement of Sport England, one of the Specific circumstances applies."

Reason; Development which would lead to the loss of all or part of a playing field, or which would prejudice its use, should not normally be permitted because it would permanently reduce the opportunities for participation in sporting activities. Government planning policy and the policies of Sport England have recognised the importance of such activities to the social and economic well-being of the country.

- 68 The proposed development involves the demolition of the former Birchwood Primary School, and the construction of 65 No. dwellings with associated infrastructure provision.

Sport England will normally oppose development that would lead to the loss of, or prejudice the use of, all or part of a playing field, without meeting at least one of the specific exception criteria identified in the above policy.

While Sport England has not visited the site, the proposed provision of 65 dwellings would appear to be sited primarily on an existing area of playing field. Locating the proposed development on the existing playing field would prejudice the use of the playing field.

- 69 In light of the above, Sport England objects to the proposal because is not considered to accord with any of the exceptions in Sport England's playing fields policy.

Should your Council be minded to grant planning permission for the development then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, and the DCLG letter of 10 March 2011, the application should be referred to the National Planning Casework Unit.

However, Sport England would be prepared to review this position if it can be demonstrated that one of the above policy exceptions can be met.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

If you would like any further information or advice please contact the undersigned at the address below.

*Response to additional information:*

- 70 As set out within Sport England's formal consultation response dated 19 February 2014, the proposed development would appear to be primarily sited on an existing area of playing field. Locating the proposed development on the existing playing field would prejudice the use of the playing field.

I note that your email below states 'that the site has not been used by the school or by anyone else since it closed in 2007'. Please could you ask the Council's Leisure Department to confirm if they are aware of if the playing field has been

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used within the last five year. If further information is provided regarding if the playing field has been used within the last five years, I will be happy to review if Sport England is a statutory or non statutory consultee on this application.

I have now reviewed the further information provided and the application (Reference 11/02859/FUL) for the adjacent site referred to. Unfortunately it has not been satisfactorily demonstrated that the new playing field provision (under planning application 11/02859/FUL), at the adjacent Swanley Park leisure and sports facility, constitutes replacement provision. If the link between this new provision and the playing field to be lost as part of this current planning application can be clearly and directly demonstrated I would be happy to review Sport England's position in relation to the current application. This information is required to allow an informed assessment to be undertaken of whether the playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity i.e. meet exception E4 of Sport England's Playing Fields Policy.

Sport England therefore maintains its objection to this planning application.

Should Sevenoaks District Council be minded to grant planning permission for the development then in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, and the DCLG letter of 10 March 2011, the application should be referred to the National Unit for Land Acquisition and Disposal at the Department of Communities and Local Government.

Please note that Sport England has assessed the application and commented accordingly and it is our view that this application does not comply with Sport England's Policy. It is the role of the local planning authority to determine the application taking into account Sport England's comments and all other material considerations. If other material considerations exist which the local planning authority considers outweigh the loss of playing field then the LPA should feel empowered to make this judgement.

If you would like any further information or advice please do not hesitate to contact me.

### *SDC Environmental Protection:*

- 71 I refer to the planning application in respect of the proposed demolition of the former Birchwood Primary School together with the construction of 65 dwellings, with associated infra structure provision.

Environmental Health wish to make the following observations in relation to the proposal:

1. No development approved by this permission shall be commenced prior to a contaminated land assessment (in accordance with the CLEA guidelines and methodology) and associated remedial strategy, together with a timetable of works, being submitted to the Local Planning Authority for approval.

1) The contaminated land assessment shall include a desk study to be submitted to the Local Planning Authority for approval. The desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be

approved by the Local Planning Authority prior to investigations commencing on site.

2) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.

3) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the Local Planning Authority. Prior to any remediation commencing on site, approval shall be obtained from the Local Planning Authority of any such remedial works required. The works shall be of such a nature so as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

4) Approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during any works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the Local Planning Authority.

5) Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the Local Planning Authority. The closure report shall include details of the proposed remediation works and the quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. This shall include photographic evidence. Details of any post remediation sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report, together with the necessary documentation detailing what waste materials have been removed from the site and evidence of the final point of disposal of any contaminated material, i.e. Waste Transfer Notes. This shall include results of all sampling undertaken and certification of imported soils. This condition shall not be discharged until a closure report has been submitted to and approved by the LPA.

Further information on compliance with this condition can be obtained from Environmental Health.

Reason: To ensure that risks from land contamination to both the future users of the land and adjoining land are minimised.

2. Due to the proximity of existing residential properties adjacent to the proposed site, working hours should be controlled to protect residential amenity.

During the enabling, demolition and construction phase, the hours of working, including deliveries and collections to and from site, shall be restricted to:

Monday to Friday 08:00 to 18:00

Saturday 08:00 to 13:00

No work on Sundays or Public Holidays.

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Reason: In the interests of protecting the amenity of adjoining/nearby residential properties

3. No development shall take place, including enabling, demolition and construction works, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall include the following details:

- A scheme to minimise the noise and vibration impact of enabling/demolition/construction activities complying with guidance found in BS5228-1:2009 and BS5228-2:2009.
- Hours of noisier types of working, such as piling
- A scheme to mitigate/suppress the emission of dust inline with the Control of Dust from Construction Sites (BRE DTi Feb 2003)
- Details of construction lighting together with measures to minimise light pollution
- Measures to regulate disturbance and disruption to the local community caused by construction activities
- Details of public relations providing on site contact details in case of complaint, emergency, query and updates to local residents of activities on site

Reason: In the interests of protecting the amenity of adjoining/nearby residential properties and safeguarding the amenities of the surrounding area

4. Prior to the commencement of any works on site, effective wheel washing plant and/or equipment, shall be installed on the site. The plant and equipment will be maintained in full working order until the development has been completed. No vehicles shall leave the site until their wheels, chassis, and external bodywork, have been effectively cleaned and washed free of earth, mud, clay, gravel, stone, or any other similar substance. Details of the wheel wash shall be submitted for approval in writing by the Local Planning Authority.

Reason: In the interests of safeguarding the amenities of the surrounding area.

*Response to additional information:*

72 No further response received.

*Council's Valuation Consultant (in summary):*

73 The Council's viability consultant has examined the proposals and their comments are summarised below;

It is noted that the site is within the Green Belt and also that Kent County need to demonstrate they have achieved value for money on the site. It is also noted that the mix of affordable bungalows and market homes for sale is critical to the viability and deliverability of the Kent Kier initiative. To take a view on the viability, the viability of the site is first considered without any affordable housing



contribution to test base assumptions; and then include contributions to review its impact.

Firstly, it is agreed that the affordable housing units will be “cost neutral” in that they will not generate any land value. The land value will only come from the open market units.

In considering development appraisals, it is usual practice to allow an appropriate level of return for the developer. The costs and sales values of the 25 market houses presented by the applicant is considered reasonable and is accepted. The developers other costs and interest rates on finance have been assumed using standard practice. These costs are used to determine the residual land value (calculated by subtracting the cost of achieving the development from the revenue generated by the completed scheme).

It is also important to note that recent guidance in such financial viability states the following:

“Site Value should equate to the market value subject to the following assumption: that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan. So far as alternative use value is concerned, the Valuation Standards at VS6.7 state: ‘where it is clear that a purchaser in the market would acquire the property for an alternative use of the land because that alternative use can be readily identified as generating a higher value than the current use, and is both commercially and legally feasible, the value for this alternative use would be the market value and should be reported as such’. In other words, hope value is also reflected and the answer is still market value. Again, in arriving at market value via alternative use value, the planning status of the land/building set out in paragraph 3.3.4 should be applied. This is also consistent with the NPPF for ‘willing sellers’ to receive ‘competitive’ returns.”

In this instance, it should be noted that the applicants maintain that the minimum land value required by Kent County Council is £2,100,000. However, this land value is required by Kent County Council to carry out other projects elsewhere in Kent however it is *not required to make this particular site viable*.

Using the figures provided the conclusion reached is that the residual land value is very similar to the £2,100,000 land value provided by the applicant’s figures (using a different appraisal method).

Put simply, the 25 market houses would generate a return of approximately £2million.

However, in order to comply with planning policy (most notably that of the Green Belt), the applicant considers the number of houses should be reduced to 8, though no explanation is given for this and I consider it optimistic. Nevertheless, purely for the purposes of this exercise, this number of houses has been accepted.

On the basis of 8 houses, taking into account development plan policies and all other material planning considerations, the true residual land value is considered to be substantially lower, at £525,000.

*Response to additional information:*

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### *SDC Housing Policy Team:*

- 74 This needs analysis has been based on the assumption that the affordable housing is provided as 40 units of bungalow accommodation which would be designated for those aged 55-plus and at Affordable Rent tenure (as per the Government definition and at rents up to 80% OMR to the relevant LHA level) and available in perpetuity.
- 75 Regarding perpetuity protection, we would expect the applicant to verify that this site (or at least the affordable element) falls completely within the CLG Right-to-Acquire exemption area for the Swanley Civil Parish, i.e. that the relevant element of this site is protected from RTA, ensuring that the bungalows are available in perpetuity as affordable housing.
- 76 The District Council's Housing Strategy Action Plan 2012 (HSAP) agreed two strategic aims relevant to this application, these being: 1) providing a good mix of decent and affordable homes across all tenures; and 2) meeting the needs of vulnerable and lower income households. Objective 19 of the HSAP includes an objective: Enabling people to remain independent in their own homes. Objective 23 of the same plan includes an objective: Providing decent housing and related services to meet the needs of older people.
- 77 Demographic projections show a growing older population, generally, and even more so in the Sevenoaks District, particularly amongst the +65 and +85 cohorts. The Strategic Housing Market Assessment 2008 (SHMA) found a need for 646 new affordable homes in the District to meet existing and newly-arising need going forward 5-years into the future (SHMA, p148, table 11-6). The SHMA also found that the majority of older people wish to remain independent in their own homes and require bungalow accommodation, rather than the more acute and supported housing schemes (SHMA, p133, para 10.9.5). With current and developing assistive technologies, this is becoming increasingly possible and can be supported through good design in new housing, with bungalows being an ideal housing type to address limited mobility and complement support devices etc.
- 78 As well as being practical for older people, bungalows are also a desired choice for people as they age. The SHMA found that 32.6% of older people require bungalow accommodation as their next home (corresponding with a national study which found that 30% of older people wanted bungalows). This is in contrast to just 2.9% requiring a semi-detached and 1.8% requiring a terraced house (SHMA, p133, table 10-10). The SHMA also found that 45.5% of older people require 2-bed housing and 21.6% require 1- bed (SHMA, p133, table 10-7).
- 79 Evidence is patchy, outdated and anecdotal in respect of older people's housing needs. There is, however, general consensus that a significant need for new bungalow accommodation exists across the UK for a growing older population. This is evidenced in numerous Government reports, think-tank studies and research papers, and professional organisations' own research work.
- 80 With very few development opportunities, the District Council must utilise the existing social housing stock as best it can to meet current and future needs. The District also has a high level of under-occupation in its social housing stock where, over time, families have reduced. This often leaves only one of the original tenants in a family-sized home. In contrast, there are homeless, overcrowded and other poorly-housed families in acute need of larger social housing. This

mismatch in households/stock must be addressed to meet future need and housing strategy uses various tactics to tackle this.

- 81 We are consistently told that older people would consider downsizing if they were offered a spare bedroom for grandchildren and carers to stay over, for instance, and/or for the storage of health equipment and personal belongings etc. Similar views are expressed across the UK and this further demonstrates older people's changing requirements as well as highlighting a key issue with older sheltered housing stock. This matter was also raised during an in-depth scrutiny back in 2012 by the (then) Services Select Committee where both 2-bedroom and bungalow accommodation were quoted as being key and effective solutions to encourage older people to downsize from under-occupied housing. It was also accepted that such accommodation is typically difficult to achieve in the Sevenoaks District, i.e. we generally build to relatively high density to create financially viable schemes.
- 82 The subsequent Under-Occupation Strategy, which was adopted by the District Council in 2012, set the following objectives: 1) to increase the supply of properties that meets the needs of disabled downsizers; 2) to increase the supply of modern supported housing for older people; and 3) to develop sustainable community lettings plans on new development to enable downsizing. Enabling older people to downsize can support a wide-range of housing, health and community outcomes, as well as reducing the burden on acute services. The Mind the Gap plan includes similar housing strategy objectives to achieve key health outcomes.
- 83 Being situated in the vicinity of general needs social housing, this would allow older downsizers to remain in their neighbourhood and amongst established support networks. Local solutions would overcome a particular issue which often prevents people from moving, i.e. they do not want to downsize if it means moving out of the local area and giving up everything they've known.
- 84 In respect of bedroom sizes, there is a raft of evidence demonstrating that older people are put off downsizing and/or moving into more practicable accommodation due to the type and size of smaller accommodation on offer. This can be related to older existing sheltered housing schemes, which have just one bedroom; are poorly designed/outdated; and give a distinct feeling of institutional care - something that older people are increasingly resisting.
- 85 Research undertaken by the Social Innovation Lab for Kent (2012) highlighted that people tended to put off thinking about their potential change in housing and care needs for as long as possible. Those people would then move when in a position of urgent need and of an age where the whole moving process was considerably more traumatic. Many people aged in their 70s or older stated that they wished they had thought about their housing options when they were younger (i.e. in their 60s) and were better able to make decisions. Respondents also thought they would cope much better with the transition earlier on and before emergencies arose. This scheme would directly address those issues and be a good strategic move, therefore.
- 86 The current-day social care system is aimed at supporting older, disabled and frail people in their own homes, with outreach support services and technology making this increasingly possible. A significant number of older people are currently living in large and unsuitable housing and these situations typical worsen as people

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become more infirm. Much of the existing general needs housing is difficult and/or expensive to adapt (adding to DFG requirements), and is typically inaccessible, e.g. narrow doors, garden/door steps and stairs (increases trips and falls) etc. The Kent Framework for Delivering Housing for People with Physical and Sensory Disabilities across Kent and Medway (November 2013) recommends bungalow accommodation to address these issues. This proposed model of provision is also much cheaper than extra care accommodation, for instance, so would be a good option with regards to long-term financial planning and resource requirements in the social sector.

- 87 Kent County Council's Commissioned Services Needs Analysis (2013/14) identified a growth in the number of older people over the next 10-years, with Sevenoaks being highlighted as significantly affected. Future supporting people strategy will be working towards a more flexible, community-based service for older people. This will be in response to wide-ranging feedback from a study undertaken in Kent by the Chartered Institute of Housing and which highlighted the following: 1) older people want to feel part of the wider community, with good social networks and involvement in activities; 2) a need for accessible services that enable people to stay living at home for as long as possible, with access to help and support as required; and 3) recognising that older people have differing aspirations and providing a range of choices and options.
- 88 With serious constraints in housing choice, a large number of older people tend to stay put and not make use of the Sevenoaks District Housing Register (SDHR). The SDHR can only be used as a part-measure of need and just relate to those actively looking to move through the social housing system. It is not a complete indicator of need, therefore, and the following data should be considered in this context.
- 89 The SDHR was analysed (February 2014) and found that 30 applicants in the age 55-59 bracket listed bungalow accommodation as their preferred choice, with 10 having Swanley as their preferred location; in the age 60-64 age bracket, 20 listed bungalows as their preferred accommodation with 3 having Swanley as their preferred location; in the age 60-plus age bracket, 92 listed bungalows as their preferred accommodation and 29 having Swanley as their preferred location; in the age 65-plus age bracket and where age-related physical infirmity existed, 23 listed bungalows as their preferred accommodation and 9 having Swanley as their preferred location. This totals 165 people seeking bungalow accommodation and, of those, 51 specify Swanley as their preferred location.
- 90 Should a bungalow project be progressed in the Swanley area, it would be reasonable to expect that additional need would be registered by those seeing an opportunity to improve their living circumstances, i.e. hearing about bungalows being built in the neighbourhood and deciding to apply for one. This would be similar to the rural exception site process whereby local residents register a new need on the SDHR when a scheme is proposed in their village. Many of those people would not have done so had such an opportunity not been put on their radar. It is not possible to quantify such need, however, though the expectation is that additional need would be registered once the community had become aware of such a scheme in the pipeline – and in much greater numbers, with this being a large town rather than a small village. With a recent review of the SDHR (it being found to be too restrictive for older people), a change to qualification rules around asset values has occurred. As a consequence, more older people are able to bid for specialist housing, so further applications would be anticipated.

- 91 This development would also provide high-quality landscaping, open space and visual amenity, which would help to create a safe and inclusive community for older people. This would address isolation, depression and other mental health issues (including significantly rising cases of dementia going forward), as well as having positive impacts on physical health by creating an environment where older people would be encouraged to get out of the house, interact with neighbours, and participate in local activities.
- 92 Bungalows would be built to Sustainable Homes Code Level 4 and include a number of low-carbon technologies, including photovoltaic devices. The development would also consider flood risks and pollution, as would be expected. These measures would all tie in with Climate Local Sevenoaks, which was adopted by the District Council in December 2013. These low-carbon measures would also help to tackle fuel poverty amongst older people and address what is a high and worrying level of winter-mortality amongst this cohort in the Sevenoaks District.
- 93 Should a scheme be approved, the District Council would work with the respective housing association to create a specific sustainable lettings policy. We would look to give priority to those in the Swanley wards and (or followed by in various options of order) Hextable and Crockenhill. A cascade would need to be in place to look wider afield, should nobody take up vacancies. This would be the same process as is used on rural exception sites (they, too, giving priority to those in the respective area) and give housing providers protection from long-term voids. We would not anticipate such a cascade needing to be used, however. Such a plan would need to be supported and approved via portfolio holder decision, so this would all be subject to formal approval.
- 94 Housing Policy would welcome this kind of housing provision on other sites, but viability generally restricts this from taking place (with the District's developable land typically being at premium levels and way beyond the scope of social housing development, other than through S106 agreements). This particular cross-subsidy model appears to be the only viable option to deliver social tenure bungalow accommodation in the District and with no significant grant requirements from the public purse.
- 95 This is considered to be a special case with very strong and specific links to housing, health and community strategy. It has the potential to achieve significantly positive outcomes.
- 96 The Housing Section have clarified that the spare room subsidy applies to those of working age only and this is currently based on the national pensionable age, so will increase as time goes by. Therefore many of those who would occupy these units would be exempt.

### *SDC Planning Policy:*

- 97 The key strategic planning policy issues are considered to be:
- the impact of the development on the Green Belt
  - provision of affordable housing
  - provision of housing for older people

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- Loss of school facilities / open space
- 98 Section 7 of the Planning Statement sets out to establish whether the application site is the most appropriate location within the Green Belt to accommodate the proposal. It is suggested that this review should have first considered sites that are not in the Green Belt, i.e. sites within the urban confines of settlements, as this is where development is directed (see Core Strategy Policy LO1 and LO4). For example, there are five sites within Swanley being promoted in the Allocations and Development Management Plan (which is being examined in March 2014), including:
- Land West of Cherry Avenue (50 units) – owned by KCC
  - Bevan Place (46 units)
  - United House (185 units)
- 99 The promoter provides an assessment of the sensitivity of the Green Belt location in terms of its landscape character area (Hextable Fringe). A more appropriate assessment would be consideration of the land's contribution to the purposes of Green Belt as set out in paragraph 80 of the NPPF. This sets out that Green Belt serves five purposes:
- to check the unrestricted sprawl of large built-up areas;
  - to prevent neighbouring towns merging into one another;
  - to assist in safeguarding the countryside from encroachment;
  - to preserve the setting and special character of historic towns; and
  - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land
- 100 The first three criteria above are considered particularly pertinent to this location. This part of the Green Belt separates Swanley from Hextable and Wilmington and the conurbation of Greater London, and therefore is exactly the type of 'green wedge' space that was designed to be protected by the designation of the Green Belt.
- 101 In addition, the site is adjacent to Swanley Park to the east and can be viewed as a continuation of the space. There is good accessibility to the Park via the Public Right of Way which runs along the eastern boundary of the site.
- 102 It is accepted by the promoter (para 7.13 of the Planning Statement) that the proposed scheme is inappropriate development in the Green Belt and as such can only be approved if 'Very Special Circumstances' (VSC) can be demonstrated. Section 8 of the Planning Statement sets out the proposed VSC. These are:
- the proposed affordable housing (40 units), which is above the Council's required provision under Policy SP3 and the need for such units
  - the provision of housing for the elderly in the form of bungalows

- reduction in under-occupation
- 103 It is for the Council to determine whether these proposed VSC are sufficient to outweigh the acknowledged harm of building in the Green Belt. It is noted that the provision of affordable housing at 62% of the development is a substantial increase above the Council's requirement at 40%, and there is an identified need for affordable housing. The provision of housing for the elderly is also supported by Core Strategy SP5 which seeks such housing on suitable sites in areas close to a range of services. However, it is unclear in the application how the bungalow units will be secured for such a purpose and it is suggested that this should be further explored. Furthermore, it is not clear from the application why other sites that do not fall in the Green Belt have not been considered and the assessment of the location as a low sensitively Green Belt location is not accepted for the reasons set out above.
- 104 It is understood that the site was formerly used a primary school which closed in August 2007. As part of the preparation of the Council's 'Community Infrastructure Levy' (CIL) evidence base, KCC were provided with the Council's housing trajectory and asked to test the infrastructure requirements through their Integrated Infrastructure Funding Model (IIFM). Previously KCC suggested that capacity expansion at Swanley primary schools would be required (at a cost of approx. £860,000 over the period 2014-2026). In the latest information received, KCC has suggested that a new primary school at Swanley/Hextable is required (at a cost of approx. £4.2m). In this context, it is queried why this site is considered to be surplus to requirements, as it is well located to serve the KCC identified need for a primary school in Swanley / Hextable.
- 105 It should also be noted that this site was designated as an Outdoor Sports Facility (site 66) in the Council's Open Study (2009) and Core Strategy Policy SP10 states that open space of value to the local community will be retained and that development may exceptionally be allowed where replacement provision of at least equivalent value to the local community is provided. The open space proposed as part of the scheme is not considered to be of equivalent value as the existing space.
- 106 In addition, emerging policies in the Allocations and Development Management Plan (which is being examined in March 2014), are also relevant. Policy GI2 (Loss of Open Space) states that the redevelopment of redundant playing fields will not be permitted unless the space is surplus to requirements, the loss can be mitigated by replacement provision or the development is for alternative recreational use (in line with NPPF para 74). The scheme does not meet any of these criteria. Policy CF1 (re-use of redundant school buildings) states that where school buildings become vacant/redundant and there is no requirement for an alternative education use (*which in itself is in dispute – see above*), priority should be given to re-using the building in address local need for community facilities. It is not clear whether the applicant has given any consideration to these forms of use. Although GI2 and CF1 are not yet adopted policy, as the examination of these policies is next month and the Inspector has not raised any issues in relation to these policies, they should be considered to have some limited weigh.
- 107 The Planning Policy team does not wish to comment on detailed matters of the submission, such as the design and detailing of the scheme. I trust that the above is clear, however please do not hesitate to contact me should you wish to discuss the matter further.

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### *Response to additional information:*

- 108 Thank you for re-consulting Planning Policy in relation to the additional information submitted to support this application, in relation to:
- Amplification of case of very special circumstances particularly including explanation of link to other development sites and housing implications; draft planning legal agreement and street scene elevation showing hipped roof to houses (indicative only).*
- 109 The Planning Policy team provide the following additional comments to support our earlier observations:
- 110 Impact on the purposes of the Green Belt – the applicant highlights the fact that the site does comprise of previously developed land. This is accepted but, as set out in the submission, this applies to only a quarter of the site, and the proposed residential development would comprise of a substantially increased level of development, which would clearly impact on the openness of the site, a key criteria when considering the acceptability of development in the Green Belt.
- 111 Site selection – correspondence from the applicant (dated 4 March 2014) detailed why three sites within the confines of Swanley would not be suitable for such a development, and concluded that the sites examined were too small to accommodate such a development. It is noted that a response was not provided on the largest of sites in Swanley (United House) that is contained in the Allocations and Development Management Plan (ADMP), and is detailed in the previous response from Planning Policy as being potentially suitable for 185 units. Correspondence from the applicant (dated 27 March 2014) suggests that land owner aspiration and the desire to maximise land values needs to be taken into account, and therefore a large number of bungalows are unlikely to be developed on land suitable for other forms of housing due to their disproportionate land take when compared to ‘conventional’ housing. This constraint is acknowledged, and therefore it is considered that for large numbers of bungalows to be provided within a scheme, this would need to be on land within the ownership of public bodies (for example KCC) or in lieu of other forms of social provision (for example, affordable bungalows rather than ‘conventional’ affordable housing). If these options have been fully investigated and discounted, only then should ‘inappropriate’ sites in the Green Belt be considered, if there is an over-riding argument that can be made for the need for such units, which may outweigh the impact on the Green Belt.
- 112 In relation to KCC owned sites that are in the ADMP (Cherry Avenue, Swanley 1.5ha and London Road, Westerham 1.5ha), it is acknowledged that they would not have the capacity to deliver a 65 unit scheme. However, it is queried whether a scheme of the scale proposed is essential, and whether a smaller scheme could be developed, in accordance with the scale of potentially suitable sites.
- 113 The additional information in relation to preventing the ‘right to acquire’ and ‘right to buy’ is useful in ensuring that the bungalows could be secured for the purposes as intended. The additional information in relation to the KCC Education Commissioning Plan is also useful in terms of clarification on the future primary education provision in the Swanley / Hextable area.



- 114 To provide an update on the Allocations and Development Management Plan (ADMP), the Council has recently (March 2014) held a local plan examination on the ADMP. Although the ADMP is not yet adopted, it is considered it should be given considerable weight, in line with NPPF paragraph 216, as the Plan is in its final stages of preparation, it is considered consistent with the NPPF and although there were earlier representations on Policies GI2 and CF1, the Inspector chose not to debate these as part of the hearings and the Inspector has not indicated any modifications in relation to these policies. To summarise our earlier response, Policy GI2 (Loss of Open Space) states that the redevelopment of redundant playing fields will not be permitted unless the space is surplus to requirements, the loss can be mitigated by replacement provision or the development is for alternative recreational use (in line with NPPF para 74). The scheme does not meet any of these criteria. This issue is also raised by Sport England in their objection to the scheme. Policy CF1 (re-use of redundant school buildings) states that where school buildings become vacant/redundant and there is no requirement for an alternative education use, priority should be given to re-using the building in address local need for community facilities.

### *Representations*

- 115 Representations have been received from 8 local residents raising the following concerns:
- Noise from the site.
  - Increased traffic onto Russett Way.
  - Loss of privacy to neighbouring properties.
  - Proposals will harm the character and appearance of the area.
  - Increase in traffic and associated noise and air pollution.
  - Increased light pollution.
  - Overdevelopment of the site.
  - Would fail to protect or enhance local environment including wildlife habitats.
  - Loss of valuable green space.
  - Loss of Green Belt.
  - Potential flooding concerns.
  - Adverse impact on security of neighbouring houses.
  - The site should have a community use.
  - Waste of good school & where would additional children go to school?
- 116 Non planning matters regarding site traffic and parking during the construction phase and impact on value of neighbouring properties were also raised.
- 117 Subsequent to reconsultation on the additional information received, a petition containing 106 signatories from residents in Swanley, Swanley Village and Hextable has been received objecting “in the stongest possible terms to the above mentioned application, on the grounds that the site is fully within the Green Belt, and is against the principle set out in the District Councils own Local Development Framework. It is also overdevelopment of the site.”

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### Chief Planning Officer's Appraisal

#### Principal issues

- Policy Context
- Green Belt implications
- Green Belt – impact on openness
- Layout, design and highway considerations
- Impact on residential amenity
- Potential impact on archaeology
- Ecological implications
- Loss of open space
- Case for Very Special Circumstances

#### Introduction:

118 Key Government guidance is provided in the form of the National Planning Policy Framework (NPPF), which now forms part of the material considerations relevant to the present application. As set out in paragraph 12, it introduces a presumption in favour of sustainable development but the guidance states that this should not be the case where the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate development should be restricted. Whilst this document does not change the statutory status of the development plan as the starting point for decision making, this now only applies where the existing Sevenoaks District Local Plan policies do not conflict with the NPPF.

119 Paragraph 14 of the NPPF also advises that for decision-taking, development proposals that accord with the development plan should be approved and where the development plan is absent, silent or out of date, granting permission unless:

“- any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or-specific policies in this framework indicate development should be restricted.”

Included in the latter point policies relating to Green Belt are specifically mentioned.

120 Paragraph 17 of the NPPF sets out a number of core planning principles to be followed. In summary, these principles include, amongst other things;

- Be genuinely plan-led to provide a framework which within which decisions can be made with a high degree of predictability and efficiency;
- Proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs;

- To always seek to secure high quality design and good standard of amenity;
- Take account of the difference roles and character of difference areas, including protecting the Green Belt and recognising the intrinsic character and beauty of the countryside;
- Contribute to conserving and enhancing the natural environment and reducing pollution;
- Encourage the effective use of land by reusing land that has been previously developed (brownfield land), providing that it is not of high environmental value;
- Promote use of public transport and focus significant development in locations which are or can be made sustainable.

121 Significant weight must also be given to the Councils adopted Core Strategy Development Plan (CS) Document (2011). This is the key document in the Local Development Framework. It draws together the objectives of a wide range of plans, programmes and strategies and provides the overarching principles that will deliver the essential development needs of the District.

122 A degree of weight can now also be given to the Allocations and Development Management Plan (November 2013) (ADMP), which has just completed its examination and the formal response from the Planning Inspectorate has been received. The policy section of this report refers to the relevant policies and the weight to be attached to them.

### *Policy Context:*

123 The entirety of the application site is within the Green Belt.

124 Part of the site in the form of the existing buildings and hard surfacing has been previously developed in the form of the existing buildings and hard surfacing.

However, it should be noted that whilst the NPPF Core Planning Principles encourage the effective use of land by reusing land that has been previously developed (brownfield land), it carries the rider that this is “providing that it is not of high environmental value”. Furthermore, the Glossary in Annex 2 of the NPPF provides a definition of “Previously Developed Land”. This states “Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed infrastructure.”

125 The full implications of the proposals in Green Belt terms will be considered further in detail below.

However, in light of the above, policy L08 is the key Core Strategy locational policy relevant to the proposals. This relates to The Countryside and the Rural Economy. It states that:

“The extent of the Green Belt will be maintained.

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- 126 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...
- 127 Particular regard will be given to the condition and sensitivity of the landscape character and securing the recommended landscape actions in the proposed SPD to ensure that all development conserves and enhances local landscape character..."
- 128 In addition, it should also be noted that the application site was designated as an Outdoor Sports Facility (site 66) in the Council's Open Space, Sport and Recreation Study (2009). Core Strategy policy SP10 states that open space of value to the local community will be retained and that development may exceptionally be allowed where replacement provision of at least equivalent value to the local community is provided.
- 129 Policy GI2 of the ADMP relates to loss of open space. It states that change of use or redevelopment of Green Infrastructure, Open Space, Sport or Recreation sites including redundant school sites will not be permitted unless the applicant demonstrates that the space is surplus to requirements or mitigated by equivalent replacement elsewhere. Proposals for built development on redundant school playing fields in the Green Belt, other than for essential facilities for outside sport and recreation will be refused.
- 130 Policy CF1 of the ADMP relates specifically to the re-use of redundant school buildings. It states that where such buildings become redundant and there is no requirement for an alternative educational use, priority should be given to reusing the buildings or site to address local need for community facilities. Proposals for redevelopment for alternative non community uses will only be acceptable if it is demonstrated that there is no identified community need.
- 131 In light of the above, the key policy implication is that of development of the site which is within the Green Belt, and any other harm that may occur as a result of the proposal, such as on the landscape, amenity of residents and highway considerations.

### *Green Belt Implications:*

- 132 The Government's approach to development in the Green Belt is set out in the NPPF.

The following paragraphs set this approach out in detail:

"79. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

80. Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;

- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

81. Once Green Belts have been defined, local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.

83. Local planning authorities with Green Belts in their area should establish Green Belt boundaries in their Local Plans which set the framework for Green Belt and settlement policy. Once established, Green Belt boundaries should only be altered in exceptional circumstances, through the preparation or review of the Local Plan. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period.

84. When drawing up or reviewing Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development. They should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary.”

133 Paragraph 89 states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. A list of exceptions is provided. This includes the following criteria:

- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

134 The definition of previously developed land has been raised in the above section (Principle of development). It is clear that part of the site has been developed. Thus, in my view, there is likely to be some potential for limited redevelopment to replace the existing built floorspace on site.

135 However, because of the significant degree of site coverage and degree of development proposed it appears to be common ground that the present proposals fail to meet the requirements of this criteria, as the entire site cannot be considered as previously developed land.

136 Thus, the proposals represent inappropriate development in the Green Belt. Paragraph 87 of the NPPF states that “As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

137 The proposals are therefore harmful *in principle*.

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- 138 In addition, it is appropriate to consider the impact of the proposals on the purposes of the Green Belt, as listed above.
- 139 The prevention of urban sprawl is one of the Green Belts main purposes. In the present case, development at the appeal site would extend the built up area of Swanley beyond its existing boundaries. In my view there is a distinct break between the built edge of Swanley adjacent to the site and the western edge of Hextable. Though there are a number of buildings between the 2 settlements, I do not consider they significantly erode the open character. This is because they are generally isolated plots that are neither urban nor suburban in their proximity to other properties. Furthermore, though there are already buildings on the application site, they are of relatively modest scale and compact in form. Viewed in map or aerial form, as well as on the ground, they do not represent a significant visual encroachment and the built edge of Swanley in the form of the Russet Way/Wisteria Garden properties provides, in my view, a strong sense of containment to the urban area.
- 140 Following from the above and considering the site in the context of the open land to the east in the form of Swanley Park and playing fields beyond, I consider the site contributes to the predominantly open and undeveloped character of the land and thus I consider the redevelopment of the site on the extensive format proposed would represent an extension of the urban sprawl and a clear encroachment into the countryside. The site is considered an important “green wedge” within which the proposed development would weaken the separation not only between Swanley and Hextable, but beyond to Wilmington and the conurbation of Greater London.
- 141 In terms of the final purpose of the Green Belt listed above, it is clear, when read in the context of other relevant policies, particularly LO1 and LO4 of the Core Strategy and policies H1 and H2 of the ADMP, which allocate specific sites for housing development (as highlighted in the Planning Policy Section comments), the fundamental aim of the policy is to assist in urban re-generation and encourage re-use of urban land.
- 142 The question of whether the proposals serve the purpose of preserving the setting and special character of historic towns is considered further under the landscape section below.
- 143 Nevertheless, for the above reasons I consider the proposals fail to meet the purposes of the Green Belt, set out in detail above.

### *Green Belt – impact on openness:*

- 144 As set out above, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 145 It is well established that openness is not reliant upon degree of visibility but upon an absence of built development. The present proposals would represent a conspicuous swathe of new development, which would plainly erode the openness of the site.
- 146 The existing footprint of buildings on site equate to approximately 1,400m<sup>2</sup> in total area. The proposals would represent a built footprint of some 6,000m<sup>2</sup>, well

over a 300% increase. The increase in total floorspace would be much greater. This does not account for the additional roadways, hardsurfacing and outbuildings proposed. Bearing in mind the relatively modest height of the existing school building, the increase in 3D, or volumetric terms, would be even more significant. The 2 storey houses would represent a significant increase in the height and scale of built form on the site. Furthermore, the built form in its entirety would spread across the vast majority of the site. In addition, the design of the new development, particularly the roof form of the houses, would represent a significant increase in height, bulk and density, which in turn would accentuate the scale of the built form and would in effect result in it appearing as an extension of the urban area. Again, in my view, this would in turn erode the ability of the site to fulfil the purposes of the Green Belt.

- 147 In light of the above, I consider the proposals would have a significantly greater impact on the openness of the Green Belt than the existing site, a large part of which is presently open grassland, with an extensive element open parking or hardsurfaced play areas which has only a very modest impact on openness, in my view.
- 148 In terms of the character and appearance of the Green Belt, I consider the former school, which is essentially a single storey structure albeit with a large floor area, to have a relatively modest visual impact in its current form and location. The building is sited in a natural dip in the ground levels between the level of properties in Russetts Way and the rising level of Swanley Park to the east. Properties to the southern extent of Russett Way and Wisteria Gardens backing onto the site have unrestricted views across the site. Looking back from Swanley Park, because of the lay of the land and the intervening foliage, the school building and house on the frontage are not visually prominent and there is an unrestricted view to the rear of these residential properties. Even viewed from Leydenhatch Lane on approach, the school is set back from the road and from the glimpses gained through the frontage foliage it appears subservient in form within the spacious, green and open grounds which provide its setting. I would note that the hardstandings have little impact on this character. Thus the site has a predominantly open and verdant character, especially in its present slightly unkempt state and indeed acts as a form of buffer between the completely open land to the east and the dense urban edge to the west. Whilst there is a Cottage on site, it is located at the front north-western corner of the site. In my view it is seen much more in the context of the dense form of housing development to the west. Hence, I do not consider it detracts from the general character of the site identified above.
- 149 In light of the above, I consider the site appears as distinctly separate from the built form to the west and in character is more akin with, and contributes to, the extensive open areas to the east.
- 150 In their present form, due to the density of development and the extensive spread across the site, I consider the proposals would harm the character and appearance of this part of the Green Belt and its openness.
- 151 In my view, the adverse impact on openness and the character and appearance of the Green Belt identified above highlights the inability of the site to fulfil the purposes of the Green Belt set out above. For these reasons, I attach great weight to the Green Belt concerns raised by the Planning Policy Section.

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### *Conclusion of Green Belt Impact:*

- 152 In view of the above, I consider the proposals represent inappropriate development within the Green Belt and thus they are unacceptable in principle.
- 153 In addition to the harm in principle, the proposals would have a significant impact on the openness and the character and appearance of the Green Belt.
- 154 The proposals would also harm the purposes of the Green Belt, particularly in terms of failing to check the unrestricted sprawl of the built-up area, preventing neighbouring towns merging into one another and failing to safeguard the countryside from encroachment.
- 155 The NPPF requires substantial weight to be given to any harm to the Green Belts. In this instance, for the reasons set out above, I consider the harm to be significant.
- 156 Paragraphs 87 and 88 of the NPPF state that:
- “As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 157 When considering any planning application, local planning authorities 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 other considerations.”
- 158 The case for very special circumstances is considered in detail below.

### *Impact on landscape setting:*

- 159 Policy SP1 of the CS is relevant and has been referred to above. It states that account should be taken of guidance including the Countryside Assessment.
- 160 The council’s Countryside Assessment (CA) indicates that Swanley itself is excluded from the character assessment (as an urban area). However, the application site, which is located on the extreme north-eastern edge of the town, appears to fall within the landscape character area identified as the “Hextable Fringe”. The area is described in the CA as having a “very poor condition”, with significantly interrupted visual unity and weak sense of place. It is thus described as having a low sensitivity to change. The Assessment explains that the dominant elements in the landscape are recent in the form of urban fringe and suburban land use.
- 161 The applicant therefore considers the site the most applicable area to accept change without causing irreparable damage to the distinctiveness of the landscape.
- 162 However, the concluding landscape action is to “Create”. In order to create local distinctiveness, local landmarks and views should be identified and enhanced and the setting of historic settlement cores...should be upgraded and maintained. Actions include “retain and enhance historic characteristics of rural lanes and ensure that there is a definition between urban and rural routes.



- 163 Section 5 of the Sevenoaks District Council Countryside Assessment (adopted as SPG in 2011) provides a summary of “Landscape Issues”. Particularly relevant to the consideration of the current application, this starts with a sub-section relating to “Fringe Landscapes”.
- 164 This explains that “Pressure for new development is the most obvious challenge to existing landscape character. A particular problem is the growth of unremarkable development which has no local distinction or relevance to the site or to the local settlement pattern, and this may include post 1801 linear built development which is frequently cited as a detracting feature within the landscape. New development on the fringe of an existing urban area often introduces an incongruous or harsh urban edge into the adjacent landscape.”
- 165 Though a short sub-section, specific reference is made to the settlement of Hextable at paragraph 5.7. This states that “...the conservation of existing cultural elements that create a sense of place will be of prime importance. The enhancement of the settings of historic settlement cores - such as Hextable - would restore a more profound sense of place to many of the expanded settlements.”
- 166 The section ends with a concluding sub-section headed “The combined effect of inappropriate land uses, poor design and suburban fringe development.”
- 167 The following paragraph 5.19 states that:
- “In many cases, it is the combined effect of the detracting elements - mainly in the landscape areas to the north of the District - which support the perception of a landscape in decline. The contributing factors include: the loss of tree cover caused by Dutch elm disease, poor unremarkable design in the built environment, inappropriate location of development, insensitive agricultural land management, horsiculture and suburban land-uses and boundaries, the introduction of urban edges into the view, the effect of litter and the effect of rural lanes worn by over-use and heavy vehicles.
- 168 In light of the above, it is my view that the site contributes positively to the setting of Swanley and Hextable and the distinct separation between them contributes to the landscape character of the locality. I consider the proposals would erode this contribution and thus be harmful to the landscape character and setting of the urban areas in this location.

*Layout, design and highway considerations:*

- 169 Policy EN1 of the SDLP identifies a broad range of criteria to be applied in the consideration of planning applications.
- 170 Criteria 1) states that the form of the proposed development, including any buildings or extensions, should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard. Criteria 2) states that the layout of the proposed development should respect the topography of the site, retain any important features including trees, hedgerows and shrubs. Criteria 6) states that the proposed development must ensure satisfactory means of access for vehicles and pedestrians and provides parking facilities in accordance with the Council’s approved standards.

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Criteria 10) states that the proposed development does not create unacceptable traffic conditions on the surrounding road network and is located to reduce where possible the need to travel.

- 171 Policy VP1 requires parking provision in accordance with Council standards, unless there are circumstances to justify a departure.
- 172 Policy SP1 of the Sevenoaks District Core Strategy Development Plan Document (CS) 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.
- 173 Policy SP2 of the CS relates to Sustainable Construction and Low-Carbon Energy Generation. Amongst other things, it states that all new homes are currently required to achieve at least Level 3 of the Code for Sustainable Homes, which will rise to Code 4.
- 174 Policy EN1 (Design Principles) of the Council's emerging ADMP is similar in format to the current policy EN1 of the SDLP.
- 175 Account should be taken of guidance adopted by the Council in the form of Kent Design, local Character Assessments...In rural areas account should be taken of the Countryside Assessment...
- 176 In areas where the local environment lacks positive features new development should contribute to an improvement in the quality of the environment.
- 177 New development should create safe, inclusive and attractive environments that meet the needs of users, incorporate principles of sustainable development and maintain and enhance biodiversity.
- 178 The District's heritage assets including listed buildings, conservation areas, archaeological remains, ancient monuments, historic parks and gardens, historic buildings, landscapes and outstanding views will be protected and enhanced.
- 179 The proposals would provide for a mix of housing types. The layout, design and form of the development – larger 2 and 3 storey market houses to the north of the site and bungalows to the southern part has been described in detail above. Although this layout results in the private and social housing elements of the scheme being distinctly separate (linked only by a footpath), I do not consider this would flaw the proposals. Furthermore, there is some advantage in trying to minimise the wider impact of the development on the more open, exposed and undeveloped southern two-thirds of the site by proposing single storey bungalows. All dwellings are designed to meet Code for Sustainable Homes Code 4. This is acceptable, though in any event will shortly become the policy requirement.
- 180 The 2 and 3 storey houses would be larger than those in Russett Way immediate adjacent to the site, but would generally reflect the size, scale and more spacious layout of houses close-by, for example in Selah Drive. These houses would comprise several alternate designs interspersed throughout the northern part of the site. They would be well articulated, with some containing subservient front and/or rear projections with subservient attached or detached garages. Materials would be varied and would reflect those seen elsewhere in the locality. In the circumstances, I consider this element of the proposals would be compatible with existing development in the locality.

- 181 My key concern with regard to the houses is the inclusion, without exception, of a gabled roof form to all buildings, including the garages. Whilst I do not object to the roof design per se, this form as a matter of fact contributes significantly to the overall height, scale and bulk of these buildings. Bearing in mind the relatively sensitive Green Belt location of the site, it is particularly important to minimise the impact on the openness. The roof form fails to do this.
- 182 Whilst the applicant has indicated it would be possible to amend the roof design, the proposals have not been amended.
- 183 I would note that the Public Rights of Way Officer has recommended that the house in located at the extreme north-eastern corner of the site be rotated by 90° so that the rear elevation would overlook the public footpath to the rear. This has not been amended. Whilst desirable, I do not consider it a serious flaw to the proposals.
- 184 The bungalows would occupy roughly the southern two-thirds of the site, with a modest area to the south-east maintained as open space. The bungalows are mostly arranged in short terraces or as semi-detached pairs. Their design is regular and would only be likely to be differentiated by subtle variation of the boarded elements to the main elevation. This element of the proposals would have a rather more regimented appearance, though is more reflective of the density (in terms of plot size) and layout to the neighbouring properties in Russetts Way and Wisteria Gardens. The bungalows would clearly be of modest height and overall scale and in conclusion I have no strong objections to the design or layout proposed.
- 185 Details of materials for the development are indicated in the submission and could be subject to condition in the event of a grant of permission.
- 186 Landscaping proposals would result in the loss of some trees within the site, but propose a fair amount of new tree planting within the site. It is proposed to retain existing trees along the Leydenhatch Road frontage and between the development and houses in Russetts way in particular, with some new screen planting adjacent to the Russetts Way access on entry to the site. Much of the tree planting along the southern and eastern boundaries lies outside the site and would thus not be directly affected. New tree planting is proposed adjacent to the south eastern edge of the site, with a section of hedging and more modest tree planting further north along the eastern boundary. Planting within the site would be reasonably varied and comprehensive and would in time help soften the appearance of the development, in my view. Again, detailed proposals could be subject to condition in the event of permission being granted.
- 187 I would note that the proposals include various elements of high brick boundary walls and fencing, particularly where the market housing would front a highway. This is clearly to provide a degree of security and privacy to the houses, though this would inevitably contribute to the urban character of the development and would do nothing to maintain the openness of the Green Belt.
- 188 In terms of impact on the highway network, the Highway Authority comments are attached in full above. There would be 2 separate accesses serving the separate elements of the proposals and this would in turn limit the amount of traffic using each. Thus the impact beyond the site is considered very limited and well within the capacity of the road network. Thus there appears to be no objection in

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principle to the proposals on highway grounds. Furthermore, the parking proposed on site in connection with the development proposed is considered well in excess of the minimum guidance provision specified within the adopted residential parking guidance.

- 189 However, there are a number of site specific issues which should be clarified, for example the width of carriageways. Concerns are raised in respect of pedestrian accesses and links emerging directly onto the carriageway and secondary issues of reduced visibility in respect of vehicular accesses on to the highway where no service margins are apparent. There are particular areas of concern in respect of both site accesses at their junctions with the existing highway and in respect of the pedestrian link between the 2 halves of the development.
- 190 Whilst it may be possible to address these issues, it is possible that there may be implications for the layout of the development. Hence this is not a matter which would be satisfactorily addressed by condition.

### *Impact on residential amenity:*

- 191 Policy EN1 of the SDLP lists a number of criteria to be applied in the consideration of planning applications. In particular, Criteria 3) of policy EN1 of the SDLP states that the proposed development must not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height, outlook, noise or light intrusion or activity levels including vehicular or pedestrian movements.
- 192 Policy EN2 of the emerging ADMP seeks to protect residential amenity in the event of new development.
- 193 Much of the development to the south of the Russett Way access point would be single storey and set at a lower ground level than the neighbouring properties in Russett Way and Wisteria Gardens. Though the bungalows would clearly be visible, views would largely be of the upper portion of the roof or indeed views across the roof tops. There is no right to a view in planning terms. The key issue is whether the bungalows would appear so large and imposing as to result in an overbearing or unduly unneighbourly form of development. Bearing in mind the distances involved (20+m in the majority of cases, one instance where back to back distance is about 16m), the potential for boundary screening (1.8m high timber fencing proposed), the difference in levels and the scale of proposed development, I do not consider this element of the proposals would have an unacceptable impact on the amenities of these neighbouring properties.
- 194 Properties to the south in Aisher Way, which back onto the site, are set at an oblique angle to the site and would be screened by existing trees along the existing lane between the sites. Thus I consider the impact on these properties also acceptable.
- 195 The properties most significantly affected by the proposals in my view would be nos. 38 and 40 Russetts Way, which back onto the north-western boundary of the site. At worst these properties would be between 19.5-20m of the rear of proposed unit S4. I acknowledge that it is the applicants intention to retain the existing trees on the boundary, however, these would not entirely screen the proposals. In any event, due to the proximity of the trees, there may be post-development pressure to remove them or thin them out. The siting of this unit is the consequence of retaining a tree immediately to the front of it (east). The

former Kent Design Guide recommended minimum distance between windows to habitable rooms of 21m. The Design now takes a more flexible approach with the intention that where this distance cannot be met, potential overlooking can be designed out. However, this is not the case in this particular instance. Whilst, there may be scope to relocate the house slightly, or provide an alternative design, if not omit this unit the proposals, as proposed I consider the impact on the amenities of the occupiers neighbouring this element of the proposals to be a particularly uncomfortable one.

- 196 The proposed house towards the north-western front corner of the site would have a similar siting to the existing cottage and would have a flank elevation facing nos. 28 and 30 Russetts Way, with a minimum separation of 21m. Bearing in mind the spatial character of the area and distances between dwellings, I consider the impact on this house would not be considered a harmful impact. Similarly, the majority of the 2 storey houses would be set further from properties in Russetts Way, thus the direct physical impact on the amenities of the existing properties would be limited in my view.
- 197 I consider there to be sufficient separation and tree screening between the proposals and Brambleside, the property on Leydenhatch Lane directly opposite the site.

### *Potential impact on archaeology:*

- 198 Paragraph 132 of the NPPF states that “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation.”
- 199 Paragraph 133 continues “Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. Local planning authorities should refuse consent.” Paragraph 134 states that “Where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.”
- 200 Policy EN25A of the SDLP relates to archaeological remains and seeks to preserve and protect site and where appropriate the setting of all archaeological remains.
- 201 The proposals would result in the excavation of footings and installation of services will result in extensive impact (described as moderate-high). However, assessment of the area has concluded site is within an area of low archaeological potential.
- 202 As a consequence, no objection has been raised to the proposals by the County Archaeologist, subject to an appropriate condition in the event of permission being forthcoming.

### *Ecological Implications:*

- 203 Under the Natural Environment and Rural Communities Act (2006), “Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”. In order to comply with this ‘Biodiversity Duty’, planning decisions

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must ensure that they adequately consider the potential ecological impacts of a proposed development.

- 204 The National Planning Policy Framework states that *“the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible.”*
- 205 Paragraph 99 of *Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System* states that *‘It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.’*
- 206 Policy SP11 states that the biodiversity of the District will be conserved and opportunities sought for enhancement to ensure no net loss of biodiversity.
- 207 The Preliminary Ecological Appraisal Report submitted with the application concludes that the semi-mature tree, dense scrub and introduced scrub offer moderate potential to support nesting birds. Building 1 and 2 offer moderate potential to support roosting bats. Building 3 offers low potential to support roosting bats. In addition the poor semi-improved grassland and scrub edge habitats offer moderate potential to support common reptile species.
- 208 In light of this a number of further surveys are recommended if clearance of trees, scrub and/or poor semi-improved grassland and/or demolition of buildings is planned. These include internal building inspection for bats, a number of dusk and dawn surveys for bats (undertaken between May and August & a minimum 6 surveys for building 1 alone). Reptile surveys (require a total of 7 visits from end of March onwards), with further surveys if reptiles confirmed on site.
- 209 Kent County Council Ecologist has been consulted on the proposals. They have commented that as all the potential habitat will be lost as a result of the development they advise that there is a need the surveys and details of any mitigation are required to be submitted for comment prior to determination of the planning application.
- 210 Despite the initial Ecological scoping survey being undertaken a year ago, the additional information recommended in the survey, and as now required by the County Ecologist has not been undertaken. I would also note that the Natural England Standing Advice recommends necessary survey work be carried out prior to determination of an application. Without this information it is not possible to fully assess the impact of the proposals on the ecology of the site and thus to inform suitable mitigation.
- 211 In light of the above, the information submitted fails to show that the development of the site would not have an unacceptable of ecological interests and thus the proposals are contrary to local and national policy.

### *Loss of open space:*

- 212 It should be noted that the application site was designated as an Outdoor Sports Facility (site 66) in the Council’s Open Space, Sport and Recreation Study (2009) and Core Strategy Policy SP10 states that open space of value to the local community will be retained and that development may exceptionally be allowed

where replacement provision of at least equivalent value to the local community is provided. The open space proposed as part of the scheme is not considered to be of equivalent value as the existing space.

- 213 In addition, emerging policies in the Allocations and Development Management Plan are also relevant.
- 214 Policy GI 2 (Loss of Open Space) states that the redevelopment of redundant playing fields will not be permitted unless the space is surplus to requirements, the loss can be mitigated by replacement provision or the development is for alternative recreational use (in line with NPPF para 74). The scheme does not meet any of these criteria. It also states that Proposals for built development on redundant school playing fields in the Green Belt other than for essential facilities for outside sport and recreation will be refused.
- 215 Policy CF1 (re-use of redundant school buildings) states that where school buildings become vacant/redundant and there is no requirement for an alternative education use, priority should be given to re-using the building in addressing local need for community facilities.
- 216 Although the ADMP is not yet adopted, it is considered that these policies should be given moderate weight as the Plan has been through examination with the Inspector's initial comments received and no modifications proposed to these policies.
- 217 Furthermore, these policies have been drafted taking into account the NPPF. In this regard, I would note that paragraph 74 of the NPPF states that:
- “Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
  - The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quality and quantity in a suitable location; or
  - The development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.
- 218 Bearing in mind the continued objection of Sport England to the loss of potential playing fields without adequate replacement I consider weight should be given to the protection of the existing open space.
- 219 I note also Planning Policy Section objections to the proposals, particularly on the grounds of Core Strategy policy SP10 above. With the advancement of the emerging ADMP and the fact that moderate weight can now be given to policies GI2 and CF1, it is my conclusion that as the proposals fail to meet the requirements of these policies, they are unacceptable in this regard.

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### *Contamination:*

- 220 Paragraph 120 of the NPPF states that the effects of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 221 Neither the Environment Agency or the Council's Environmental Protection Section have raised objections to the proposals subject to a number of detailed conditions dealing with potential contamination, amongst other things, which could be attached in the event permission were to be granted.

### *Public Right of Way*

- 222 KCC PROW does not object to this proposal, but would like mitigation for potential littering and other measures. The NPPF and National Planning Policy Guidance states that planning obligations should be used to mitigate the impact of unacceptable development to make it acceptable in planning terms; be directly related to the development and fairly reasonably related in scale and kind. The information provided does not demonstrate that the provision of measures to address potential littering, install cycle barriers and dedicating an additional right of way, would pass these tests

### *Case for Very Special Circumstances:*

#### *Background:*

- 223 Kier with Town and Country Housing Group are the developers and applicants and are seeking planning permission to develop this Kent County owned site. Kier have access to investment from a number of institutions with funding available for investment in housing who are seeking a long term inflation-linked return.
- 224 The initiative requires the public sector to provide the land under a long lease (normally 125 years) and to enter into agreement and/or with housing association to pay the rent for all tenancies index linked for the full term of the lease. This is normally between 20-50 years depending on the rental terms, at the end of which the public sector would retain ownership of the land and homes subject to a peppercorn rent. Capital, headroom and revenue surpluses can be generated from the model through the introduction of an element of market sales and market rent.
- 225 The Kier Kent initiative is linked to 3 sites within Kent; Hersden in Canterbury, Faversham in Swale and the current application site in Swanley, Sevenoaks. This is the former Birchwood Primary School site.

### *The applicants case, in summary, is as follows:*

- 226 The proposals seek a total of 65 dwellings, 25 of which are for private or market sale. The proposed market housing is included within the development proposals to cross-subsidise the delivery of the proposed 40 affordable bungalows and without the inclusion of the proposed market sale dwellings the proposals to develop the 40 affordable bungalows would not be viable.



- 227 Sevenoaks District Council in conjunction with Tonbridge & Malling B.C. and Tunbridge Wells B.C. have undertaken a Strategic Housing Market Assessment (SMHA) to provide an evidence base for the nature and level of current housing demand and need in West Kent. The SHMA identifies that as April 2012, there were 1,485 households registered as needing social housing on the Sevenoaks District Housing Register, with insufficient social housing stock.
- 228 The SHMA identifies an affordable housing need of 948 units per annum for the period 2006-2026 for Sevenoaks District. After allowing for existing stock net re-let supply, there is an annual shortfall of 646 affordable dwellings per annum in Sevenoaks District. This will result in a significant shortfall over the 20 year period 2006-2026 (equating to a need of 12,920 additional affordable dwellings).
- 229 The last 4 years shows not even SDC targets were being met (only 184 dwellings developed over this period rather than the 264 required). Thus there is a significant shortfall.
- 230 The proposals would provide 40 new affordable units, which would be half the current shortfall (and 62% of the annual target). It would exceed Core Strategy policy SP3 requirements for a minimum 40% of total units to be affordable (62% proposed) and at least 65% rented (100% proposed).
- 231 The applicant concludes that based on historic levels of affordable housing development the need will not be met through conventional approaches and that the approach taken in this application, the “Kier Kent Initiative”, will meet an identified need.
- 232 In addition to the above, there is a pattern of aging population in the West Kent area. In Sevenoaks District the predominant population group is in the 45-64 age group. Between 2006-2026 it is predicted that the age range 65-84 will increase by 6,400 (37%) and for the 85+ age range by 2,800 (94%).
- 233 The bungalows would be built to lifetime home standards and would have the potential to address the housing needs of the elderly. They would also have the benefit of potentially enabling households to down-size, freeing up family housing. This is promoted under the Council’s “Under Occupation Strategy 2012-2015”, though it should be noted this more acute in the private sector. This is considered to contribute to wider sustainability.
- 234 There are no other sites within Swanley which could accommodate the number of bungalows proposed.
- 235 Retention of the affordable bungalow units for those aged 55 years and over in perpetuity can be adequately controlled by a legal agreement.
- 236 The additional information submitted by the applicant seeking to amplify their case of very special circumstances is summarised as follows:
- The Swanley application is one of 3 linked schemes in Kent. The land to be developed is provided by Kent County. Kier would purchase the land. Kier use their Investment Funding to construct the entire development. Kier then sell the private units on the open market to recoup their costs, whilst the return to the Investment Funding is provided by long term rental from the affordable units which are to be managed and rented out by Town and

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Country Housing Group. An annual rental income would also be achieved by KCC.

- The proposals would provide a total 172 dwellings over the 3 sites with 50 being for private sale, 20 for social rent, 62 for affordable rent and 40 for affordable rent with an ability to reach market rent. Affordable units would account for 69% of the dwellings at Hersden, 100% of the units at Faversham and 61% of the units in Swanley. Financing of the sites is linked and thus the scheme as a whole is only viable if the development of all 3 site can be achieved. This is, according to the applicants, because KCC have to achieve “best Consideration” for the value and use of their land and because the Faversham site does not contribute to the land receipt (as no private market housing on this site).
- 26% of the Swanley site comprises building and hardstanding. Thus part of the site is previously developed land. Its contribution to the “green wedge” between Swanley and neighbouring settlements is limited.
- The UK has an aging population which is growing rapidly. Studies identify the increasing need to provide housing for older people, including bungalows. This trend is reflected in Sevenoaks District. There is a general demand for bungalow accommodation and 2 beds better suit the need of older people who wish to downsize from larger houses. This move would in turn allow large family houses to be re-used more efficiently as family housing. The Swanley site is located immediately adjacent to an existing affordable housing community. A report by Kent Homechoice indicated a very high demand for bungalows to let across Sevenoaks District.
- Other sites in Swanley are physically incapable of accommodating the number of bungalows proposed and in any event landowners would be likely to maximise the value of their sites by seeking higher density developments.
- With regard to the legal planning agreement, the applicant states that it is possible to prevent acquisition of the affordable units by tenants as they would not benefit from the “Right to Buy” and “Right to Acquire”. This is because no public funding is involved in the construction of these units. Furthermore, the affordable units would only be available to those over 55 years and a “cascade” system would ensure priority for the units is given to local residents, amongst other criteria.
- A further response has been made to Sport England to endeavour to address their objection. This relates to the potential loss of the former school playing field being replaced on the adjacent land within Swanley Park, where new football pitches are being created.
- The KCC Education Commissioning Plan confirms that it is intended to meet future demand for primary school places through expansion of neighbouring schools and that the existing school site is not required for this purpose.

### *Consideration of very special circumstances:*

- 237 Notwithstanding the applicant’s case above, the development proposals would represent inappropriate development within the Green Belt.

- 238 As explained above the NPPF states that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”
- 239 Paragraph 88 states that “When considering any planning application, local planning authorities 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 other considerations.” (My italics)
- 240 In this instance, other harm includes harm to the purposes of the Green Belt, harm to the openness of the Green Belt and to its character and appearance, harm in landscape terms, harm in terms of design and impact on residential amenity and harm to ecological interest and the loss of open space. As the harm to the Green Belt is so significant, there will only be very special circumstances, if the circumstances are even more significant.
- 241 In addressing the above, in my view it is necessary to demonstrate not only that there is an overriding need for the housing proposed but that it can only be addressed by permitting the development proposed on this particular site and that those circumstances clearly outweigh all the harm identified.
- 242 I have considered the applicants case in light of the Council’s Housing Section. In my view, it is clear that there is general concurrence with main thrust set out above, i.e. the Council aims to provide a good mix of housing, meet the needs of vulnerable and lower income households, cater for the needs of older people and that there is an aging population in Sevenoaks, particularly amongst the +65 and +85 cohorts. It is also accepted that the SHMA identifies a need for new affordable homes in the District and that the majority of older people wish to remain independent in their own homes. There is also a need for bungalows, including those with more than 1 bedroom.
- 243 The SHMA recommends targets for housing mix however, it is not intended to be a quota and in considering individual development schemes account will also be taken of the range of dwelling sizes of market and social housing in the local area and of site specific factors in considering the mix of dwelling sizes.
- 244 Most significantly, the Sevenoaks District Housing Register (SDHR) shows that in the 55 to 65+ age group there are 165 people seeking bungalow accommodation and of those, 51 specify Swanley as their preferred location.
- 245 It is evident from the above that there is an element of general agreement in terms of aging population and the need for affordable housing within Sevenoaks District.
- 246 As part of the discussions on this application, the applicants were advised that the justification for very special circumstances submitted for this site, and particularly the elements relating to the affordable housing and its availability for local people in perpetuity could only be given significant weight if these ‘benefits’ were secured by a legal agreement.
- 247 Those discussions referred the applicants to the of legal agreements used for exceptions housing sites in the Green Belt, but advised them to submit a full draft of a legal agreement and other supporting information to demonstrate that the

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required safeguards could be achieved. There is legislation other than the Planning Acts that impacts on whether the housing can be retained as affordable in perpetuity, and the applicant was advised to submit further information on this, to demonstrate whether sufficient controls could be imposed.

248 In summarising the legal advice the applicants received, they state:

“...right to acquire under the Housing and Regeneration Act 2008 does not apply if the provision of the dwelling in question was not publicly funded – it is the case that no public funds will be used to deliver the proposed bungalows.”

249 In terms of tenure, the applicants have suggested the following:

- The units will be for the over 55s
- 50% of the bungalows will be let at social rent levels
- 50% of the bungalows will be let at affordable rent levels
- Housing Association to agree a Local Lettings Plan to outline the criteria and nomination process.

250 The applicants anticipate that a legal agreement would work with a ‘cascade mechanism’ that means that when looking to allocate tenants to the affordable housing, the first choice would be those who fulfil the criteria at the top of the list, and if no such tenants came forward, the allocation would widen out to the categories lower down the list in turn. The ‘cascade mechanism’ proposed is:

1. Those under-occupying social housing and living in a Swanley Ward – more weight given to those giving up the most bedrooms.
2. As 1 but those living in Hextable and Crockenhill.
3. Those living in unsuitable location in any Swanley Ward (as defined in the Housing Register)
4. As 3 but for Hextable and Crockenhill.
5. Those under-occupying private sector housing in any Swanley Ward – more weight given to those giving up the most bedrooms.
6. As 5 but for Hextable and Crockenhill.
7. Those in permanent employment or about to take permanent employment in any Swanley Ward.
8. As 7 but for Hextable and Crockenhill.
9. If insufficient eligible applicants are identified as per 1 to 8 above, those living in northern wards (to be defined) become eligible.
10. As 9 above for in respect of those living in the District of Sevenoaks.

251 There are a number of concerns about the approach set out above, which are summarised below:

- a) The tenure and cascade mechanism have not yet been agreed with SDC Planning and Housing and in any event would need to be included in the S106 Agreement, which they are not currently.
- b) The proposal is for 20 social rented units and 20 affordable rented units. This has not been agreed with SDC Housing. The applicant's definition of 'affordable rent' refers to 80% of open market values. Our policy approach is that Housing Associations (HAs) can charge up to 80% of Open Market Rent, but up to the relevant Local Housing Allowance (LHA). Kier's approach is to exceed LHA in meeting the 80% to increase revenue and make their model work. The advice of the HCA is being sought. This might be an accepted approach by the HCA but has yet to be confirmed.
- c) The draft Section 106 Agreement submitted states that if the affordable homes are not let in the timescale set out in the agreement (around 6 weeks) the owner would be entitled to dispose of the homes on the open market and shall no longer be affordable homes.
- d) The draft Section 106 Agreement submitted also states that there could in some circumstances be a statutory right to acquire, which contradicts other information submitted.
- e) The cascade mechanism allows for allocation of the units across the District, if needed, to enable the affordable homes to be allocated within the 6 week timescale, so the units could be available for those beyond the local area.
- f) There are other concerns about the legislation for the right to acquire and how it may apply to this site that have not been clarified.
- g) The spare room subsidy could apply to occupants who are below national pensionable age, so this will change depending on gender and over time. Currently, men aged between 55 and 65 are below pensionable age. This may impact on whether some tenants could afford to occupy units that become available.

252 The above points are the main areas of concern in terms of the tenure, cascade and control of the affordable housing. Of gravest concern is that as part of this application, the applicants have not submitted sufficient evidence and a draft legal agreement to demonstrate that the 40 units proposed for affordable housing would be retained as affordable homes in perpetuity and that they would be affordable to those whom they are seeking to provide for in the local area.

253 The lack of safeguards on these issues, seriously undermines the weight that can be attached to the applicants claim for very special circumstances. Part of this claim is that the proposal would meet an identified need for a certain type of affordable housing. As the site selected in in the Green Belt is in Swanley, it is also helpful for the applicant's case if they can demonstrate that there is a particular local need that can be met and secured as part of any planning permission. In this case, we cannot be satisfied that any housing need would be met or that the properties would be available for those people in the local area who are in need, and nor is their security that the affordable homes would be available in perpetuity.

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- 254 Accordingly, limited weight can be attached to this justification for very special circumstances.
- 255 In my view, the starting point would be to clearly identify the actual need for the affordable bungalows, as opposed to the demand for them which appears to be undisputed. In this regard, the site is located on the urban fringe. It is not a local settlement away from the urban area and rural towns. Therefore, policy SP4 (which replaced H9 and relates to Affordable Housing in Rural Areas – The “exceptions” Scheme) *does not apply* to the application proposals. Thus there is no policy support in housing terms for the proposals (with the intention that development will be within the built confines of Swanley, as supported by the 5<sup>th</sup> principle of the purpose of the Green Belt, set out above). However, policy SP4 does set out a list of criteria which must be met for a housing scheme to be considered as an exception. This may provide a useful method for helping to assess the proposals.
- 256 A similar approach was taken by the Planning Inspector in dismissing an appeal for 20 affordable houses on the Green Belt site across the road at Wilburton Nursery (Leydenhatch Lane)(2003 appeal decision). In this decision the Inspector noted that whilst there was a Housing Register, this expressed the location choice of people who had registered rather than the relationship of the people to the area and was not a housing *needs* survey. As there was no housing needs survey, the direct correlation of the proposed number of units to the needs of people specifically within the area could not be made, as required by policy. The Inspector also considered the site played an important role in Green Belt terms, in preventing the spread of development towards Hextable.
- 257 The background to SP4 explains that the policy is intended to allow small scale affordable housing in the Green Belt only where there is evidence of local need, identified through a housing needs survey (in rural areas this is carried out through “Action with Communities in Rural Kent”). Sites released as an exception to policy should be made available exclusively for affordable housing to meet strictly defined local needs IN PERPETUITY.
- 258 For the purposes of policy local need is defined as (in summary):
- The need of those unable to gain access to existing local accommodation suited to their needs at an affordable cost and that fall within one or more of the following categories:
    - Those in Parish currently in accommodation unsuited to their circumstances for physical, medical or social reasons and which is incapable of being improved (with grant assistance)
    - Dependants of household who have been resident in the Parish either for a continuous period of 3 years or alternatively any 5 years out of the last 10.
    - Local connections (family resident in area for at least 10 years).

259 Policy SP4 states that:

Small scale developments for affordable housing only will be developed to meet local identified need through (rural) housing needs surveys. The following criteria will be applied in identifying sites:

- a. The local need identified through the rural housing needs survey cannot be met by any other means through the development of sites within the defined confines of a settlement within the parish or, where appropriate, in an adjacent parish;
- b. The proposal is of a size and type suitable to meet the identified local need and will be available at an appropriate affordable cost commensurate with the result of the appraisal. The proposal is accompanied by a financial appraisal proving the scheme will meet the defined need. Schemes which propose an element of cross subsidy will not be acceptable;
- c. The proposed site is considered suitable for such purposes by virtue of its scale and is sited within or adjoining an existing village, is close to available services and public transport, and there are no overriding countryside, conservation, environmental or highway impacts. The initial and subsequent occupancy of sites developed under this policy will be controlled through planning conditions and agreements as appropriate to ensure that the accommodation remains available in perpetuity to meet the purposes for which it was permitted.

260 In light of the above, in my view, though there is much anecdotal evidence, little of the applicant's submission identifies a specific need for Swanley, let alone this site. Furthermore, the proposals involve an element of cross subsidy and, in this instance, I consider there to be significant Green Belt policy and countryside objections (in the form of openness and visual impact etc.). It may be possible for the affordable units to be secured in perpetuity via a legal agreement but this has not been demonstrated to date.

261 I note that the applicants supporting documentation concludes that there are no preferable brownfield sites within the Green Belt that would be better located to accommodate the proposed development. It concludes that the site is therefore a suitable location to accommodate additional development in the Green Belt surrounding Swanley.

262 Criteria 1) of SP4 specifically requires an identified local need to justify such development. I would note that the draft S106 submitted incorporates a cascade mechanism, which would allow occupation by residents who are not local to Swanley if eligible local residents did not take on the tenancies available. This undermines the need for development on this particular site in such a sensitive location. The applicants were advised of this, but raised concerns about funding the scheme if this criteria were used in the legal agreement.

263 However, rather than an assessment of the sensitivity of the Green Belt location in terms of its *landscape* character area (Hextable Fringe), in my view a more appropriate assessment would be consideration of the land's contribution to the five purposes of Green Belt as set out in paragraph 80 of the NPPF. My assessment in this regard has been set out above (under Green Belt heading).

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- 264 Furthermore, much of the information referred to in justifying the proposals (eg. SHMA) has been taken into consideration during the formulation of the Core Strategy and the ADMP. The Core Strategy was adopted relatively recently and the methodology for determining the amount of housing has been accepted as robust. In addition, the Inspector considering the emerging ADMP did not seek to raise the issue of housing numbers or site allocations for further discussion (issues of debate were flagged for further discussion). In the circumstances, significant weight must be given to the Core Strategy policies relating to the location of development and to the provision made within it for affordable housing.
- 265 The proposals would generally comply with CS policy SP5, which expects new housing to contribute to a mix of different housing types in the area, including small units built to lifetime homes standards.
- 266 The policies particularly relevant to the proposals are L01 and L04 of the Core Strategy. In view of the application proposals for housing on this Green Belt site, it is worth examining these policies in some detail.
- 267 Policy L01 relates to the Distribution of Development generally within the District. It states that development will be focussed within the built confines of existing settlements. Swanley will be the secondary focus for development with the emphasis on maintaining and enhancing its role and promoting regeneration to meet the needs of the local community in accordance with policies L04 and L05 (which relates specifically to the town centre and thus is not directly relevant to this application)
- 268 Paragraph 4.3.5 of the supporting text to L04 states that:
- “Swanley is surrounded by Green Belt land...to the north and north east the Green Belt plays an important role in separating Swanley from the nearby communities of Hextable and Swanley Village...The Green Belt can play a significant role in assisting regeneration by focusing investment on existing urban land. For these reasons there are no proposals to release Green Belt land around Swanley.”
- 269 As a consequence of the above, housing provision is based on the findings of the Strategic Housing Land Availability Assessment. Furthermore, following scrutiny of the Sevenoaks Housing Land Availability methodology and process during the Core Strategy, in which the Inspector deemed the methodology to be appropriate, the Council updated its housing supply to a base date of 1<sup>st</sup> April 2013. Based on this assessment the Council can currently demonstrate a housing land supply of 3,697 dwellings for the plan period (2006-26), a surplus of approximately 400 units over and above the 3,300 units identified in the Core Strategy (para.3.8 ADMP).
- 270 Thus policy L04, which relates to Development in Swanley states that (in summary):
- “In Swanley provision will be made for approximately 660 dwellings (2006-2026) throughout the town on a range of sites suitable for residential use within the urban area. *(It should be noted that this provision includes completions to date, extant permissions and windfalls as well as the sites allocated.)*”



- 271 In allocating sites for development in the Allocations and Development Management DPD, the emphasis in this area will be on (amongst other things):
- Providing additional public open space where opportunities arise: and
  - Protecting the setting of the town and the physical and community identity of the adjoining settlements, and prevention of coalescence.”
- 272 It is evident that the above policies and the subsequent housing allocation in Swanley has been formulated to limit development to the built up areas and to prevent encroachment in to the Green Belt.
- 273 Following on from the above, the emerging ADMP sets out a number of specific sites for housing development within Swanley (policy H1 and mixed use including residential units policy H2). These include Bevan Place (46 units), Land West of Cherry Avenue (50 units) and United House (185 units).
- 274 This approach is consistent with the core planning principles of the NPPF set out at paragraph 17, which advocates a plan-led approach with a framework for decisions on planning applications to provide a high degree of predictability.
- 275 In light of the above, it is my view that the applicants should first have reviewed and considered more robustly sites that are *not* in the Green Belt, i.e. sites within the urban confines of settlements, as this is where development is directed (Core Strategy Policies LO1 and LO4 above).
- 276 Furthermore, the contribution of potential “windfall” sites within the urban confines should not be underestimated. An example being the recent appeal decision (Ref: SE/12/03421/OUT) to grant up to 61 houses at Broom Hill (including not less than 24 affordable units) to the extreme south-east of Swanley. This site was not allocated for housing, but was within the built confines.
- 277 In considering the Broom Hill decision, the Inspector noted that one of the reasons for the extremely limited targets for housing supply being found acceptable in the examination of the Core Strategy was the limited land availability in Swanley, caused to a great extent by the extensive surrounding Green Belt.
- 278 At paragraph 15 the Inspector commented:
- “A fundamental aim of the Framework (NPPF) is the presumption in favour of sustainable development, which must be considered. In this case, in formulating the CS housing supply a practical and logical approach was taken to the inability to provide the very substantial numbers of houses required in the area, relating to Green Belt and AONB land; that was reasonable. The Framework also notes at paragraph 10 that decisions need to take account of local circumstances, so that they respond to the different opportunities for achieving sustainable development in different areas.”
- 279 At paragraph 16, the Inspector notes that the site was NOT in the Green Belt, not required for employment use and was within the built confines of Swanley. In view of the housing need, presumption in favour of sustainable development and Green Belt restrictions elsewhere, the Inspector concluded housing on this particular site was acceptable (subject to other considerations also).

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- 280 In my view, this decision acknowledges the constraints of development in and around Swanley, particularly because of the Green Belt, and for that very reason gave weight to the need to maximise the potential of Broom Hill which was within the settlement boundary.
- 281 There are also 2 other recent appeal decisions which may be worth noting at this stage, both of which involve proposed housing development, including high numbers of affordable units, in the Green Belt. Both were initially recommended for approval by Inspectors who gave significant weight to the need for affordable housing, but were overturned by the Secretary of State for Communities and Local Government. The first related to a site in Thundersley, Essex (Jan 2014) and the second to a site in Saltford, to the south-east of Bristol (March 2014).
- 282 In very brief summary, in both cases the Inspector acknowledged that the sites were in the Green Belt and represented inappropriate development. Both proposals also adversely affected the openness of the Green Belt. However in both instances the Inspector's concluded this harm to be outweighed in view of the severe lack of forward housing supply, need for affordable housing and potential lack of other identified harm. The SoS however, disagreed with the decisions and attached greater weight to the importance of protecting the Green Belt. In the Thundersley case, the SoS emphasised that national policy is very clear that GB reviews should be undertaken as part of the Local Plan process. In light of all material considerations in this case the Secretary of State was concerned that a decision to allow this appeal for housing in the GB risks setting an undesirable precedent for similar developments which would seriously undermine national GB policy.
- 283 Read in conjunction with the Broom Hill decision, these decisions appear to place great weight on the protection of the Green Belt.
- 284 In light of the above, I am not convinced that the case in favour of the provision of affordable housing on this site is such that it clearly outweighs the harm to the Green Belt or justifies an exception to the CS policies relating to the focus of development within the built confines (L01 & L04). The provision of market housing on site is essentially inextricably linked to the affordable units. However, it seems to me that if there is no overriding need for the affordable units, there is little to support 25 market houses. As the Council's viability consultant stated, the land value of £2,100,000 is required by KCC to carry out other projects elsewhere in Kent and is not required to make the scheme on this site viable.
- 285 In addition, it would appear that the value of the site has been arrived at taking into account all 3 sites forming part of the Kent Kier Initiative, rather than this individual site itself. Thus the value of the site has essentially been artificially raised and the maximum amount of open market housing should be that which is not over and above the size of the original buildings on site. There is no justification for inappropriate development in the Green Belt to provide the finances needed to subsidise two other developments outside the Green Belt and outside the District.
- 286 Finally, there remains a question mark over the need for a Primary School in the locality.
- 287 Kent County Council also produced an Education Commissioning Plan 2013-18. The plan mentions that for September 2014 demand will start to exceed capacity

in the Swanley Hextable area and that KCC will commission an additional 30 reception places for September 2015. There is no information as to where this is to be provided. In addition, it is unclear whether these projections take into account new potential sites, such as that approved at Broom Hill. Furthermore, KCC have requested a £59,000 contribution towards primary school places. For the purposes of justifying the Community Infrastructure Levy charges, KCC appear previously to have identified a need for a new school. However, the original position appears to have changed.

288 Paragraph 72 of the NPPF states that “the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local Planning Authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen education choice.” LPAs should give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted

289 The applicant sought to clarify the position in their additional documentation and have stated that:

“KCC’s Education Commissioning Plan does predict some pressure on places for primary school places in the Swanley and Hextable locality over the medium term. Education colleagues would seek to expand existing primary schools in the locality as the key focus for expansion and there are schools in Hextable and Swanley area that have sites sufficient to accommodate any future expansion. Therefore the former Birchwood School site would not be needed to accommodate any future expansion plans. We would look for appropriate S.106 contributions from the proposed scheme in order to mitigate any additional load to school placements.”

### **Conclusion**

290 In my estimation, some 15% or so of Kent is designated as Green Belt. This is limited to the western portion of the County only. It includes part of Tonbridge Wells, Tonbridge and Malling, Gravesham and Dartford. Sevenoaks District is located wholly within the Green Belt. Excluding the town centres, some 93% of the District is designated Green Belt. It is clear from Government that Green Belt plays an important role in controlling the sprawl of built up areas and controlling development.

291 The application site is within the Green Belt and the implications of this have been considered in detail above. It is my conclusion that the proposals represent inappropriate development and thus are harmful in principle. In addition, I consider there to be significant harm to the openness of the Green Belt and to the purposes of the Green Belt, including the contribution of the site to the separation of Swanley to Hextable.

292 I also consider the landscape setting of the site to make an important contribution in the separation of Swanley and Hextable. Whilst I have no significant objection to the layout and design of the proposals generally, I consider the fully gabled roof design to result in the 25 houses being of significantly greater scale and mass than would otherwise be the case. Together with the “solid” means of enclosure proposed, these attributes would be harmful to the openness of the Green Belt

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and the character and appearance of the Green Belt. The siting of unit S3 in particular is considered to adversely affect the amenities of the occupiers of no.38 and 40 Russetts Way.

- 293 There are also a number of unresolved issues relating to the highway aspects of the proposals. These could potentially impact on the layout, although this is considered unlikely to result in a significant change to the layout.
- 294 There are clearly unresolved issues regarding the ecology of the site. On the basis of the proposals as submitted, there is insufficient evidence to show that ecological interests would not be harmed.
- 295 There also remain objections on the grounds of the loss of the open space presently provided by the school playing fields. It is recognised that new playing fields have been created on the adjacent land, however, the adjacent open space was already in existence, it is not a gain in the area of open space only a change in the potential quality. Thus I do not consider these concerns have been satisfactorily addressed.
- 296 Whilst there is no dispute with regard to the aging population of the District and the consequent pressure for new housing, especially to cater for the elderly, this is not unsurprising and has informed the Core Strategy and ADMP process and the policies relevant to these proposals. I also note the link with the 2 other sites in Kent, which form part of the Kier Kent Initiative. However, it is not considered that the viability of these other sites justifies the development of the application site. It is unfortunate that of the 3 sites it is only that within Sevenoaks which is located within the Green Belt and yet requires a substantial amount of both affordable and market housing to make it viable.
- 297 In light of the Council's strong policy position, the recent Broom Hill decision and the Green Belt appeal cases reported above, I consider significant weight should be given to the protection of the Green Belt.
- 298 In the circumstances, it is my conclusion that the case of very special circumstances advanced fails to clearly outweigh the harm identified to the Green Belt and the other harm identified, specifically the harm to the purposes of the Green Belt, harm to the openness of the Green Belt and to its character and appearance, harm in landscape terms, harm in terms of design and impact on residential amenity and harm to ecological interest and the loss of open space. I would therefore recommend refusal on these grounds.

Contact Officer(s):

Jim Sperryn Extension: 7179

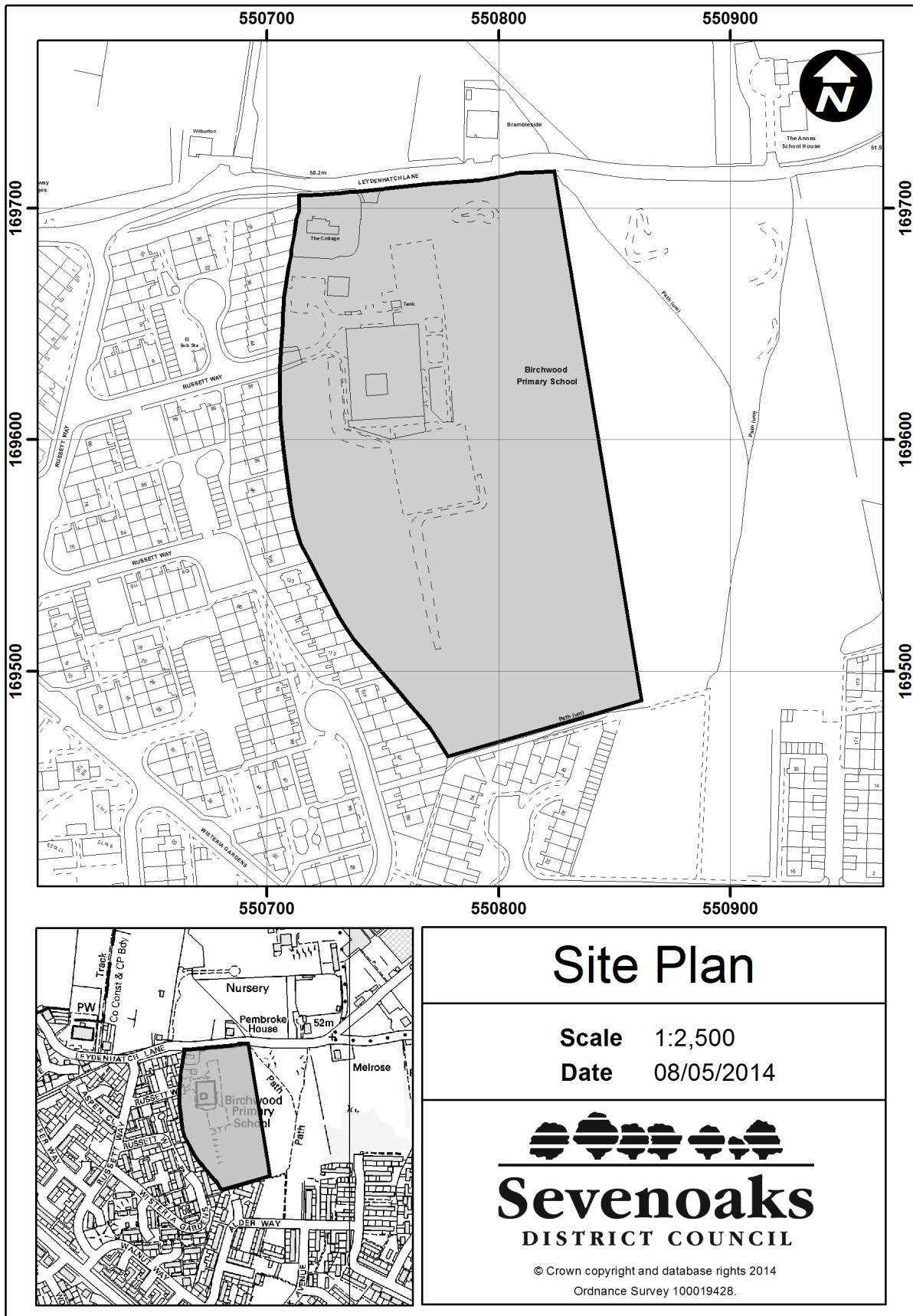
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MXW9YJBK0L000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MXW9YJBK0L000>





Block Plan



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4.2 – SE/13/03596/FUL Date expired 21 March 2014

PROPOSAL: Construction of a residential led mixed use scheme comprising 39 flats (5x one bed and 34 x two bed), 4x retail (A1/A2) units and car parking, service yard, landscaping and associated works.

LOCATION: Former Site Of The Farmers, London Road, Sevenoaks, Kent

WARD(S): Sevenoaks Town & St Johns

**ITEM FOR DECISION**

This application has been referred to Development Control Committee by Councillor Fleming on the grounds of overdevelopment, uninspiring design, and lack of affordable housing.

**RECOMMENDATION (A):** That planning permission be GRANTED subject to completion of a S106 agreement to secure affordable housing within a 2 month period following the date of this Committee and 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) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks District Local Plan and Policy SP1 of the Sevenoaks Core Strategy.

3) The development hereby permitted shall achieve a BREEAM "Very Good" rating, and shall include at least a 10% reduction in total carbon emissions through the on-site installation and implementation of decentralised, renewable or low-carbon energy sources. 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 "Very Good" rating and a 10% reduction in total carbon emissions 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 "Very Good" rating and a 10% reduction in total carbon emissions or alternative as agreed in writing by the Local Planning Authority.

In the interests of environmental sustainability and reducing the risk of climate change, as supported by Policy SP2 of the Sevenoaks Core Strategy

4) Before development commences, full details of hard landscaping works shall be submitted to and approved in writing by the local planning authority. The details shall include -

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- full details and surface finishes of all hard surfaces proposed within the development, including access roads and car parking areas
- full details of any retaining walls or structures required as part of the development
- full details of any boundary enclosures

The development shall be carried out in accordance with the approved details

To safeguard the visual appearance of the area as supported by Policy EN1 of the Sevenoaks District Local Plan and Policy SP1 of the Sevenoaks Core Strategy.

5) Notwithstanding the details submitted, no development shall commence until full details of soft landscaping works have been submitted to and approved in writing by the local planning authority. The details shall include

- soft planting plans, identifying existing planting, plants to be retained and new planting, and a schedule of new plants, (noting species, size of stock at time of planting and proposed number/densities). .
- a programme of implementation for the landscaping works.

The development shall be undertaken in accordance with the approved details. If within a period of 5 years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To safeguard the visual appearance of the area as supported by Policy EN1 of the Sevenoaks District Local Plan and Policy SP1 of the Sevenoaks Core Strategy.

6) The development shall be carried out in full accordance with the tree protection measures as set out in the Quaife Woodlands document dated 2nd December 2013. No development shall be carried out until the tree protection fencing has been fully installed and no works, storage or other activities shall take place within this fenced area unless agreed otherwise in writing by the Local Planning Authority. The tree protection measures shall remain in place for the duration of the development.

To retain existing trees and in the interests of visual amenity, in accordance with Policy EN1 of the Sevenoaks District Local Plan and SP1 of the Sevenoaks Core Strategy.

7) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

To protect groundwater and to comply with the requirements of the National planning Policy Framework (NPPF).

8) No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

To protect groundwater and to comply with the requirements of the National planning Policy Framework (NPPF).

9) Before development commences, details of ecological enhancements to be incorporated into the scheme shall be submitted to and approved in writing by the Local Planning Authority. Such enhancements shall be provided in full prior to first occupation of the development in accordance with the approved details.

In the interests of biodiversity, in accordance with Policy SP11 of the Sevenoaks Core Strategy

10) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention Through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.

Reason; In the interest of security and crime prevention and to accord with Policy EN1 of the emerging Sevenoaks District Council Allocations and Development Management Plan.

11) Before the occupation or use of any part of the development hereby permitted, the vehicle parking, turning and servicing areas shown on the approved plans shall be provided and kept available at all times for their specific purposes. All residential parking spaces shall be provided as communal spaces and shall not be allocated to specific units.

To ensure the retention of suitable parking and servicing facilities for the development, in accordance with Policy EN1 of the Sevenoaks District Local Plan and in accordance with the Kent County Council Interim Parking Guidance note 3.

12) No aerials or satellite dishes, air conditioning plant, equipment or ducting shall be erected, placed or fixed externally on or to any part of the roof or external faces of the building hereby approved.

To ensure a satisfactory appearance to the development, in accordance with Policy EN1 of the Sevenoaks District Local Plan and SP1 of the Sevenoaks Core Strategy.

13) No deliveries shall be taken at or despatched from the non-residential units outside the hours of 08:00 to 20:00 on Mondays to Saturdays (inclusive), nor at any time on Sundays or Public Holidays.

To protect residential amenity, in accordance with Policy EN1 of the Sevenoaks District Local Plan.

14) The retail units shown on the approved plans shall be used for Use Class A1 or A2 purposes only and for no other purpose of the Town and Country Planning (Use Classes) Order (as amended).

In order than any other proposal for the use of the ground floor units is the subject of a separate application to be determined on its merits, having regard to the interests of highway safety and residential amenity as supported by EN1 of the Sevenoaks District

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Local Plan.

15) The development hereby permitted shall not be used or occupied until works to integrate access to the retail units with the public highway have been completed in accordance with details to be submitted to and approved in writing by the Council.

In the interests of road safety as supported by EN1 of the Sevenoaks District Local Plan.

### **Informatives**

- 1) Please note that there should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater.
- 2) Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system.
- 3) Please be aware that the use of shallow soakaways in the Hythe Beds are not recommended as they can promote instability of the geology via washout of the sandier horizons, leading to the opening and enlargement of fissures within the Hythe Beds, and subsequent collapse.
- 4) Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.
- 5) The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

### **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) Was provided with pre-application advice.
- 2) Was updated on the progress of the planning application.
- 3) The applicant was provided the opportunity to submit amendments to the scheme/address issues.
- 4) The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

**RECOMMENDATION (B):** That in the event the S106 Agreement is not completed within the period referred to above, that permission be REFUSED on the grounds that the development would fail to make adequate provision towards affordable housing in the District, contrary to Policy SP3 of the Sevenoaks Core Strategy.

#### Description of Proposal

- 1 This application seeks permission for a mixed use development on the site, consisting of 39 flats (5 x 1 bed and 34 x 2 bed) and 4 x A1/A2 units, with associated parking, servicing and landscaping.
- 2 The development would be split into two buildings on site. The larger building would front London Road and would be six storeys in height at the corner of London Road and Hitchen Hatch Lane, with the 6<sup>th</sup> floor isolated to one recessed unit set back from the main building line. The building would then drop to five storeys in height along the majority of the London Road frontage, before stepping down to two storeys on the east facing boundary. The proposed retail (A1/A2) units would be sited on the ground floor of this building, fronting London Road.
- 3 The smaller building would face towards Hitchen Hatch Lane. It would also be 6 storeys in height, with a recessed top floor. However given changes in ground levels, the lower floor would largely sit below the pavement level of Hitchen Hatch Lane. The effect of this is that this building would appear one storey lower in height than the larger building fronting London Road.

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- 4 Access to the site would be from the rear and via the adjacent public car park. This would provide access both to a lower ground / basement parking area containing 33 car parking spaces, and to a ground floor parking / servicing area containing a further 4 car parking spaces and an area for retail deliveries / parking.
- 5 The general height of the main building fronting London Road would be between 16-17 metres, although the recessed top floor would raise this height to 19 metres. The height of this building would drop to 6 metres on the eastern boundary. The building would occupy all of the London Road frontage, at around 45 metres in length.
- 6 The main face of the smaller building fronting Hitchen Hatch Lane would be 17.5m in height, increasing to 20 metres when the recessed top floor is included. However due to the drop in levels between the site and the pavement on Hitchen Hatch Lane, the heights of the building from road level would be perceived as 15.5m (to top of main face) and 18.2m (to recessed top floor) respectively. In addition, due to the further drop in levels from London Road to Hitchen Hatch Lane, the roofline of this building would effectively appear one storey lower (2.4m) than the main building proposed on London Road.

### Description of Site

- 7 The application site was formerly occupied by the Farmers Public House. This building was demolished some years ago following permission to redevelop the site. The site was cleared and foundation piling work took place. However building work subsequently ceased and the site has been left in an undeveloped state since, surrounded by temporary hoardings.
- 8 As members will note doubt be well aware, the site is in a prominent location on a main approach road into Sevenoaks and opposite the railway station. It is also located opposite the retail / residential development that has been completed at the former Railway and Bicycle Public House site. The large modern BT office complex is sited on the opposite side of Hitchen Hatch Lane, the public car park to the north of the site, and a row of single storey retail / commercial units are sited to the east of the site. Further to the north east of the site are terraced dwellings at St Botolphs Avenue and a mews development to the north of the public car park off Hitchen Hatch Lane.

### Constraints

- 9 Area of Archaeological potential

### Policies

#### *Sevenoaks District Local Plan*

- 10 Policies– EN1, EN25A, VP1, ST9,

#### *Sevenoaks Core Strategy*

- 11 Policies – L01, L02, SP1, SP2, SP3, SP5, SP7

### *Other*

- 12 The emerging Sevenoaks District Allocations and Development Management Plan (ADMP) – SC1, EN1, EN2, EN6

### Note

- 13 In respect of the ADMP, the National Planning Policy Framework states that the weight to be given to emerging policies should depend on the following factors –
- The stage of preparation of the plan (the later the stage the more weight to be given to policies)
  - the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)
- 14 The ADMP has been through examination and is in its final stages of preparation and therefore, in relation to the first bullet, its policies should be given due weight. The policies are all considered to be in compliance with the NPPF and therefore, should also be given weight in accordance with the third bullet above. With regard to the second bullet point, some policies will be subject to modifications following the examination and currently have limited weight, others are subject to objections with no main modifications proposed and can be given moderate weight, and other policies have attracted no objections or main modifications and these can be afforded significant weight. Members should note that all the above policies are subject to objections with no main modifications proposed and should be afforded moderate weight.

### Planning History

- 15 SE/01/01620 - Demolition of existing buildings and erection of 3 storey building for class B1(a) Offices with self-contained class A1 or A2 unit at ground floor with 75 car parking spaces at lower ground and basement level - Refused
- 16 SE/04/00526 - Demolition of existing buildings and construction of a mixed use development including 18 flats, 5 maisonettes, 3 no retail (A1/A2) units, car parking, servicing and associated works – Refused. Allowed on appeal
- 17 SE/10/03271 - Application to establish that the development permitted under Appeal ref: APP/G2245/A/04/1158099 of SE/04/00526/FUL has been lawfully commenced - Granted

### Consultations

#### *Sevenoaks Town Council*

- 18 Sevenoaks Town Council unanimously recommended refusal on the following grounds:

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1. The design of the proposed building is inappropriate and is not of sufficient quality for a prominent gateway to the Town. The Town Council noted that while the NPPF does state that specific architectural styles or particular tastes should not be imposed on applications (as raised by the applicant in the supporting planning statement as justification for dismissing certain pre application advice) it does place emphasis on the need to secure high quality design.
2. The application seeks a 70% increase in dwellings on the site compared to the extant application 05/00526 which would constitute overdevelopment of the site
3. The excessive bulk and size of the proposal is inappropriate and would have a detrimental effect on the streetscape.

### *Kent Highways*

- 19 The proposals clearly raise concern about congestion, lack of parking and access for deliveries to the proposed shops.
- 20 The tracked path drawing for delivery lorries shows an HGV using the access through the car park as a two-way route. However the aerial photo in the application (and also Google Street View) show the route through the car park as one-way, in which case the delivery lorry would need to make a complete circuit of the car park. Can a tracked path drawing please be provided to show that this would be possible? Or are the managers of the car park to change the signs and road markings?
- 21 It appears to be relatively straightforward to provide at least two additional parking spaces to bring the provision up to one space per dwelling. I would strongly recommend that plans are changed to achieve this.

Could you please forward me the applicants' response to the above and any amended drawings for further consideration?

### *Further comments –*

- 22 As mentioned previously, the proposals raise concern about congestion, lack of parking and access for deliveries to the proposed shops.
- 24 Nevertheless parking guidelines (IGN3 and SPG4) do not provide any realistic basis for refusing planning permission in this edge-of-town-centre location. Neither does the National Planning Policy Framework appear to provide opportunity for any objection on highways grounds.

I therefore do not intend to raise any objection to the proposals. A standard condition for wheel washing during construction would be appropriate.

### *Tree Officer*

- 25 I would have expected a more itemised and detailed landscape list of plants other than the Landscape Proposal provided. It is very important to ensure that suitable landscaping is assigned to this site and that it works for the long term and not just for the immediate period of the build.



- 26 I followed the provided detail to a certain extent but lost my way as the full and required facts have not been supplied. I question the need to plant Hedera helix within beds as this will just cover and climb every other plant that is to be planted within the beds. I need to know where in the beds the proposed tree planting is to be located and that they have enough room to grow and not cause harm to the surrounding built form by root action.
- 27 I generally have no objection to this proposal but the details of the soft landscaping needs to be provided and agreed. It may be that this could be conditioned.

### *SDC Planning Policy -*

- 28 The previous proposal (04/00526/FUL permitted on appeal) for a smaller number of residential units than this proposal (18 flats and 5 maisonettes) did not include any provision for affordable units. Whilst this permission began to be implemented, development was ceased due to the prevailing economic conditions at the time. Since this time, the Core Strategy (2011) has been adopted, requiring a provision of affordable units.
- 29 Policy SP3 of the Core Strategy sets out the Council's stance on the provision of affordable housing. For residential development proposals providing 15 dwellings or more gross 40% of the total number of units should be affordable. The applicant has stated that no affordable housing will be provided as part of this proposal as it will render the scheme unviable, despite an increase in the total number of residential units to be provided from the previous permission, contravening Policy SP3.
- 30 The Policy (SP3) further states that in exceptional circumstances where it is demonstrated to the Council's satisfaction through an independent assessment of viability that on-site provision in accordance with the policy would not be viable, a reduced level of provision may be accepted or, failing that, a financial contribution towards provision off-site will be required. In order to comply with this policy, assessments to test the viability of a reduced level of provision should be demonstrated to satisfy the Council that all options have been explored, before agreeing an off-site contribution.
- 31 It is also important to highlight at this stage that this site is adjacent to, and shares highway access with, a proposed residential allocation (Policy H1(a)) within the emerging Allocations and Development Management Plan (ADMP). This submitted Plan is due to commence independent examination in March 2014. The District Council would welcome comprehensive redevelopment encompassing both sites, as outlined in the development guidance for emerging Policy H1(a), and would encourage the applicant to liaise with the Council's Property Team, acting on behalf of the (District) Council as landowners of the adjacent site (Policy H1(a)).
- 32 In any case, Policy EN1 of the Saved Local Plan (2008), and Policy EN2 of the emerging ADMP need to be considered. These require proposals to adequately safeguard the amenities of neighbouring existing and future occupants, therefore not to prejudice the potential for future residential development to be delivered on the adjacent proposed allocation site.

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### Thames Water

#### *Waste Comments*

- 33 Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason: to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
- 34 Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.
- 35 Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

#### *South East Water –*

- 36 No comments received

#### *Network Rail*

- 37 After careful consideration of the above planning application Network Rail has no further observations to make.

#### *Environment Agency*

- 38 We consider that planning permission could be granted for the proposed development as submitted if the following planning conditions are included as set out below. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.
- 39 Condition: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: To protect groundwater and to comply with the requirements of the National planning Policy Framework (NPPF).

- 40 This site lies on the Hythe Beds formation which is classified as a major aquifer and within a Source Protection Zone II. Therefore potable supplies could be at risk from activities at this site, and all precautions should be taken to prevent discharges and spillages top ground, both during and after construction.

### Drainage

- 41 The application form indicates that foul will go to mains. If this changes then we should be consulted.
- 42 Condition: No infiltration of surface water drainage into the ground at the site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reasons: To protect groundwater and to comply with the requirements of the National planning Policy Framework (NPPF).

### *Informatives*

- 43
1. Please note that there should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater.
  2. Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system.
  3. Please be aware that the use of shallow soakaways in the Hythe Beds are not recommended as they can promote instability of the geology via washout of the sandier horizons, leading to the opening and enlargement of fissures within the Hythe Beds, and subsequent collapse.

### *Fuel, Oil and Chemical Storage*

- 44
- 4 Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment.
  - 5 The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

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### *KCC Archaeology*

- 45 Thank you for consulting me on the above application but I have no comments on these proposals.

### *KCC Ecology –*

- 46 We have reviewed the ecological information (ecological scoping survey and reptile survey) which has been submitted in conjunction with the desk top data we have available to us (including aerial photos and biological records). We are satisfied with the ecological information which has been provided which has assessed that there is limited potential for protected/notable species to be present within the site. We do not require any additional information to be provided prior to determination of the planning application.

#### Reptile

- 47 Suitable habitat for reptiles was recorded within the site but no reptiles were recorded during the survey. We recommend that if planning permission is granted the vegetation on the site is cleared to ensure that no reptiles colonise the site prior to works starting.

#### Bats

- 48 The survey has highlighted that there is potential for foraging and commuting bats to be present. Lighting can be detrimental to roosting, foraging and commuting bats and as such we advise that the Bat Conservation Trust's *Bats and Lighting in the UK* guidance is adhered to in the lighting design (see end of this note for a summary of key requirements).

#### Breeding Birds

- 49 There is vegetation within the site which may be used by breeding birds. All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1980 (as amended) and we advise that the vegetation is removed outside of the breeding bird season (March – August inclusive). If that is not possible an ecologist must survey the site prior to works starting and if any nesting birds are recorded all works within that area must cease until all the young have fledged.

#### Enhancements

- 50 One of the principles of the National Planning Policy Framework is that *“opportunities to incorporate biodiversity in and around developments should be encouraged”*.
- 51 Details of ecological enhancements which are appropriate and can be incorporated must be submitted for comments.

### *Natural England*

- 52 Natural England's comments in relation to this application are provided in the following sections.

Statutory nature conservation sites – no objection

- 53 Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

### *Protected landscapes*

- 54 Having reviewed the application Natural England does not wish to comment on this development proposal.

- 55 The development however, relates to the Kent Downs AONB. We therefore advise you to seek the advice of the AONB unit. Their knowledge of the location and wider landscape setting of the development should help to confirm whether or not it would impact significantly on the purposes of the designation. They will also be able to advise whether the development accords with the aims and policies set out in the AONB management plan.

### *Protected species*

- 56 We have not assessed this application and associated documents for impacts on protected species.

- 57 Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

- 58 You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

- 59 The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

- 60 If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk) .

### *Local wildlife sites*

- 61 If the proposal site is on or adjacent to a local wildlife site, eg Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local wildlife site, and the importance of this in relation to development plan policies, before it determines the application.

### *Biodiversity enhancements*

- 62 This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper*

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*exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.*

### *Landscape enhancements*

- 63 This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

### *Kent Police –*

- 64 As the planning application stands I would like to object I refer to the above planning application and on the principle of the proposal in regard to crime prevention and Crime Prevention through Environmental Design (CPTED) matters, in accordance with the ODPM (CLG) / Home Office guide – Safer Places, The Planning System and Crime Prevention

- 65 However I would like the following comments and recommendations to be taken into consideration if planning approval is given for this application and no further contact has been made to us by the applicant/ agent

- 66 We would suggest that a condition worded something similar to the below is used:

*The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place until details of such measures, according to the principles and physical security requirements of Crime Prevention through Environmental Design (CPTED) have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before the development is occupied and thereafter retained.*

*Reason: In the interest of security and crime prevention and to accord with Policies of Maidstone Borough Council Draft Core Strategy Plan.*

*And Also*

*In the interests of crime prevention and reduction in accordance with Policy CC6 of the South East Plan 2009.*

*Maidstone CS6 Draft Core Strategy 2012*

*5.3.22 Policy CS6 steers development proposals to take account of sustainable design and development. This includes achieving a BREEAM 'Very Good' rating from April 2013 for non residential development proposals*

- 67 We would also be grateful if you could draw the applicant attention to the Kent Design Initiative (KDI), Design Out Crime Prevention document dated April 2013 which will also assist them when Designing out of Crime. We would welcome a meeting to discuss crime prevention in more detail any notes from a meeting would then be passed back to you for information.

- 68 If the applicant fails to contact us then this may have an effect on the Secure By Design (SBD) and Code for Sustainable Homes (CfSH) and BREAM application stage

### Representations

69 16 letters received, including letters from the Sevenoaks Conservation Council and the Sevenoaks Society –

- Unoriginal design
- Excessive scale
- Will dwarf neighbouring shops
- Lack of car parking spaces
- Lack of opportunities for biodiversity
- Most people want a pub on the site again
- Inappropriate access arrangements through car park
- “Croydonisation” of station area is not in keeping with Sevenoaks
- Traffic generation
- Overdevelopment of site
- The height should be no greater than the Railway and Bicycle site
- The developer should provide context drawings to show the development in relation to surrounding buildings
- Design is uninspiring and lacks articulation
- Sceptical of need for further retail units
- 40% of units should be affordable
- Concern over extent of pre-application discussions that have taken place
- Loss of light / overshadowing
- Creation of a visual corridor on London Road
- Loss of trees
- Does Sevenoaks need extra dwellings? / There are many flats for sale in the area.
- Additional high rise development is not in keeping with Sevenoaks
- The façade of the building should be set back from London Road
- This is a gateway to Sevenoaks
- Out of character with cottage / mews style developments in Hitchen Hatch Lane
- Concern over water supply
- Inadequate responses from consultees
- Supportive of some development on site but consider that size, scale, lack of parking and use of materials is inappropriate.
- The Railway and Bicycle is not a good precedent to use and flats / commercial premises within this unit remain unsold
- It would set a precedent for the public car park site
- The developer has not demonstrated that the approved scheme is unviable
- A Design Brief for the site should be produced
- Lack of information to justify no affordable housing

### **Chief Planning Officer’s Appraisal**

#### Background

70 Members will note from the planning history section that permission was granted, on appeal, for redevelopment of the site under SE/04/00526. The permission granted was for the demolition of the Farmers Public House and construction of a mixed use retail (A1 and A2 uses) / flatted development scheme. The approved

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scheme was similar in footprint/layout to the application now being presented to members, consisting of a main building with retail units and flats above fronting onto London Road, and a smaller building consisting of flats fronting onto Hitchen Hatch Lane. However the approved scheme proposed 23 flats in total and as a result the number of storeys within the development were lower than are now proposed. The main building as approved comprised 5 storeys, dropping to three storeys along a large proportion of London Road. The smaller building was also designed over 5 storeys, with the lower floor sunk into the site and generally below the pavement level of Hitchen Hatch Lane. The general design finish to the approved scheme was very similar to the design approach adopted in the current application.

- 71 Members should note that construction of the development did commence on site within the time frame of the permission granted on appeal. As this permission was lawfully implemented, it can be re-commenced in the future without the need for a further planning permission. Therefore development of the site under the terms of SE/04/00526 provides a fallback position for the developer, and should carry weight in the consideration of the current application.

### Principle of the development

- 72 The core principle of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development. In determining planning applications, the NPPF states that this should mean –
- Approving developments that accord with the development plan without delay
  - Where the development plan is absent, silent, or where policies are out of date, granting permission unless:
    - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the NPPF
    - Where specific policies in the NPPF indicate that development should be restricted.
- 73 The NPPF further states that the supply of housing should be boosted significantly, to meet assessed needs for market and affordable housing in an area, that housing applications should be considered in the context of the presumption in favour of sustainable development and that LPA's should identify the size, type, tenure and range of housing required in particular locations. It states that encouragement should be given to the effective use of previously developed land.
- 74 Policy LO1 of the core strategy seeks to direct development to built confines, with Sevenoaks as the principle focus for such development. Policy LO2 relates specifically to Sevenoaks and states that in bringing forward sites for development, particular emphasis will be given to suitable sites for housing on locations within the town centre or within easy walking distance of the centre or main line railway stations. Policy SP5 of the Core Strategy states that new development should contribute to a mix of different housing types in residential areas, and seeks the inclusion of small units (less than 3 bedrooms) to increase



the proportion of smaller units in the District housing stock. These are up-to date policies that do not conflict with the NPPF.

- 75 Policy ST9 of the Local Plan relates specifically to the development of the Farmers site, and states that a mixed use development consisting of Class A1/A2 retail on the ground floor and residential or office use above will be permitted. It further states that access must be secured from Hitchen Hatch Lane and car parking requirements met in full. Whilst the local plan was adopted in 2000, this policy remains consistent with the Core Planning Principles within the NPPF, and is not out of date therefore it can still be afforded weight.
- 76 The site is located in a sustainable urban location, directly opposite the train station, and on a main bus route into and out of Sevenoaks, and a short distance from the town centre. The site is brownfield and previously developed land, and already benefits from planning permission for a mixed use retail and residential development. The proposed layout and floor area for the retail units (635 sqm) would be very similar to that previously approved (622 sqm), and the retail element would provide a natural extension to the Tubbs Hill and Station Parade neighbourhood centre as a local shopping facility (as defined in the local plan and ADMP). It would provide small units of residential accommodation for which there is an identified need under policy SP5 of the Core Strategy. On this basis, I am satisfied that the principle of a mixed retail and residential development on the site would accord with the guidance within the NPPF and local plan policies, and that such principle has in any case been accepted through the previous grant of permission.
- 77 The success of such a scheme is however very much dependant on how it would integrate into the local environment and this is considered in the sections below.

### *Design / layout of the development and impact upon the character and appearance of the area*

- 78 The NPPF states that development should function well and add to the overall quality of the area, create a strong sense of place, optimise the potential of sites to accommodate development, respond to local character and history, and be visually attractive as a result of good architecture.
- 79 Policy LO2 of the Core strategy states that in bringing forward development in Sevenoaks, such development should protect the setting of the urban area and the distinctive character of the local environment. Policy SP1 states that all development should be designed to a high quality and respect distinctive local character. Policy SP7 states that all housing should be developed at a density consistent with achieving good design that would not compromise distinctive character, and that subject to this overriding consideration development in Sevenoaks should achieve a density of 40 dwellings per hectare, and in suitable locations close to the town centre higher densities will be encouraged.
- 80 The development site is located in a mixed character area and is immediately surrounded by a variety of developments, including the railway station, large office building, public car park, single storey retail / commercial units and a 5 storey mixed retail / residential development. Members should note that as this area is mixed in character, it is not included within the Sevenoaks Residential Character Area Appraisal. Slightly further away to the east of the site is the Tubbs Hill building, consisting of 9 and 10 storeys, and the more recently developed Oak

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House building, containing up to 6 storeys, sited opposite more traditional two and three storey buildings. As is evident from this, part of the established local character of the area consists of high density and high rise developments.

- 81 The density of the proposed development would equate to 166 dwellings per hectare. Members will note that flatted developments containing small units of accommodation naturally result in high densities. As a comparison, the development at the former Railway and Bicycle site opposite (24 units) equates to 122 dwellings per hectare, whilst the development at Oak House (20 units) equates to 120 dwellings per hectare. As such it can be seen that the local area supports high density developments. Whilst the proposed development would be higher than these existing surrounding densities, I do not consider that this, as a figure in itself, could be said to be out of keeping or harmful to the character of the area. Instead it is indicative that large flatted developments generate particularly high density figures.
- 82 The footprint and site coverage proposed by the development would be very similar to the layout / footprint approved under the appeal scheme. Given these similarities to an approved scheme that can be built out, and the policy support to make best use of urban brownfield land, I do not consider that any objection to this layout and coverage and the uses proposed could be justified. The two buildings proposed respond to the road frontages and in the case of London Road, the development would continue the existing building line of adjacent premises against the pavement edge.
- 83 In my opinion, the main issue for consideration by Members is the increase in the scale, mass, height, as well as the aesthetic design of the development in comparison to the approved scheme, and whether this would respect and relate well to the surrounding area.
- 84 Taking the main building fronting London Road first, the approved scheme was for a 3 storey building, rising to 5 storeys on its western side. The proposed development would be for a predominantly 5 storey building, with a sixth floor on its western side. This increase on the western side of the building would add a further 2.5 metres to its height compared to the approved scheme, although members should note that the 6<sup>th</sup> floor would be recessed back from the face of the building, which would reduce the perception of the scale of the building. The increase in the height of the remainder of the building from three to five storeys would increase this part of the building by a further 6 metres in height, although it should be noted that the proposal would step down in height on the eastern boundary.
- 85 The height of this building would generally be between 16 and 19 metres. As a comparison, I would advise Members that the building opposite on the former Railway and Bicycle site stands at up to 15.5 metres in height, the BT office building is approximately 17 metres in height, and the Oak House development is up to 19 metres in height. Taken together with the Tubbs Hill development, I am of the opinion that one of the distinctive local characteristics of the area is of large scale buildings that feature prominently in the townscape.
- 86 The proposed development would add to this local characteristic. Whilst it would be taller than the development opposite the site by one storey, there is no set building height that characterises the area. In addition, the top floor proposed is recessed from the main front face of the building, thus reducing its visual impact.

The scale of the building is further broken down through recessing the easternmost units on the third, fourth and fifth storeys from the main face of the building, which breaks up this face and provides a visual contrast through the use of different materials. The stepped building line on the east side of the building helps reduce its scale as it meets the single storey retail units adjacent to it.

- 87 The scale of the building would clearly be markedly different to the single storey parade of shops adjacent to the site. However this parade is, in itself, out of character with the general scale of development in the area and this point was made by the inspector in determining the approved scheme. As such I do not consider that the single storey parade should be given any significant weight as a townscape feature. In any case, I consider the stepped design of the development would pay sufficient respect to this parade.
- 88 In my opinion, this site is capable of accommodating the scale of development proposed without harm to the distinctive character of the area, where large and high density developments form part of such character.
- 89 The smaller building fronting Hitchen Hatch Lane would effectively appear one storey lower than the main building and in my opinion this properly reflects its status as a smaller and subservient building to the main building. It would be sited opposite the BT building which is clearly much larger in scale. Whilst Hitchen Hatch Lane is of more modest scale than London Road, there is a significant gap to the nearest residential properties across the adjacent public car park. As such the building would be separated from these dwellings by some 40-50 metres. In my opinion, given its subservient scale to the main building proposed fronting London Road and to the BT building opposite, together with the significant distance to neighbouring dwellings, I consider this to be acceptable.
- 90 The applicant has provided street elevations to demonstrate the scale of the proposed building in relation to surrounding buildings. In my opinion, these drawings further confirm my assessment above that the scale of the building as proposed would relate acceptably with the other large scale buildings in the immediate vicinity.
- 91 The design principle of the building is contemporary, and this would again be in keeping with the recent larger scale developments in the area. The use of a rendered corner feature and contrasting timber cladding is very similar to the design finish of the approved scheme. The current proposal also includes the use of contrasting timber cladding to units on the eastern side of the London Road frontage, and these units would be physically recessed from the main building frontage, as well as stepping down at the eastern boundary of the site. The effect of this can best be seen on the Computer Generated Images that have been submitted by the applicant. The use of a contemporary design approach was considered to be appropriate by the appeal inspector who allowed the approved scheme, and I agree with this, more so given the recent development at the Railway and Bicycle site opposite. I consider the design to be of good quality and interest, maximising the best use of this site.
- 92 Overall, I consider that the scale, layout and design of the proposal would relate well to its surroundings and in particular to the more recent larger scale buildings erected in the locality. I consider the design to be of good quality which would enhance the local townscape. In this respect I consider the development would accord with development plan policies and the NPPF.

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### *Impact on amenities of surrounding properties*

- 93 The closest residential properties to the development are the flats at the former Railway and Bicycle site on the opposite side of London Road. A minimum distance in the region of 21 metres would be maintained between the buildings. In addition, the buildings do not sit directly opposite one another – the existing units at the Railway and Bicycle site would face towards the lower part of the proposed building. The development would maintain a light angle of 25 degrees to windows serving residential units within the Railway and Bicycle site, and this would be in accordance with guidance from the Building Research Establishment. Likewise I consider the distance between buildings to be sufficient to maintain privacy and outlook.
- 94 The single storey buildings on London Road to the east of the site are in commercial use with a main outlook onto London Road. I do not consider the development would cause harm to the amenity or conditions of these commercial properties.
- 95 The residential dwellings in St Botolphs Avenue would be sited around 45 metres from the proposed flats and at this distance I consider that the impact upon light, privacy and outlook would not be harmful. A similar, if not greater separation distance would be maintained to the mews buildings on Hitchen Hatch Lane and for the same reason I consider this acceptable.
- 96 Policy EN1(3) of the local plan seeks to ensure that development does not harm the amenities of a locality. Likewise, ADMP Policy EN2 seeks to safeguard the amenities of existing and future occupants of nearby properties. In my opinion the development would safeguard such amenities.

### *Highways and parking*

- 97 Policy EN1 of the local plan states that developments should not create unacceptable traffic conditions on local roads and where possible should be located to reduce the need to travel. Policy T2 of the ADMP states that vehicle parking provision for non-residential developments should be made in accordance with advice from KCC, or until such time that standards are adopted. Paragraph 32 of the NPPF states that development should only be refused on transport grounds where residual cumulative impacts are severe.
- 98 Vehicular access to the site would be provided via the adjacent public car park and this is part of a historic right of access that existed when the site was occupied by a public house. The access arrangements are also the same as approved on appeal under SE/04/00526. The entrance to the site from the public car park provides access to two levels of car parking – the lower ground car parking would contain 33 parking spaces for use by residents of the development. The upper ground floor level would provide access and circulation space to a delivery yard serving the retail units, and four further parking spaces for use in connection with the retail units.
- 99 The layout of the access and the use of two levels of parking are the same as previously approved. The main difference with this scheme is that the amount and ratio of car parking spaces is lower – the scheme would provide 33 spaces for 39 residential units and a ratio of less than 1 space per unit, and there would be no

visitor parking for the retail units, whereas 10 spaces were provided under the approved scheme.

- 100 Taking these matters in turn, the Kent Interim Guidance note 3 sets out parking standards. This states that a maximum of 1 parking space per unit should be provided for 1 and 2 bed flats in an edge of centre location such as this site. The applicant considers the provision of 33 spaces to be acceptable in this location as it is close to the town centre, on a main bus route and opposite the train station. The car parking provided for the residential flats would accord with the Interim Guidance Note provided such parking was unallocated, and this is acceptable to Kent Highways.
- 101 The Council does not have any parking standards relating to parking for retail units. The application states that these units would be likely to be occupied by small traders and a small supermarket and these would attract the majority of their trade from users of the train station and passers by. In addition, surrounding roads are heavily restricted under parking controls, which would prevent street parking. I have also noted that the retail units permitted as part of the Railway and Bicycle development similarly have no visitor parking. The lack of such parking has not generated objection from Kent Highways, and I consider that the sustainable location of the site and nature of the units proposed is such that the lack of customer parking would not cause highways safety issues.
- 102 The applicant has provided a transport assessment which sets out likely trip rates associated with the development. The assessment predicts that the 39 residential units would generate a total of 96 trips over a 12 hour period. Given the lack of customer car parking, the transport assessment predicts that new trips in connection with the retail use would be restricted to 8 movements for staff. It states that the majority of trips to the retail units would be by foot, or would be linked trips (e.g people already on highway network who would stop to visit the retail units) and are therefore not new trips. Kent Highways do not raise objection that the predicted traffic generation would cause any harmful impacts on local roads.
- 103 Taking the above into account, I consider that the highways impacts relating to the proposal would not be in conflict with adopted and emerging development plan policies, or the NPPF.

### *Affordable housing*

- 104 Policy SP3 of the Core Strategy requires new housing developments to make provision for affordable housing. The proposal for 39 residential units would normally generate a requirement for 40% of these units to be affordable. The policy does state that, in exceptional circumstances, a reduced level of provision will be accepted where viability issues arise and are accepted.
- 105 The existing permission provides no affordable housing, on the basis that the 23 residential units permitted fell below the local plan policy threshold on affordable housing in force at the time the decision was made.
- 106 This application was submitted with a viability appraisal which initially set out that it would not be viable to provide any affordable housing on the site. Following input from the Council's viability consultant, it has now been established that a surplus of £351,000 would exist to contribute towards affordable housing

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requirements. The Council's viability consultant advises that this could support two units of rented affordable housing on the site (1 x 1 bed and 1 x 2 bed unit), together with a small surplus of £3,000 which could be secured as a financial contribution. The applicant is currently in discussions with local Housing Associations to agree such arrangements. Whilst the clear preference is to provide these units on site, if such agreement cannot be made then the Council would consider securing the full amount as an off-site contribution. Either way, this would be secured via a S106 agreement.

- 107 On the basis that the Council's viability consultant has confirmed that full affordable housing provision is not possible on this site and that the policy does allow reduced provision where viability is demonstrated, I am of the opinion that the development would be in accordance with Policy SP3 of the Core Strategy provided this is secured via a S106 agreement.

### *Trees*

- 108 The main landscaping within / adjacent to the site is along the north and east boundary. Some existing trees would be removed to facilitate the development, although these are categorised as Class C trees, whereas the more important category B trees are retained. The tree officer has raised no objection to the proposal subject to the imposition of a landscaping condition.

### Other matters

- 109 Members will note that the adjacent public car is allocated within the ADMP as a housing site. The ADMP states that development on this site must achieve a good relationship with any development on the application site, and that there may be opportunities to develop a revised scheme that encompasses both sites.
- 110 The applicant has shown a willingness to consider the potential for a joint development on both sites. However the applicant has also made clear that this application should be determined on its own merits and that the layout and impacts upon the car park site are very similar to the approved scheme. I would agree with this.
- 111 Ecology – the KCC Ecologist is satisfied that the site has limited ecological value and that no harm would arise to biodiversity. Ecological enhancements are sought via a planning condition.
- 112 Objectors have raised a variety of concerns over the development, much of which is covered in the assessment above. Other outstanding concerns are addressed below:
- That most people want a pub on the site again – the site was identified under the adopted local plan as a development site and did not require retention of a pub. Nor did the approved scheme retain a pub on site. I do not consider that the Council can reasonably withhold permission on this basis.
  - Scepticism over need for retail units – it is noted that the retail units on the Railway and Bicycle development are largely unoccupied although the financial circumstances relating to these units is unknown. The Farmers site already has permission for retail units of very similar size to those now

proposed, and the site is adjacent to an identified shopping area. The applicant is clearly confident that the inclusion of retail units in the scheme would be successful.

- Concern over the extent of pre-application discussions that have taken place – Council Officers have engaged with the applicant in pre-application discussions prior to submission of this application. The NPPF (paragraphs 188 – 190) makes clear how the Government considers such discussions to be advantageous. Pre-application discussions are made on the basis that any advice is not binding on the Council.
- Does Sevenoaks need extra dwellings in the form of flats? Members will be aware that the Council is required, as a minimum, to meet projected housing targets and to develop land in an efficient and sustainable way. The Council’s Strategic Housing Market Assessment identified a need for smaller units of accommodation in the District. The development would help address this shortfall.
- Concern over water supply – the Council has consulted South East Water but has received no comments or objections to this proposal.
- Inadequate responses from consultees – an objector is concerned at the adequacy of some consultee responses. I do not consider any of the responses received to be inadequate, and these responses address their areas of expertise. In any case, the Council can only act upon the responses it receives.
- The developer has not demonstrated that the approved scheme is unviable – there is no requirement for this to be proved and the application should be considered on its planning merits.
- A design brief for the site should be produced – this is not a reason to withhold permission. The Council has earmarked this site for development since at least 2000 and has not considered a design brief to be necessary.
- Lack of information to justify lack of affordable housing – the applicant has provided comprehensive information on development viability, however as this contains detailed financial information it is deemed as sensitive and is not in the public domain.

### **Conclusion:**

113 I consider that the scale, layout and design of the proposal would relate well to its surroundings and in particular to the more recent larger scale buildings erected in the locality. The development would be unlikely to cause unacceptable impacts on the amenities of surrounding properties and the traffic impacts are considered to be acceptable by Kent Highways. The applicant has demonstrated that the scheme cannot viably accommodate 40% affordable housing, but will make a small contribution towards the provision of such housing in the District. Subject to the completion of a S106 agreement to secure affordable housing, I consider that the development would accord with adopted and emerging development plan policies and the NPPF, and that permission should be granted.

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### **Background Papers:**

114 Site and Block plans

Contact Officer(s):

Mr A Byrne Extension: 7225

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

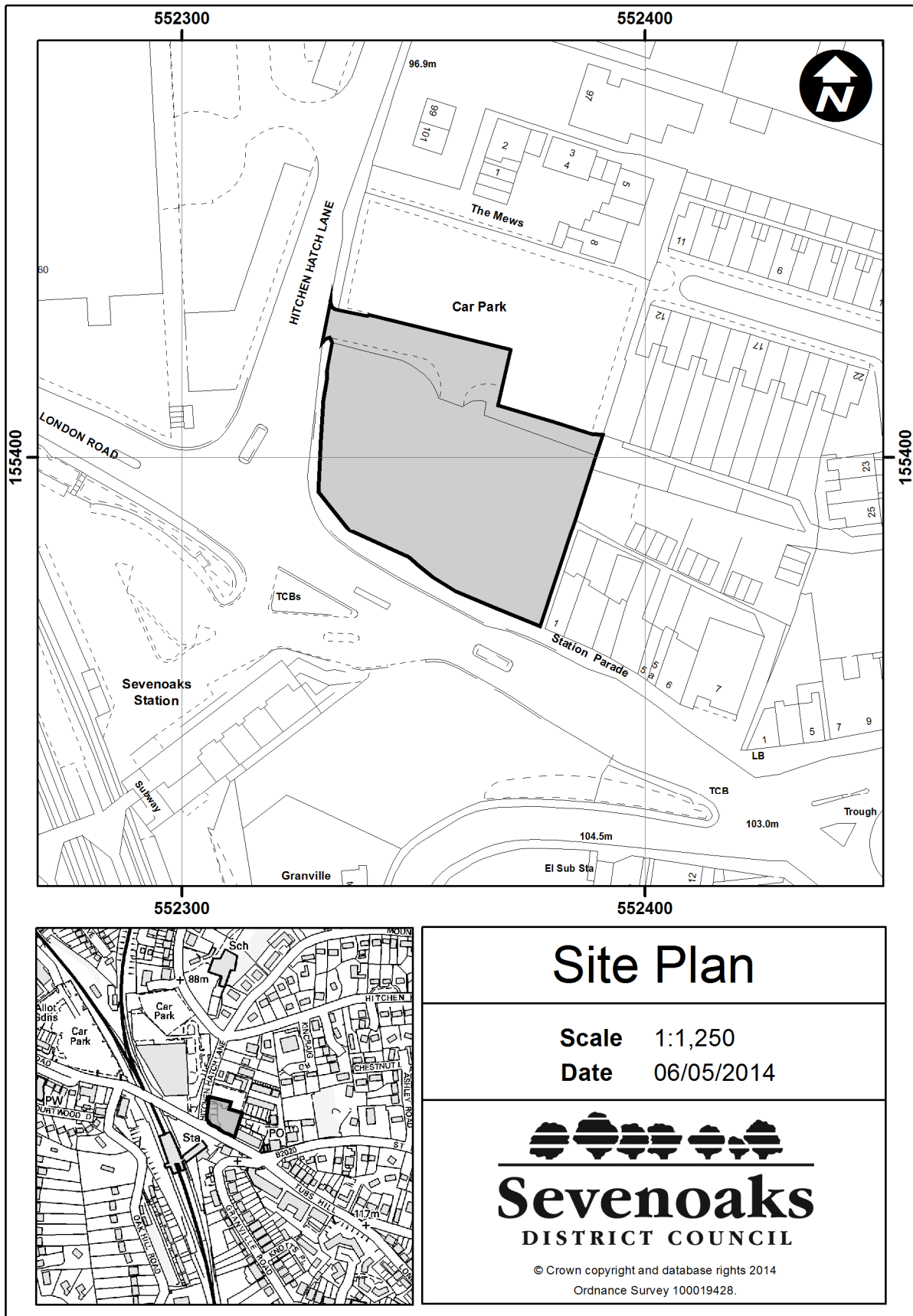
Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MX9VOWBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MX9VOWBK8V000>





**Block Plan**



4.3 – SE/13/03843/CONVAR Date expired 11 April 2014

PROPOSAL: Removal of conditions 3 (Residency), 4 (Occupation restriction) and 6 (Siting) of planning permission SE/07/02075/FUL - Change of Use to residential, stationing of two mobile homes (with associated mobility ramps), two touring caravans, a car port and associated hardstanding (Resubmission of SE/06/02550/FUL). In order to add/amend the names given for residency and occupation and new block plan submitted.

LOCATION: Land East Of, Park Lane, Swanley Village, Swanley, Kent

WARD(S): Swanley Christchurch & Swanley Village

**ITEM FOR DECISION**

This application is presented to Development Control Committee as the officer's recommendation is at variance to the Town Council's. In addition, Councillor Brookbank has requested that members consider this application as the proposal is a departure from the Green Belt policy and for the 'very special circumstances' to be considered.

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

1) This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 1 of Annexe 1 of DCLG document Planning Policy for Traveller Sites March 2012.

Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.

2) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents: Mr and Mrs J Clarke, Sharon Clarke Jnr and Lucy Clarke. When the land ceases to be used by Mr and Mrs J Clarke, the use hereby permitted shall cease and all caravans, structures, hardstanding, materials and equipment brought on to the land associated with the use hereby permitted shall be removed. Within 3 months of that time the land shall be restored to its former condition before the use commenced.

Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.

3) The residential use hereby permitted shall be restricted to the stationing of no more than 4 caravans at any time.

Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.

4) The caravans, car port and hardstanding shall be sited in accordance with the

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untitled Block Plan received on 10th Dec 2007 under planning reference SE/07/02075/FUL.

Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.

5) No commercial activities shall take place on the land, including the storage of materials.

Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.

6) No building or enclosure other than those shown on the approved untitled block plan received on 10th Dec 2007 under planning reference SE/07/02075/FUL, shall be erected on the site.

To preserve the visual appearance of the area as supported by policy EN1 of the Sevenoaks District Local Plan.

7) Within three months of the date of this permission details of the surfacing and extent of the areas of hardstanding to be provided to the Council for approval in writing. All hardstanding on site shall be formed in accordance with the approved details.

To enhance the visual appearance of the area as supported by policy EN1 of the Sevenoaks District Local Plan.

8) The external dimensions of the car port hereby approved on the site shall be no greater than, 6 metres in length, by 4.2 metres in width, by 2.2 metres in height. The car port shall be maintained at this size.

Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.

9) All landscape works shall be carried out within the next planting season from the date of this permission. The landscape works shall be carried out in accordance with the approved details.

To enhance the visual appearance of the area as supported by EN1 of the Sevenoaks District Local Plan.

10) If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To enhance the visual appearance of the area as supported by EN1 of the Sevenoaks District Local Plan.

11) The development hereby permitted shall be carried out in accordance with the following approved plans: 1 unnumbered block plan received on 10th December 2007

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

**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) Did not require any further assistance as the application was acceptable as submitted.

**Description of Proposal**

- 1 Under planning reference SE/07/02075/FUL, planning permission was granted for the change of use of the land to residential, stationing of two mobile homes (with associated mobility ramps), two touring caravans, a car port and associated hardstanding.
- 2 This is a Section 73 application that seeks the removal of the following conditions of above mentioned planning permission. They are:

Condition 3 (Residency) -

*“The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents: Mr and Mrs J Clarke and Mr John Dibsdall.”*

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Condition 4 (Occupation restriction) -

*“When the land ceases to be occupied by Mr J Clarke the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use hereby approved, shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.”*

Condition 6 (Siting) -

*“The caravans, car port and hardstanding shall be sited in accordance with the untitled Block Plan received on 10th Dec 2007.”*

- 3 The variation/removal of conditions is required to add/amend the names given for residency and occupation and new block plan submitted to account for additional structures on-site being:

4 no. Lorry Backs;

1 no. Chicken Coup;

1 no Dog Pen;

1 no. field Shelter;

1 no. utility shed;

Siting for 1 mobile home and 3 touring caravans.

### Description of Site

- 4 The application site is located on a triangular shaped piece of land to the east of Park Lane, which is located to the south of Swanley Village Road. The site is a single field that measures approximately 0.1 hectare in size. Currently there are two touring caravans on site and one mobile home. The mobile home found within the site is occupied by the applicant and his dependants and the other, which is a touring caravan, is occupied by Sharon Clarke Jnr, one of the daughters of the applicant. The other is an unoccupied touring caravan owned by the applicant.
- 5 Various structures can be found within the site as shown on the submitted block plan.
- 6 The site is located on eastern side of Park Lane and is well screened from Park Lane by a well established native hedgerow. A tree buffer screen runs along the southern boundary of the site that indicates the start of the railway embankment/cutting. Immediately to the north of the site runs the boundary of Swanley Village Conservation Area together with ‘The Priory’ which is a Grade II building. To the west of the site is the unmade track of Park Lane that leads to other detached residential properties nearby. The track also forms part of a Public Right of Way (SD0078). To the west of the site is the unmade track of Park Lane that leads to other detached residential properties nearby. The track also forms part of a Public Right of Way (SD0078).

Constraints

- 7 Metropolitan Green Belt;
- 8 Adjacent Swanley Village Conservation Area;
- 9 Adjacent Public Right of Way (SD0078);
- 10 Adjacent grade II Listed Building.

Policies

*Sevenoaks District Local Plan:*

- 11 Policies - EN1, H16, EN23

*Sevenoaks Core Strategy:*

- 12 Policies - L01, L08, SP1, SP6

*Other*

- 13 National Planning Policy Framework (NPPF)
- 14 Draft Allocations and Development Management Plan: GB6
- 15 National Planning Practice Guidance (NPPG)
- 16 Planning Policy for Travellers Sites March 2012 (PTTS)

Planning History

- 17 12/03201/CONVAR - Variation of conditions 3 (Residency), 4 (Occupation restriction) and 6 (Siting) of planning permission SE/07/02075/FUL - Change of Use to residential, stationing of two mobile homes (with associated mobility ramps), two touring caravans, a car port and associated hardstanding (Re-submission of SE/06/02550/FUL). In order to add/amend the names given for residency and occupation and new block plan submitted – REFUSED
- 18 12/00555/CONVAR - Variation of conditions 3 (Residency), 4 (Occupation restriction) and 6 (Siting) of planning permission SE/07/02075/FUL - Change of Use to residential, stationing of two mobile homes (with associated mobility ramps), two touring caravans, a car port and associated hardstanding (Resubmission of SE/06/02550/FUL). In order to add/amend the names given for residency and occupation and new block plan submitted –REFUSED
- 19 08/01653/CONVAR - Variation of condition 6 (siting of caravans) of planning permission SE/07/02075/FUL – GRANTED
- 20 07/02075 - Change of Use to residential, stationing of two mobile homes (with associated mobility ramps), two touring caravans, a car port and associated hardstanding (Resubmission of SE/06/02550/FUL) – GRANTED
- 21 06/02550 - Change of Use to residential, stationing of two mobile homes, a touring caravan and associated hardstanding – REFUSED

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### Consultations

#### *KCC Highways*

22 No objections

#### *KCC Gypsy Liaison Officer –*

23 No response

#### *SDC Gypsy Liaison Officer –*

24 No response

#### *Swanley Town Council -*

25 Swanley Town Council objects to this application stating:

*‘Swanley Town Council strenuously objects to this application as it is within the Metropolitan Green Belt and is contrary to Local Plan Policy H16. The Town Council also objects on Highways issues, the access to the proposed site is on a very narrow and poorly sighted bend. The land between Swanley Village and Farningham provides a Green Wedge separating the two communities. Population and Housing Policy H9 of the Local Plan state that housing development sites within Green Wedges will not be acceptable.*

*The Town Council requests that if the District Council does grant planning permission, then the permission should only be for the applicant, Mr Clark, and the extra mobile homes listed only as 'Carers accommodation' to enable the site to be returned to the Metropolitan Green Belt under Policy H16 upon the demise of the applicant in line with the original planning consent.”*

### Representations

26 Neighbours – 2 objections received, objecting on the following grounds:

- Intensification of use of the site
- Visual impact of the development upon the character and appearance.

#### *Swanley Village Residents Association*

27 Objects for the following reasons:

- Intensification of use;
- Harms openness of the Green Belt;
- Undermines very special circumstances of the original application



## Chief Planning Officer's Appraisal

### Background

28 That permission established the original personal permission for this site was granted by Development Control Committee in February 2008. The conclusion of that report is summarised below to clarify the justification for the original permission:

- *It was accepted that the size of the mobile homes proposed on the site were reasonable given the medical needs of Mr Clarke, and that this size of mobile home and associated ramps / car port could not be accommodated on the current pitch which they previously occupied Valley Park, Ash;*
- *The applicant offered the permission to be personal to the applicant and his family;*
- *The gypsy status of the applicant was accepted, as were the specific personal circumstances relating to his care needs, together with the clear and immediate need for sites for gypsies and travellers within the District, and the lack of any suitable sites contributed to the very special circumstances case;*
- *Agreed to allow the use of safeguarding conditions which limited the permission to Mr and Mrs Clarke and Mr Dibsdall and their families, and conditions to protect the character of the landscape and protect the openness of the Green Belt.*

29 At present the effect of this permission is a personal one that is in effect for the lifetime of Mr J Clarke.

30 Since the grant of the 2007 permission further applications made under planning references SE/12/00555 and SE/12/03201. These were Section 73 applications that sought the removal of some conditions of the 2007 permission; the same conditions that are sought for change under this application. Both those applications were refused on the basis that the applicant did not provide sufficient evidence for a very special circumstances case to justify the removal of conditions.

31 This application seeks to address this issue.

### Appraisal

32 For the purposes of this application, this is a Section 73 application to allow the removal of conditions of a specific planning permission. This will effectively allow the consideration of the removal of the conditions and allow further conditions to apply if it is considered reasonable and necessary in accordance with guidance in the National Planning Practice Guidance (NPPG). This report will discuss each condition to be removed and the relevant material considerations that apply to them. It is accepted that the applicants are gypsies within the DCLG definition, that there remains a clear and immediate need for gypsy sites and the health circumstances of Mr J Clarke still apply.

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### *Condition 3 of SE/07/02075*

*“The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents: Mr and Mrs J Clarke and Mr John Dibsdall.*

*Reason: Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.”*

- 33 With regard to the above-mentioned condition, planning permission SE/07/02075 allowed the occupation of the site by Mr and Mrs Clarke and Mr Dibsdall and their resident dependants due to the special circumstances presented by the applicant, as summarised in the background information above.
- 34 The personal circumstances of the applicant have changed since the 2007 permission. In particular Mr Dibsdall found the care requirements of Mr Clarke to be too onerous and did not move onto the site. As such it is intended to share the caring responsibilities between Mrs Clarke and his two daughters. At the time of the site visit only one of the daughters has moved onto the site.
- 35 As such the applicant has applied to remove this condition and replace with a condition to reflect the current situation by including his daughters (Sharon Jnr and Lucy) to allow them to occupy the site.
- 36 In this instance, as the site has an extant permanent, personal permission, therefore the special circumstances for the applicant have to be re-examined to consider the occupation on-site for Sharon Jnr and Lucy Clarke.
- 37 As the personal circumstances of the applicant have changed, further justification has been provided to confirm why two additional carers are now required, and why both carer's and their families need to be living on site. It is clear from the supporting information that has been presented that Mrs J Clarke's health is deteriorating as a direct result of caring for her husband and other issues that have arisen since the approval of the original 2007 permission. Information from Mrs J Clarke's General Practitioner and West Kent Social Services clearly identify further support is required to meet the constant care demands of Mr Clarke. Further support for the care of Mr and Mrs Clarke can be given by their daughters Sharon and Lucy to share the burden of caring responsibilities. This justification for the removal of the original condition restricting the occupation of the site and the re-application of it to include the applicant and his two daughters who comply with the definition of Gypsy status as cited by Planning Policy for Travellers Sites (PPTS) is considered reasonable and an acceptable alternative that could be controlled by condition to ensure that the original case of very special circumstances, which still applies, is not undermined.
- 38 The applicant has applied to remove condition 4 of the 2007 permission. Condition 4 stated:

*“When the land ceases to be occupied by Mr J Clarke the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use hereby approved, shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.*

*Reason: Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm”*

- 39 At the time of the imposition of this condition, the special circumstances of the applicant were that Mr Clark’s living accommodation in a mobile home on Valley Park was unsatisfactory and unsuitable for his needs. It was accepted that the size of the mobile home proposed on this site was reasonable given the medical needs of Mr Clarke, and that this size of the mobile home and associated ramps / car port could not be accommodated on the previous pitch occupied by the family in Valley Park. The applicant’s agent offered at the time for the 2007 permission to be personal to Mr Clarke and family, given the unusual circumstances, which are unlikely to be repeated elsewhere and accepted was by the local planning authority.
- 40 The applicant now wishes to remove condition four and re-apply to include his daughters into an amended condition. This would allow his daughters to carry on occupying the site once Mr Clarke has ceased occupation.
- 41 In consideration of the above and the purpose for the condition, to allow further occupation of the site for his daughters, would in effect undermine the very special circumstances case which was an essential component of the original planning permission. It is noted that there is some merit in the applicants’ argument by virtue of offering further care to Mr and Mrs Clarke. However, to remove/vary the condition to include the applicant’s daughters even if Mr and Mrs Clarke were no longer on site cannot be supported. It is recognised that Sharon and Lucy Clarke are classified as Gypsies however further evidence needs to be presented to demonstrate their future needs to justify their occupation permanently. Currently the gypsy status of the applicant’s daughters and the clear and immediate need of sites, helps in the justification for temporary sites, but not permanent sites, which are being considered in a ‘plan-led’ approach in accordance with Government Guidance as part of the Gypsy Traveller site consultation. At this stage, by allowing further occupation of the site for his daughters once occupation of the site by Mr and Mrs Clarke has ceased, would in affect undermine the very special circumstances case which was an essential component of the original planning permission. As such it is recommended that this condition is removed and re-applied to only include Mrs J Clarke at this stage due to health reasons and to assist in the care of Mr. Clarke. Therefore it is recommended to replace conditions 3 and 4 of the original permission and condition 2 is proposed stating:

*“The occupation of the site hereby permitted shall be carried on only by the following and their resident dependents: Mr and Mrs J Clarke, Sharon Clarke Jnr and Lucy Clarke. When the land ceases to be used by Mr and Mrs J Clarke, the use hereby permitted shall cease to all caravans, utility building, structures, hardstanding, materials and equipment brought on to the land associated with the use hereby permitted shall be removed. Within 3 months of that time the land shall be restored to its former condition before the use commenced.”*

- 42 Condition 6 of the original permission relates to the amount of built form is allowed within the site. Condition 6 stated:

*“The caravans, car port and hardstanding shall be sited in accordance with the untitled Block Plan received on 10th Dec 2007.*

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*Reason: Given that the very special circumstances in this case clearly outweigh the harm to the openness of the Green Belt and any other harm.”*

- 43 A new block plan has been submitted, that now shows 1 mobile home, 3 touring caravans. In principle this amendment can be supported as the previous permission allowed for 2 mobile homes, two touring caravans and 2 carports. This revised block plan has additional built form within the site. It includes:
- 4 No. storage containers (lorry backs);
  - 4m x 15m x 2m Chicken Coop;
  - 1No Utility Shed;
  - 1 No. Dog Pen;
  - 1 No. Field Shelter;
  - Post and rail fencing;
  - Additional landscaping measures.
  - Additional hardstanding area.
- 44 As previously mentioned the site is within the designated Metropolitan Green Belt. This revised block plan includes additional built form of which some is already on-site.
- 45 NPPF para 87 states that there is a general presumption against inappropriate development within the Green Belt. Such development should not be approved, except in very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings inside the Green Belt is inappropriate unless, amongst other things, it is for agricultural and forestry, sports facilities, infilling, redevelopment of Brownfield sites as stated in para 89.
- 46 The most important attribute of Green Belts is their openness. Openness is not reliant upon degree of visibility but upon an absence of built development.
- 47 If the proposal is deemed to be considered as inappropriate development, by definition, it would be harmful to the Green Belt. Then it is for the applicant to show why permission should be granted. Very Special Circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, substantial weight should be given to the harm to the Green Belt when considering any planning application concerning such development, as cited in para 87 of the NPPF.
- 48 In light of the above, it has to be determined as to whether the additional built form is inappropriate or not.
- 49 In previous applications applicant’s agent has suggested that the lorry backs etc do not constitute development for the purposes of Sec. 36(1) of the Planning Act. Three primary factors of size, permanence and physical attachment is the test to determine whether a structure comprises as a building operation. As a matter of fact and degree it is considered that the lorry backs/field shelter do not constitute building operations for planning purposes. Even though they are intended to be used for ancillary storage purposes, it has been clearly demonstrated that the lorry backs have been moving within the site since the previous site visit in

December 2013. The lorry backs are not physically attached to the ground. However, as the lorry backs are to be permanently stationed adjacent to the western boundary of the site, this gives them a degree of permanency and therefore in my view constitutes a building operation. As a matter of fact and degree the permanent stationing of the lorry backs used for ancillary storage purposes for the mobile home would be inappropriate development within the Green Belt.

- 50 The other building operations i.e. chicken coup, field shelter, would also be a building operation and as a consequence, be inappropriate development within the Green Belt as they do not fall into any exceptions as specified in paragraph 89 of the NPPF. As such there is no planning policy to support part of this revised scheme unless very special circumstances can be demonstrated.
- 51 With regard to the provision of additional hardstanding area as shown of the block plan, this area has already been undertaken by the applicant. The works are considered to be appropriate development within the green belt, as it falls as an engineering operation that involved minor level changes to the topography and it preserves the openness of the green belt. Therefore the hardstanding area would qualify as an exemption of paragraph 90 of the NPPF.
- 52 The submitted revised block plan does show additional landscaping measures. Planting of shrubs, trees and plants are not considered to be a building operation but for this application, the additional measures are required to screen the additional built form within the site. The impact from such a landscaping scheme, would be beneficial to the character and appearance of the Green Belt.
- 53 The NPPF confirms that the most important aspect of Green Belts is their openness and the fundamental aim of Green Belt Policy is to maintain land open. It states that the open character must be maintained as far as can be seen ahead. At the same time the visual amenities of the Green Belt should not be injured by development proposals. Paragraph 87 of NPPF states that inappropriate development by definition is harmful to the Green Belt.
- 54 The additional development within the site would apply additional built form that impacts upon the openness of the Green Belt. The difference in volume and scale between the existing and the proposed block plan adds additional built form that results, in a materially greater impact upon the openness of the Green Belt than the previously permitted scheme, however it is noted that the permitted carports allowed under the previous permission have now been removed.
- 55 The additional development would be well-contained within the application site and is sufficiently screened by the existing hedgerow to the front western boundary. The lorry backs are slightly higher than the existing hedge and that the chicken coup is a relatively low-key structure within the site and it sited adjacent to the existing hedge. The applicant proposes further landscaping treatment to visually screen the lorry backs and coup from the views to the north east of the site.
- 56 Inappropriate development is, by definition, harmful to the Green Belt. The NPPF requires that substantial weight should be given to any harm to the Green Belt. Taking in account the above, additional built form would have an impact on the openness Green Belt. The openness of the Green Belt is an intrinsic quality which should be preserved. Inappropriate development is, by definition, harmful

## Agenda Item 4.3

to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt. Taking in account the above, it is considered that the additional built form would have a detrimental impact on the openness Green Belt.

- 57 Against that harm, the need for the lorry backs/coups and shelter has to be balanced and, whilst they are actively used for storage facilities, there is nothing that has been advanced to demonstrate that the need for storage and to why it cannot be kept elsewhere. Overall significant weight can be given to the harm that the additional built form causes to the loss of openness of the Green Belt in accordance with para 88 of the NPPF.
- 58 In terms of the post and rail fencing and dog pen/enclosure, this can be done under the auspices of Schedule One, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 1995 as amended.
- 59 As previously mentioned the additional built form, as shown on the revised block plan would constitute as inappropriate development within the Green Belt and so is contrary to National Policy. Very special circumstances are required to clearly outweigh the presumption against inappropriate development. No very special circumstances case has been advanced by the applicant for the building existing and proposed on-site. Clearly as there are no other considerations submitted, significant weight must be given to the policy objections as mentioned above in accordance with the NPPF. As such the removal of condition 6 of the original permission cannot be supported at this time.

### Other Issues

- 60 Swanley Town Council has raised an objection in relation to this application on the grounds that the proposal does not comply with policies H9 and H16 of the Local Plan. Policy H9 relates to Affordable Housing for Local Need in Rural Areas. This is a housing rural exceptions policy of the Local Plan that no longer exists as it was superseded by Policy SP5 of the Core Strategy and is not relevant to this proposal as mobile homes are a use of land. In terms of Policy H16 of the Local Plan, this relates to Residential Caravan Sites and Mobile Home Parks. As it stands this policy too is not relevant to this proposal as the site already has a permanent consent for four caravans to reside on this site. The further suggestion made by the Town Council suggesting that further controls on the labelling of the caravans can be considered as being unreasonable when already further control by condition is already in place.
- 61 The Town Council has raised a concern on highway matters, however, KCC Highways has raised no objection on highway safety matters. The site has the benefit of an existing permanent, personal planning permission. Therefore it would not be reasonable to raise an objection to this ground. Equally no development is proposed on the existing Public Right of Way and the slight intensification of use of the track by the additional family would not be a justified reason for refusal.
- 62 Objections raised by third parties have been considered. It is agreed that the introduction of Sharon Jnr and Lucy Clarke would intensify the activities within the site, but this is for a justified reason. Equally, the amount of caravans within the site would be no-greater than the existing 2007 permission. Again the occupation of the site would be limited in this regard for the reasons as previously mentioned,

so the harm it causes to the Green Belt is limited, however it is agreed that no very special circumstances case has been advanced to justify the amount of additional built form as shown on the revised block plan. As such an objection still stands.

- 63 It is noted that the site is located adjacent Swanley Village Conservation Area and the Priory Grade II listed building. As there is no support for the additional built form within the site, other than what had been previously approved, and there are no additional caravans being introduced, it is considered that the harm caused to the adjacent heritage assets is minimal and their setting protected, therefore it would be difficult to reasonably support a refusal on impact of the proposal upon the existing heritage assets.
- 64 The opportunity has been undertaken to review the planning conditions of the existing 2007 permission. It is recommended that condition two should be replaced by a condition that reflects current government guidance in relation to the definition of gypsy travellers. Condition three and four should be combined, so it can be interpreted as one condition with the inclusion of Mr Clarke's daughters but not to express that they could reside on site permanently, should the variation of the condition be accepted. Condition five should be replaced to ensure the number of caravans and mobile homes on site is controlled in relation to the present circumstances. Condition Six will remain as no very special circumstances have been advanced to justify the additional built form within the site. Condition Seven can remain to ensure no further built form is introduced into the site. Conditions eight and ten can be removed and re-applied to ensure hardstanding and landscaping details are submitted within a specified time period.
- 65 It is worth noting that this site was not included in the Gypsy and Traveller Plan: Site Options consultation because it has an existing permanent permission. The existence of the conditions that the applicant is seeking to remove, do not contribute towards the pitch requirement of 72 identified in the Gypsy Traveller Allocations Assessment. No extensions to this site or additional pitches have been proposed to the Council through the previous 'calls for sites'. If the landowner wished to propose an extension or additional pitches through the 'call for sites' as part of the forthcoming consultation then the Council would consider whether this is acceptable or not at this stage.

### **Conclusion**

- 66 Subject to the re-application of the conditions as previously discussed, it is recommended that this application should be granted in this instance as it can be demonstrated that very special circumstances still exist and the justification for Sharon Jnr and Lucy Clarke to reside on the site for the care of Mr and Mrs Clarke is justified. However due to the absence of a very special circumstances case that has not been submitted by the applicant for the additional built form within the site, the removal of condition 6 of the original permission cannot be supported as it would materially cause greater harm to the character and appearance of the openness of the Green Belt than that to what had been previously permitted.

### **Background Papers:**

Site and Block Plan

## Agenda Item 4.3

Contact Officer(s):

Sean Mitchell Extension: 7349

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

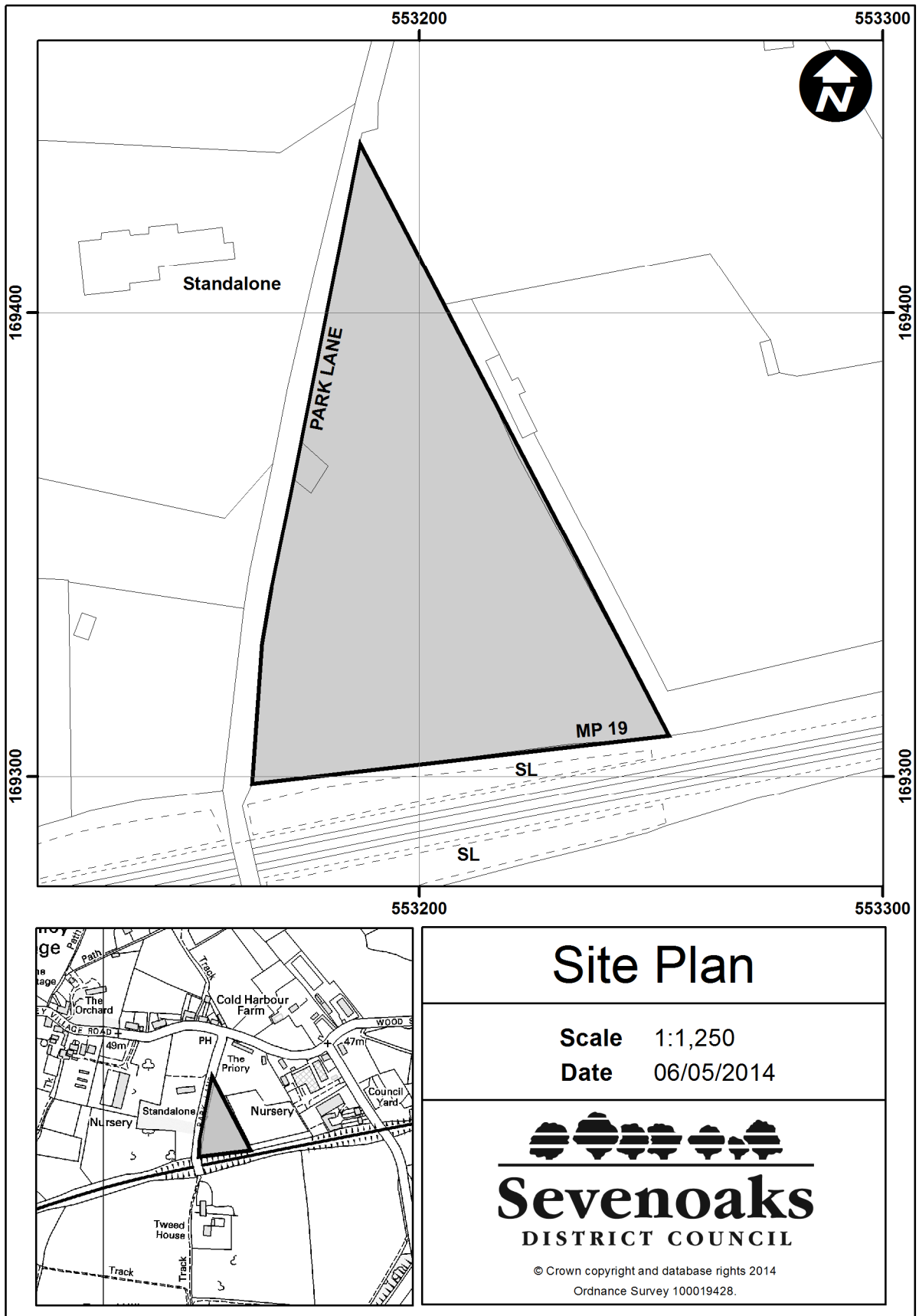
Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MY96DZBKOLA00>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MY96DZBKOLA00>





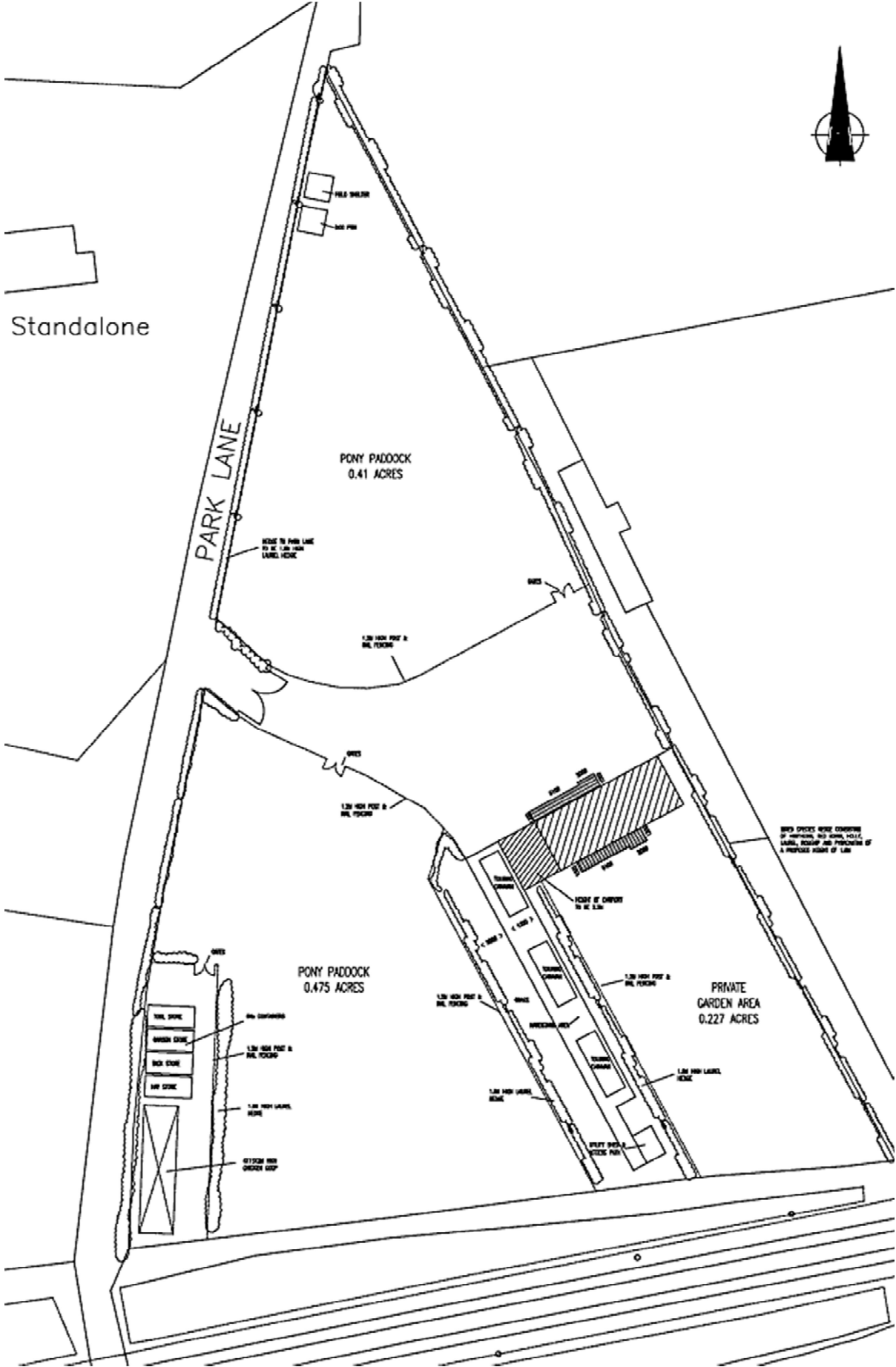
# Site Plan

Scale 1:1,250

Date 06/05/2014



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Ordnance Survey 100019428.



4.4 - SE/14/00188/FUL Date expired 3 April 2014

PROPOSAL:                      Erection of 5 bedroom detached dwelling with integral garage

LOCATION:                        Land West Of 9 Mount Harry Road, Sevenoaks TN13 3JJ

WARD(S):                        Sevenoaks Town & St Johns

**ITEM FOR DECISION**

This application has been referred to the Development Control Committee since the Officer's recommendation is at variance to the view of the Town Council and at the request of Councillor Raikes who shares the concerns of the Town Council.

**RECOMMENDATION A:** That subject to receipt of a signed and valid S106 Obligation to secure the off site affordable housing contribution within 28 days of the decision of the Development Control Committee, that authority be delegated to the Chief Planning Officer to GRANT planning permission 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.

The proposal would lead to a requirement to contribute towards affordable housing provision. In the absence of a completed Section 106 obligation to secure an appropriate level of affordable housing provision, the development would be contrary to policy SP3 of the Sevenoaks District Council Core Strategy.

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

2)       The development hereby permitted shall be carried out in accordance with the following approved plans: COB/09/315/200B and COB/09/315/203A.

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

3)       No development shall be carried out on the land until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks District Local Plan.

4)       No development shall be carried out on the land until full details of soft landscape works have been submitted to and approved in writing by the Council. Those details shall include:-planting plans (identifying existing planting, plants to be retained and new planting);-a schedule of new plants (noting species, size of stock at time of planting and proposed number/densities); and-a programme of implementation.

To preserve the visual appearance of the area as supported by policy EN1 of the Sevenoaks District Local Plan.

5)       Soft landscape works shall be carried out before first occupation of the dwelling.

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The landscape works shall be carried out in accordance with the approved details.

To preserve the visual appearance of the area as supported by policy EN1 of the Sevenoaks District Local Plan.

6) If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

To preserve the visual appearance of the area as supported by policy EN1 of the Sevenoaks District Local Plan.

7) The first floor windows in the two side elevations of the approved dwelling shall be obscure glazed and non openable at all times, unless above 1.7m above the internal floor level.

To safeguard the privacy of residents as supported by Policy EN1 of the Sevenoaks District Local Plan.

8) No extension shall be carried out to the dwelling hereby approved, and no outbuilding shall be erected within the curtilage of the dwelling hereby approved, despite the provisions of any Development Order.

To prevent future damage to the Horse Chestnut tree as supported by Policy EN1 of the Sevenoaks District Local Plan.

9) The development shall achieve a Code for Sustainable homes minimum rating of level 3. 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 Code for Sustainable Homes Design Certificate minimum level 3 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 Code for Sustainable Homes post construction certificate minimum level 3 or alternative as agreed in writing by the Local Planning Authority.

In the interests of environmental sustainability and reducing the risk of climate change as supported by the National Planning Policy Framework.

10) The vehicle parking and turning area shown on the approved drawing number COB/09/315/200B shall be provided and kept available for such use at all times and no permanent development shall be carried out on the land so shown or in such a position as to preclude vehicular access to the vehicle parking and turning area.

To ensure a permanent retention of vehicle parking for the property as supported by Policy EN1 of the Sevenoaks District Local Plan.

11) No development shall be carried out on the land until a plan indicating the positions, design and materials of all means of enclosure to be retained and erected has been submitted to and approved in writing by the Council.

To preserve the visual appearance of the area and ensure the long term retention of the protected Horse Chestnut tree as supported by EN1 of the Sevenoaks District Local Plan and the National Planning Policy Framework.

**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) Did not require any further assistance as the application was acceptable as submitted.

**RECOMMENDATION B:** In the event that the legal agreement is not completed within 28 days of the decision of the Development Control Committee, the application be REFUSED for the following reason:

The proposal would lead to a requirement to contribute towards affordable housing provision. In the absence of a completed Section 106 obligation to secure an appropriate level of affordable housing provision, the development would be contrary to policy SP3 of the Sevenoaks District Council Core Strategy.

**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,

## Agenda Item 4.4

- 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 The application seeks the approval of the erection of a detached house on the plot, between Nos.9 & 11 Mount Harry Road. The existing plot would therefore be split roughly down the middle, with No.9 retaining the larger of the two plots.
- 2 The property is proposed to be two storey in design, with accommodation in its roof. The property is proposed to be mainly square shaped but would have a two storey front projection on the right hand side and a single storey rear projection. The roof of the house would be hipped up to a flat roof section. Two dormer windows are proposed to the rear roof plane of the house. The dwelling would have width of about 12.8m, a maximum length of about 16.6m, with the main house being about 10.5m long, and a ridge height of 8.15m.
- 3 A legal agreement has been sought in relation to the proposal and the only other change to the previous scheme is that the existing in-out drive that serves the site will be retained.

### Description of Site

- 4 The application site comprises a large detached dwelling set on a large plot, on the south side of Mount Harry Road, adjacent to Pendennis Road. The plot rises in level from west to east and from north to south. The rear of the site possesses a large Horse Chestnut tree that is covered by a Tree Preservation Order.
- 5 The plot has a large frontage in comparison to some in the locality. However, plot and frontage sizes vary greatly as do the size and design of surrounding properties, particularly on the southern side of the street. Existing properties sit

comfortably within their plots, with spacing between each property that creates a feeling of space and openness.

### Constraints

- 6 The site lies within the built urban confines of Sevenoaks and a tree to the rear of the site has a Tree Preservation Order on it.

### Policies

#### *Sevenoaks District Local Plan*

- 7 Policy– EN1

#### *Sevenoaks District Core Strategy*

- 8 Policies – L01, L02, SP1, SP2, SP3, SP5 and SP7

### *Other*

- 9 Sevenoaks District Allocations and Development Management Plan (ADMP) – SC1, EN1, EN2 (moderate weight) and T2 (significant weight, replaces policy VP1 of the Local Plan)
- 10 The National Planning Policy Framework
- 11 Sevenoaks Residential Character Area Assessment Supplementary Planning Document (SPD)
- 12 Affordable Housing Supplementary Planning Document (SPD)
- 13 Residential Extensions Supplementary Planning Document (SPD)

### Planning History

- 14 SE/09/02330 Demolition of existing dwelling, construction of 2no dwellings with integral garages and revised access. Refused 23.11.09
- SE/10/00744 Demolition of existing dwelling, construction of 2no dwellings with integral garages. Refused 26.05.10
- SE/10/02639 Demolition of existing dwelling and erection of a replacement dwelling with linked two storey garage. Granted 14.01.11
- SE/10/02641 Demolition of existing dwelling, construction of 2no dwellings with integral garages. Refused 14.01.11, Appeal dismissed 25.07.11
- 15 The current application is very similar in detail compared with the scheme considered by the Council and the Inspector in 2011, SE/10/02641/FUL, which comprised two new dwellings on the site. At the same time this application was considered the applicant also gained permission for a single dwelling on the site that has now been constructed, SE/10/02639/FUL. Although the Council refused the application for two units on the grounds of harm to the character and appearance of the area, the Inspector only dismissed the appeal on the basis that no affordable housing provision had been made.

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### Consultations

#### *Sevenoaks Town Council - 06.03.14*

- 16 'Sevenoaks Town Council recommended refusal on the grounds that the proposal:
- i. Does not comply with the recommendations set out in the Residential Character Area Assessment SPD
  - ii. Would have an overbearing effect on neighbouring properties
  - iii. Would be detrimental to the street scene
  - iv. Would result in the donor property being left with insufficient amenity space, exacerbated by the substantial tree in the garden.'

#### *Kent Highways Engineer - 04.03.14*

- 17 'This application may result in the two accesses being used as separate driveways for the two houses. I am concerned that at present the eastern access appears to have substandard visibility of traffic approaching round the bend on the nearside of the road.
- 18 Can the applicant please state the intended visibility splays from the eastern access, measured from a position 2 metres back from the kerb-line. To meet the normal standard the visibility splays should be at least 2m x 43m.
- 19 Can the applicant please also show the intended visibility splays on the drawing?
- 20 Finally, could the applicant please confirm that, on the application drawing, the text stating that all vegetation lower than 1m to be removed should say higher than 1m?'

#### *Tree Officer - 17.02.14*

- 21 'I have no objections to the proposal to build. I am keen, however, for the mature Horse Chestnut to remain in a single ownership and managed within one plot. The boundaries of the proposed garden may therefore need to be shortened to show this.'

#### *Thames Water - 17.02.14*

- 22 No objection raised - see file note for full comments.

### Representations

- 23 Fourteen letters of representation have been received, seven of which are duplicated from three neighbours, raising concerns relating to the following matters -
- Size of the existing house;
  - Appearance of the driveway;
  - Overdevelopment of the site;
  - Proximity to adjoining houses;



- Impact on the character of the area;
- Size of the proposed house;
- Highways safety;
- Impact on the Chestnut tree;
- Use of water;
- Loss of light;
- Overbearing effect;
- Lack of soft landscaping;
- Incompatibility with neighbouring properties;
- Levels of the site;
- Sustainable development;
- Parking provision;
- Affordable housing;
- Layout and density of the development; and
- Loss of visual amenity.

#### **Chief Planning Officer's Appraisal**

24 The main issues in this case are the principle of the development, the potential impact on the character and appearance of the area and the potential impact on neighbouring amenity. Other issues include the potential impact on a protected tree, parking provision, the potential impact on highways safety, affordable housing provision, the Code for Sustainable Homes and sustainable development.

#### *Principle of the development –*

25 Paragraph 53 of the NPPF states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

26 The NPPF also states that planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value (para. 111).

27 Annex 2 of the NPPF provides a definition for previously developed land stating that it is land 'which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.' This definition excludes, amongst other categories, 'land in built-up areas such as private residential gardens, parks, recreation grounds and allotments'.

28 The site falls within the built confines of Sevenoaks and currently forms part of the amenity area to the side of the existing dwelling. Since the proposed site of the house comprises part of the private residential garden I consider that the site falls outside the category of previously developed land for the purposes of an assessment against the NPPF.

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- 29 The site as a whole falls within the Sevenoaks Urban Area as defined by policy LO2 of the Core Strategy. This policy seeks to encourage residential development on a range of sites suitable for residential use within the urban area. In my view, the site continues to be suitable for further residential development, given that it currently has a residential use, the plot is sufficient in size to provide for a new dwelling and is located close to local services and is not a significant distance from the town centre. The proposal therefore complies with policy LO2 and the principle of the development of the site is one that the Council could potentially accept provided the scheme complies with all other relevant development plan policies.
- 30 In conclusion, the site does not comprise previously developed land and is within the built confines of Sevenoaks where residential development is acceptable but only on the basis that the development would respect the local characteristics. An assessment of this issue is carried out below.

### *Impact on the character and appearance of the street scene –*

- 31 The NPPF also states that the Government ‘attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.’ (para. 56)
- 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, which can currently be afforded moderate weight, states that the form of proposed development should respond to the scale, height, materials and site coverage of the area. This policy also states that the layout of proposed development should respect the topography and character of the site and the surrounding area.
- 34 Policy EN1 of the Local Plan states that the form of the proposed development, including any buildings or extensions, should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. This policy also states that the design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard.

Therefore, I consider that these policies are broadly consistent with the NPPF.

- 35 The Residential Character Area Assessment SPD lists four locally distinctive positive features of the Mount Harry Road area including individually designed mostly two storey detached houses that are set back from the road along a relatively regular building line with gaps between buildings and trees and boundary hedges. The document goes on to state that in proposing new development within the Mount Harry Road Character Area development should be set back from the road and respect the relatively regular building line and mature trees and hedge, or wall and hedge, boundaries which contribute to the character of the area should be retained.
- 36 The appearance of properties in the locality varies from site to site. Most properties on the southern side of the street are large in size but are situated on appropriately sized plots with large frontages. Even though properties are large

there is an open element to the character of the area. The frontages of most plots in the locality are softened by mature trees and hedging.

- 37 The width and depth of the proposed house together with the site coverage of the property would be comparable with other properties in the locality. The existing dwelling is larger in size compared with the proposed and other properties are smaller. However, a large number exhibit similar dimensions and site coverage to the proposed house. The bulk and scale of the building would also be broken up to the front and side elevations through the inclusion of various projections and varying roof heights.
- 38 The proposed ridge height of the dwelling would be at a level of over a metre lower than the existing house on the site and about a metre higher than that of 11 Mount Harry Road to the west. This would result in a development that would respond to the level changes of the street, which drop from east to west, and respecting the topography of the locality.
- 39 The proposed dwelling would retain a minimum gap of 3.4m to the existing house and a minimum gap of 2.6m to the single storey car port attached to 11 Mount Harry Road and a minimum of about 4.5m to the flank of No.11. This again, is comparable with properties in the area, with some even being built up to the side boundary of their respective plots. Given the spacing to neighbouring properties and the overall size of the plot I am of the view that the proposal would not result in an overdevelopment of the site. I also consider the layout and density of the development (around 8 dwellings per hectare) to be compatible with the general character of the area.
- 40 In terms of materials, it is proposed to finish the dwelling with brickwork, tile hanging and roof tiles. Further details of these materials can be requested by way of condition to ensure that the house preserves the character and appearance of the area.
- 41 The house would have the appearance of a two storey detached dwelling, albeit with accommodation in the roof of the building, and would be set on the established building line. Soft landscaping is a further matter that can be dealt with by way of condition and I am comfortable that the retention of the existing in-out driveway and parking area to the front of the property and existing house would continue to preserve the character and appearance of the area.
- 42 Finally, it is the case that the Inspector in 2011 accepted that the development comprising two units on the site was acceptable in terms of the character and appearance of the area. I would acknowledge that there have been additions to the development plan since the Inspector considered the proposal. However, as I have explained above I am satisfied that the proposed scheme complies with all current policy relating to this matter.
- 43 I would therefore conclude that the development would preserve the character and appearance of the street scene and therefore complies with the NPPF, policy SP1 of the Core Strategy, policy EN1 of the Local Plan and the Sevenoaks Residential Character Area Assessment SPD.

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### *Impact on neighbouring amenity –*

- 44 Paragraph 17 of the NPPF identifies a set of core land-use planning principles that should underpin decision-taking. One of these principles is that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 45 Policy EN1 of the Sevenoaks District Local Plan requires that any proposed development should not have an adverse impact on the amenities of neighbours and also ensures a satisfactory environment for future occupants.
- 46 Policy EN2 of the ADMP, which can currently be afforded moderate weight, states 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.
- 47 I consider that the only neighbouring properties to be potentially directly affected by the proposed development are 9 & 11 Mount Harry Road. Other surrounding properties are sufficient distance away from the application site for the proposed dwelling not to have a detrimental impact on the amenities of the occupiers of these properties.
- 48 The proposed dwelling would project roughly 2m in front of the building line of No.11, with the rear wall being located just in front of the rear. No.11 also possesses three windows in the eastern flank elevation of the house, two at ground floor level and the third is at first floor level and obscure glazed. These windows serve non-habitable rooms. Although the proposed house would project slightly to the front of No.11 front facing windows are sufficient distances away for the outlook from these windows not to be impeded. Therefore, the impact of the proposed house on the outlook from No.11 would be limited.
- 49 From the rear amenity space of No.11 views of the new dwelling would be available. Due to the change in levels the proposed house would stand slightly taller than No.11, however this difference is not significant and so the outlook from the rear amenity space of No.11 would not be significantly impacted upon. The orientation of the properties, together with the fact that the house passes the 45 degree angle test laid out in the Residential Extensions SPD, confirms that no detrimental loss of light or overshadowing would be experienced by the occupiers of No.11.
- 50 The western flank elevation of the proposed house would possess one window at first floor level, which would serve a bathroom. For the reason that this is a non-habitable room it would be possible to attach a condition to any approval requiring this window to be obscure glazed and non-openable below a height of 1.7m measured internally. Upper level rear facing windows would serve bedrooms, which would create a relationship between the two houses that is not unusual in an urban area such as this. The oblique angle at which the rear of the proposed dwelling would stand to No.11 would mean that there would be no significant overlooking or loss of privacy experienced by the occupiers of the neighbouring property to warrant refusing the application.
- 51 The proposed dwelling would be set back from the frontage of No.9, in line with the rear wall and No.9 neighbouring property possesses a number of windows that face towards the application site. These windows include one ground floor

window, which serves a study, and two first floor bathroom windows. Since these windows serve non-habitable rooms any impact on the outlook from them would not lead to a detrimental impact. Due to the position of the proposed house outlook from habitable rooms with a front and rear facing aspect would not be impeded.

- 52 From the rear amenity space of No.9 views of the new dwelling would be available. Due to the change in levels the proposed house would stand slightly lower than No.11. Outlook from the rear amenity space of No.9 would therefore not be significantly impacted upon. The orientation of the properties, together with the fact that the house passes the 45 degree angle test in the Residential Extensions SPD when applied to habitable rooms, confirms that no detrimental loss of light or overshadowing would be experienced by the occupiers of No.9.
- 53 The eastern flank elevation of the proposed house would possess one window at first floor level, which would serve a bathroom. For the reason that this is a non-habitable room it would be possible to attach a condition to any approval requiring this window to be obscure glazed and non-openable below a height of 1.7m measured internally. Upper level rear facing windows would serve bedrooms, which would create a relationship between the two houses that is not unusual in an urban area such as this. The oblique angle at which the rear of the proposed dwelling would stand to No.9 would mean that there would be no significant overlooking or loss of privacy experienced by the occupiers of the neighbouring property.
- 54 The amenities that would be afforded to the future occupants of the proposed house would, in my view, be satisfactory. This includes the amenity space provided to the rear of the property, even with the location of the protected tree taken into consideration.
- 55 I therefore consider that the proposed development would preserve the amenities currently enjoyed by the occupiers of Nos.9 & 11 and also ensures a satisfactory environment for future occupants. It follows that the proposal complies with the NPPF and policy EN1 of the Local Plan.

### Other Issues

#### *Protected tree –*

- 56 The NPPF states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland (para. 118).
- 57 The proposed house would be located sufficient distance away from the large mature Horse Chestnut tree to the rear of the site for the tree not to be impacted upon.
- 58 The Tree Officer has noted a wish for the tree to be retained within the ownership of one property. As proposed, a small proportion of the canopy of the tree would fall within the ownership of the new dwelling, which is likely to result in an amendment to the red line of the application site.
- 59 However, the layout of the development replicates that recently considered by the Inspector, who raised no issue over the division of the existing plot in the manner

## Agenda Item 4.4

that continues to be proposed here. It is also the case that the Tree Officer was previously satisfied with the proposed arrangement, under planning application number SE/12/02641/FUL, with only a condition relating to boundary treatment suggested to the Inspector in relation to the division of the plot under the canopy of the tree.

- 60 For these reasons I am of the view that the proposed layout of the development would not impact the protected tree, nor would future pressures result in any detrimental impact to the tree.

### Parking provision and highways safety -

- 61 Policy EN1 of the Sevenoaks District Local Plan requires that proposed development should ensure the satisfactory means of access for vehicles and provides parking facilities in accordance with the Council's approved standards.
- 62 The proposal comprises the provision of a number of vehicles that would exceed the requirement of current standards.
- 63 The comments from the Highways Engineer relate to the eastern most access that would continue to serve the existing house and falls outside of the red line of the application site.
- 64 The existing layout of the in-out drive was approved as part of the scheme for the existing house, SE/10/02639/FUL. A condition attached to the decision notice for the previous application requires that visibility splays be retained and so it is not necessary to control this further.
- 65 It will be possible, however, to ensure that the proposed soft landscaping scheme for this proposed dwelling does not impede upon the visibility splay of the western access.
- 66 I would therefore conclude that the development would provide sufficient parking and would retain a satisfactory means of access.

### Affordable housing provision -

- 67 Policy SP3 of the Core Strategy requires that residential developments of less than 5 units, which involve a net gain in the number of units, provide a financial contribution based on the equivalent of 10% affordable housing will be required towards improving affordable housing provision off-site.
- 68 The applicant has indicated that they are willing to provide a financial contribution in line with the formula held within the Affordable Housing SPD. At the time of writing this report the legal agreement necessary to secure the contribution had not been received. The recommendation reflects this in that if Members resolve to grant approval for the development the applicant will have 28 days in which to submit a signed copy of the legal agreement otherwise the application would be refused.

### *Code for Sustainable Homes -*

- 69 Policy SP2 of the Core Strategy states that new homes will be required to achieve at least Level 3 of the Code for Sustainable Homes. The applicant has acknowledged this requirement but no information relating to this has been

submitted by the applicant. It is possible, however, for the achievement of Level 3 to be required by way of condition on any approval.

### *Use of water –*

- 70 No objection has been raised by Thames Water, who deal with drainage matters in the area. No view from South East Water has been sought with regards water supply. However, it will be the responsibility of the applicant to ensure that an appropriate supply of water to the dwelling is supplied and it is gained in an appropriate manner.

### *Sustainable development –*

- 71 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision taking (para. 14). For decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies out of date, granting of permission unless:-

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole;
- specific policies in this framework indicate development should be restricted; or
- material considerations indicate otherwise.

- 72 In my opinion, the proposed scheme fully accords with the development plan, and I have explained this in detail above. It follows that the development is appropriate and there would be no adverse impact in granting planning permission for the development.

### **Conclusion**

- 73 I consider that the proposed dwelling would preserve the character and appearance of the street scene, neighbouring amenity and highways safety, would ensure the long term retention of the protected tree to the rear of the site and makes sufficient provision for off-street vehicle parking. Consequently the proposal is in accordance with the development plan and therefore the Officer's recommendation is to approve.

### **Background Papers**

Site and Block plans

Contact Officer(s): Mr M Holmes Extension: 7406

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

## Agenda Item 4.4

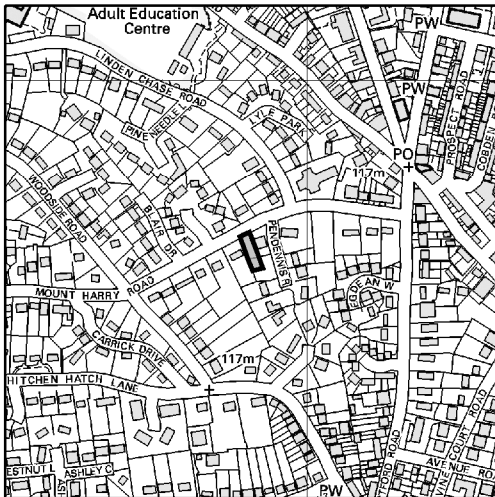
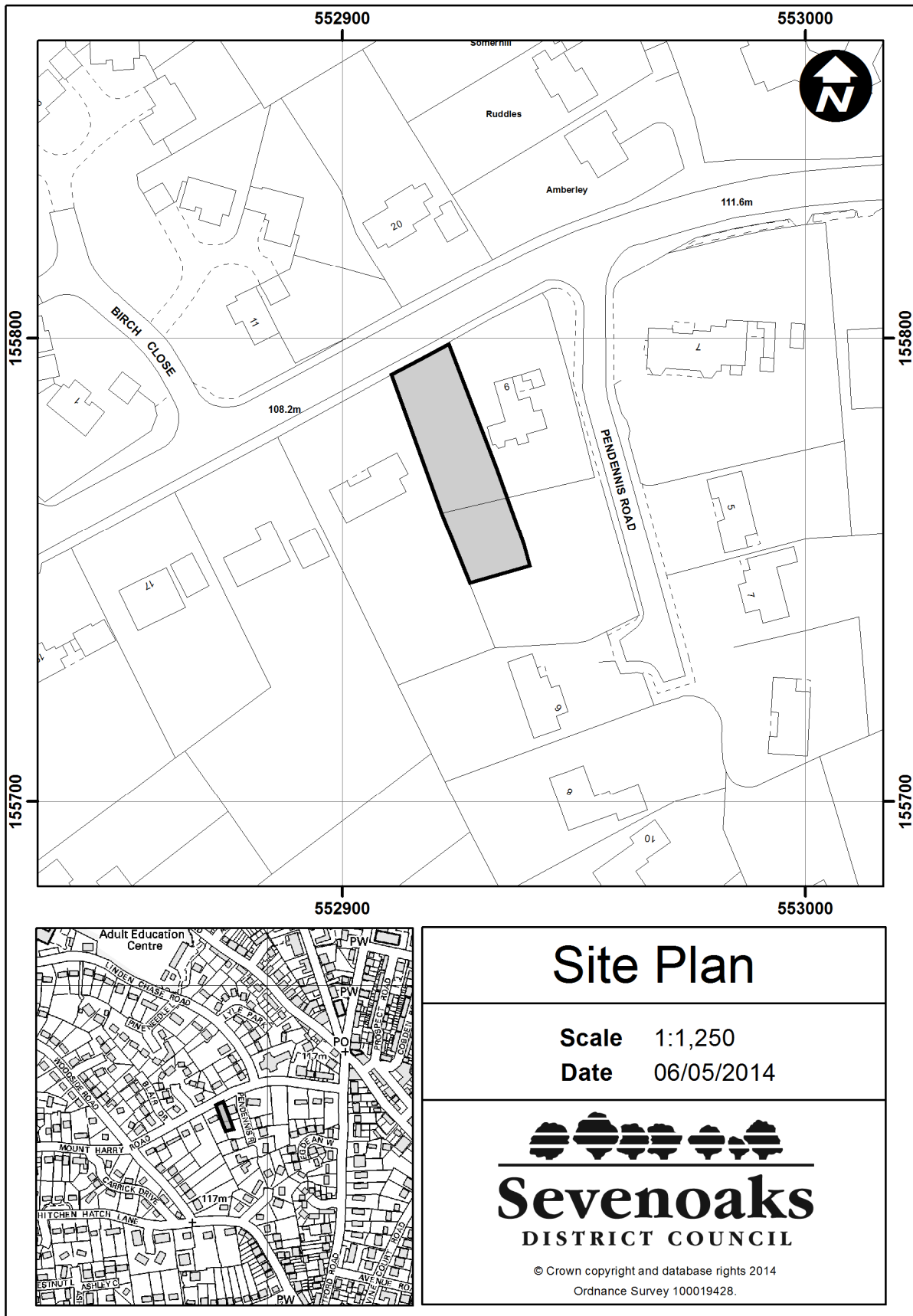
Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MZWBNA BK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MZWBNA BK8V000>





# Site Plan

Scale 1:1,250

Date 06/05/2014



**Sevenoaks**  
DISTRICT COUNCIL

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4.5 - SE/13/03811/ADV Date expired 17 April 2014

PROPOSAL: Advertisement consent is sought for the retention of Signage associated with existing surface pay and display car park.

LOCATION: Car Parks, Nightingale Way, Swanley, Kent

WARD(S): Swanley St Mary's

**ITEM FOR DECISION**

This application has been referred to the Development Control Committee by Councillor Fittock to consider the impact of the advertisements on amenity and public safety.

**RECOMMENDATION:** That planning permission be Split Decision:

Part Approve: - All adverts other than Type 7 pole mounted ones.

1) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

To comply with the requirements of the Town and Country Planning (Control of Advertisements) Regulations 2007 in the interests of amenity and public safety.

2) No advertisement shall be sited or displayed so as to:-

a - endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military)

b - obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

c - hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

To comply with the requirements of the Town and Country Planning (Control of Advertisements) Regulations 2007 in the interests of amenity and public safety.

3) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

To comply with the requirements of the Town and Country Planning (Control of Advertisements) Regulations 2007 in the interests of amenity and public safety.

4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

To comply with the requirements of the Town and Country Planning (Control of Advertisements) Regulations 2007 in the interests of amenity and public safety.

5) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

## Agenda Item 4.5

To comply with the requirements of the Town and Country Planning (Control of Advertisements) Regulations 2007 in the interests of amenity and public safety.

Part Refuse: - Type 7 pole mounted adverts only

By reason of their prominent location and proximity to adjacent advertisements, the 'Type 7' pole-mounted advertisements located on the island between the two Pay and Display ticket machines result in a harmful cumulative impact on the visual amenity of the surroundings, contrary to the National Planning Policy Framework and Planning Practice Guidance.

### Description of Proposal

- 1 Advertisement consent is sought for the retention of signage associated with the existing surface pay and display car park. This application is limited to the display of 19 non-illuminated signs of varying size and design.
- 2 Although there are in excess of 40 signs currently displayed throughout the site, those not subject of this application are unauthorised; they do not benefit from express consent and do not appear to benefit from deemed consent. They are therefore subject to a planning enforcement investigation.

### Description of Site

- 3 The application site comprises 4 ground level car parks located within Swanley town centre. The car parks are all accessed via Nightingale Way, a private road with a number of pedestrian routes linking to the adjacent shopping centre.
- 4 The site is not located within the Green Belt or AONB and it is not located within or adjacent to a Conservation Area.

### Constraints

- 5 Urban confines of Swanley

### Policies

#### *Sevenoaks Core Strategy*

- 6 Policies - SP1

#### *Sevenoaks District Local Plan*

- 7 Policies - EN1

#### *Emerging Allocations and Development Management Plan*

- 8 Emerging Policy – EN1

#### Other

- 9 National Planning Policy Framework

10 National Planning Practice Guidance

Planning History

- 11 13/003810/FUL: Retention of 3 No. pay and display ticket machines and associated advertisements for car park facility. WITHDRAWN 15.04.2014

Consultations

*Swanley Town Council:*

- 12 Swanley Town Council objects to this application as the current signs are too large and intrusive on the street scene and are out of character with other car parks in the town. Swanley Town Council feels that the signage should be in line with other car parks e.g. the District Council's car park in Bevan Place. Swanley Town Council also feel that the current signs are too confusing and the wording for Blue Badge holder parking needs to be made clearer as users enter the car parks; currently this information is only mentioned clearly on the ticket machines which means that disabled users have to alight from their vehicles and make their way to a ticket machine before they ascertain that they can park free for a limited time. The signage also needs to be well lit at night; Swanley Town Council is concerned that Blue Badge holders especially may be put in a vulnerable situation due to currently having to alight from their vehicle to ascertain correct information.

*Kent County Council (Highways):*

- 13 'Having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority'.

Representations

- 14 Notification letters were sent to the occupiers of 78 commercial and residential properties surrounding the site. The statutory consultation period ended on 17.03.2014. No written representations received.

**Chief Planning Officer's Appraisal**

- 15 The display of advertisements is subject to a separate consent process within the planning system which states that local planning authorities can only control the display of advertisements in the interests of amenity and public safety, taking into account the provisions of the development plan, in so far as they are material and, and any other relevant factors. The main issues therefore relate to:
- Impact on amenity; and
  - Impact on public safety.

*Impact on amenity:*

- 16 The Planning Practice Guidance sets out the principal considerations affecting visual and aural amenity and states that in practice, 'amenity' is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement. Adopted policies SP1 of the Core Strategy, policy EN1 of the Local Plan and emerging

## Agenda Item 4.5

policy EN1 of the Allocations and Development Management Plan do not refer explicitly to advertisements but contain general guidance on the requirement for developments to respect local context and character.

- 17 In assessing amenity it is necessary to consider the local characteristics of the neighbourhood, including whether the locality where the advertisement to be displayed has important scenic, historic, architectural or cultural features and whether the advertisements would be in scale and keeping with any of these.
- 18 The car parks comprise several large open spaces enclosed in part by the side and rear elevations of single, two and three storey buildings and in part by trees and shrubbery. By reason of its function the car park is heavily trafficked by both vehicles and pedestrians and these signs would have little if any impact on aural amenity of the area.; It is, however, not a space of any particular merit, nor does it benefit from any of the features referred to above.
- 19 The advertisements, which include pole mounted signs and signs affixed to walls are located on the approach to and within the existing car parks. The two pole mounted signs located between the two pay and display machines, by reason of their proximity to adjacent signs are considered to have a cumulative harmful impact on the visual amenity of this particular location, due to their location, size and surrounding signage . The other advertisements being applied for are considered to be acceptable in terms of number, size and location. They are not considered to be intrusive or out of character and do not adversely affect the amenity of this neighbourhood or site, when considering the surrounding character.

### *Impact on public safety:*

- 20 Factors relevant to public safety are set out in the advertisement regulations. Public safety is not confined to road safety and includes all of the considerations which are relevant to the safe use and operation of any form of traffic or transport, including the safety of pedestrians.
- 21 The Planning Practice Guidance recognises that all advertisements are intended to attract attention but states that advertisements at points where drivers need to take more care are more likely to affect public safety. There are less likely to be road safety problems where advertisements are located on sites within commercial or industrial areas and where advertisements are not on the skyline.
- 22 The advertisements subject of this application are located on the approach to and within an established car park. They are located such that they do not obstruct or impair sightlines at any hazardous corners, bends or junctions and are not of such a size or scale that would be likely to distract road users. The fact that the signs are not illuminated and do not incorporate moving images or text further reduces their potential to adversely affect public safety.
- 23 The Planning Practice Guidance states that crime prevention is a public safety consideration and states that local planning authorities should consider whether granting express consent could block the view of CCTV cameras, or whether illumination from an advertisement would cause glare on such cameras. None of the advertisements would block any views from CCTV cameras and by reason of being non-illuminated would not result in any glare.

Other matters:

- 24 The objections raised by Swanley Town Council are noted; however all applications have to be considered on their own merits and in the context of the specific circumstances of this site. Therefore, whilst the signs referred to at Bevan Place may be preferable in terms of their size, scale and location it is not material to the acceptability of this application.
- 25 As previously noted, local planning authorities can only consider advertisements in relation to their impact on amenity and public safety. The local planning authority cannot consider the precise design or wording of advertisements, minor changes to which (for example, changing the name of an occupier) rarely require a formal application for express consent, particularly where the size and type of advertisement remains substantially unaltered. On this basis the objection relating to the confusing nature of the text is not material to the assessment of the application for advertisement consent.
- 26 The objection relating to the display of the advertisements increasing the vulnerability of disabled car park users is acknowledged; however this stems from the confusing content of the signs as opposed to their size, scale or location. The car park is illuminated by street lights and the display of the advertisements in themselves is not considered to result in an unacceptable impact on public safety in this location.
- 27 All advertisements are subject to 5 standard conditions set out in the advertisement regulations. No other planning conditions are considered to be necessary.

**Conclusion:**

- 27 The 'Type 7' pole mounted advertisements located on the island between the two Pay and Display ticket machines, by reason of their prominent location and proximity to adjacent advertisements, would result in a harmful cumulative impact on the visual amenity of the surroundings and it is recommended these be refused advertisement consent.
- 28 The other advertisements applied for are considered to be acceptable in terms of their affect on amenity and public safety. Subject to the standard conditions relating to securing permission of the land owner, public safety, maintenance of the advertisements and ensuring the site is left in an appropriate condition upon their removal it is recommended these be granted advertisement consent.

**Recommendation: Split decision; part approve and part refuse**

Contact Officer(s): Matthew Durling Extension: 7448

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

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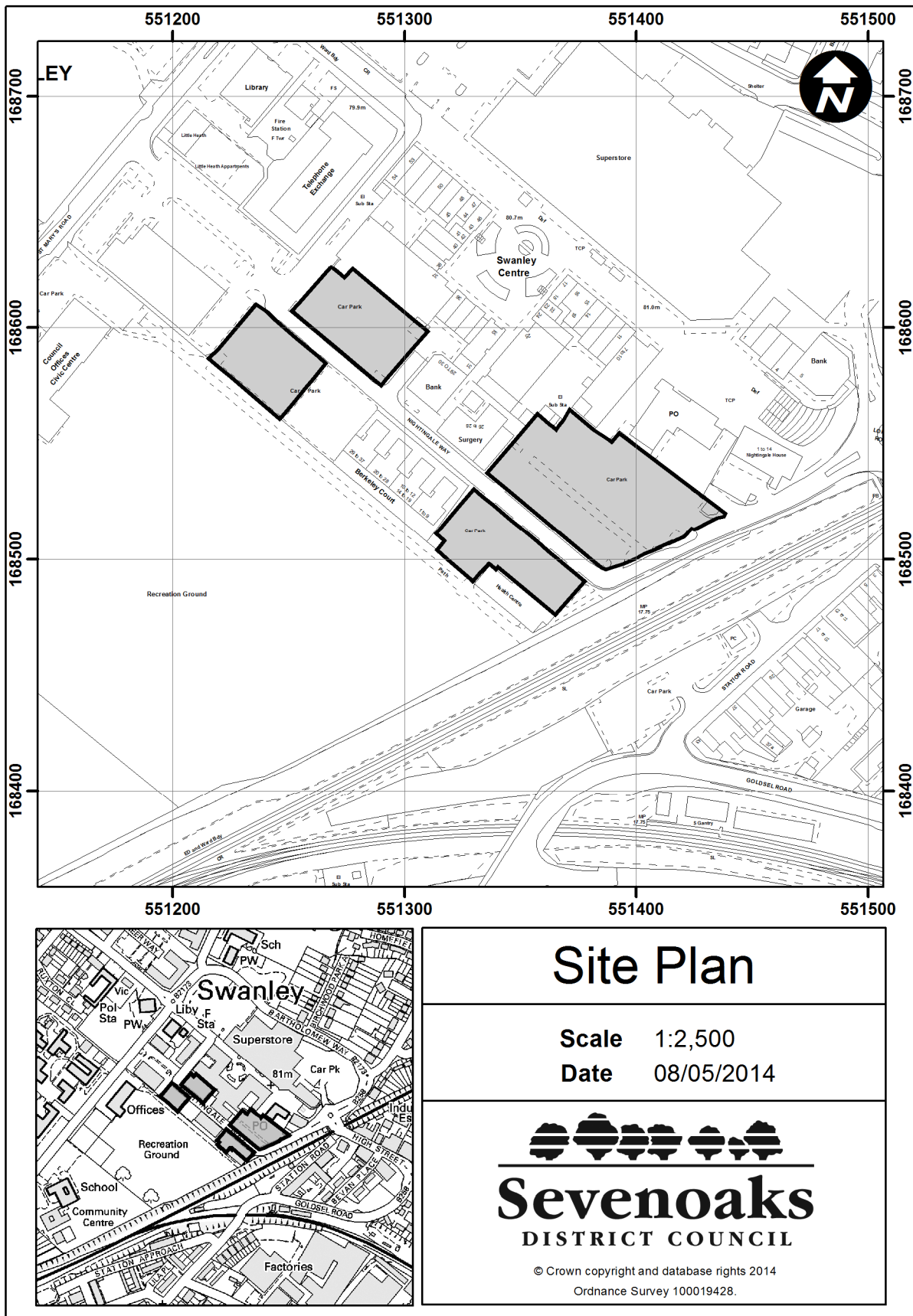
Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MY3ICCBK8V00I>

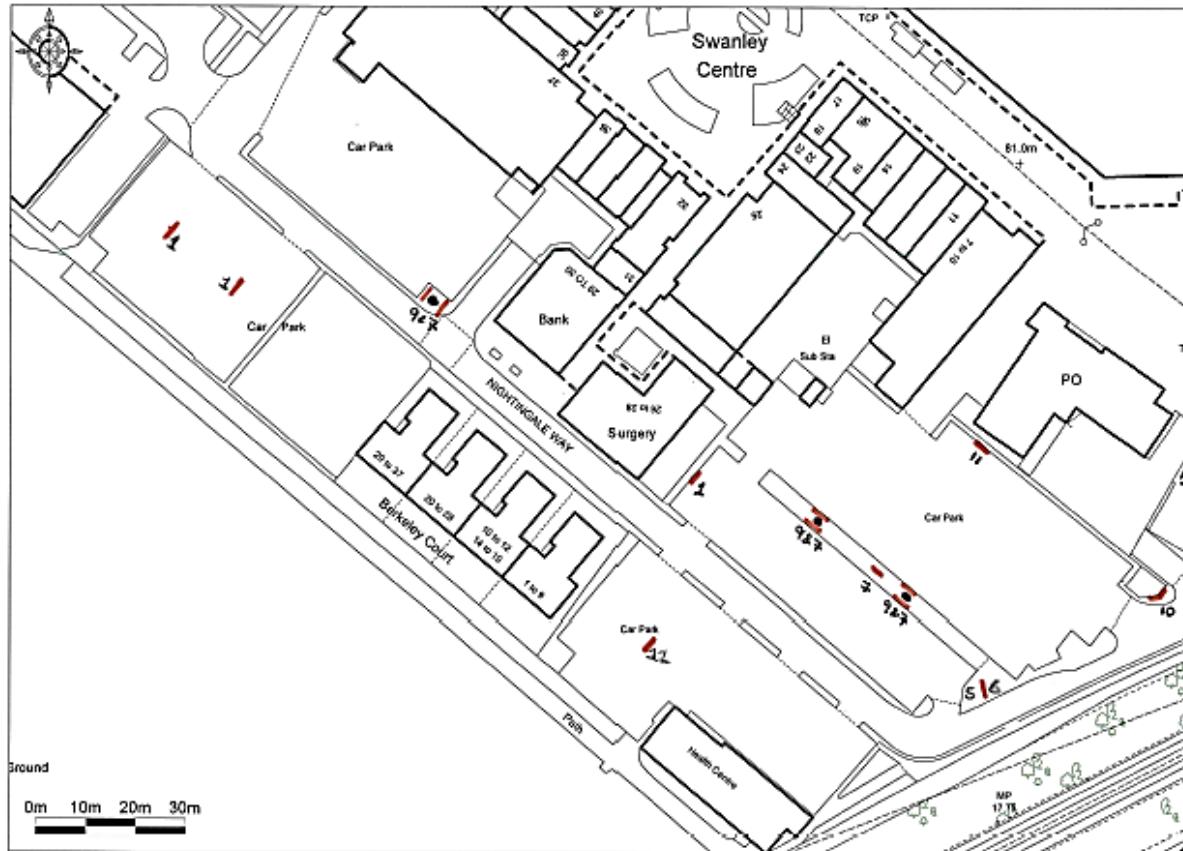
Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MY3ICCBK8V00I>





Block Plan: Swanley Shopping Centre,  
Swanley, Kent



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- Pay and Display Machines
- Signage location and type.

4.6 – SE/13/03557/FUL Date expired 31 January 2014

PROPOSAL: Demolition of existing house and erection of new replacement dwelling.

LOCATION: Hillway , Pilgrims Way East, Otford, Sevenoaks TN14 5RX

WARD(S): Otford & Shoreham

**ITEM FOR DECISION**

This application is referred back to Development Control Committee as the conditions were not agreed with the local Ward members.

Members have already agreed that planning permission be APPROVED in principle.

The list of conditions proposed by officers is as follows:

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

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

2) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the dwelling including the balcony hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials.

Reason: To ensure that the appearance of the development enhances the character and appearance of the dwelling as supported by Policy EN1 of the Sevenoaks District Local Plan.

3) No building, enclosure or swimming pool, 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.

Reason: To ensure that any such proposal is considered on its merits having regard to the openness of the Green Belt, the character of the landscape and the principle of this development, that was approved based on very special circumstances as inappropriate development in the Green Belt.

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

Reason: To ensure that any such proposal is considered on its merits having regard to the openness of the Green Belt, the character of the landscape and the principle of this development, that was approved based on very special circumstances as inappropriate development in the Green Belt.

5) No development shall take place until details of the: existing levels of the land; any proposed slab and finished floor levels and any changes in levels have been submitted for approval. The development shall be carried out in accordance with the

## Agenda Item 4.6

approved details.

Reason: To maintain the visual appearance of the area as supported by EN1 of the Sevenoaks District Local Plan.

6) No development shall be carried out until a scheme of soft landscaping, including type and size of species has been submitted to the Council for approval in writing. The scheme shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection during the course of the development. The soft landscape works shall be carried out before the dwelling is occupied or in accordance with a programme of implementation agreed in writing with the Council. The landscape works shall be carried out in accordance with the approved details.

Reason: To maintain the visual amenity of the area as supported by policies EN1 of the Sevenoaks District Local Plan.

7) If within a period of five years from the completion of the development, any of the trees or plants that form part of the approved details of soft landscaping die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

Reason: To maintain the visual amenity of the area as supported by policies EN1 of the Sevenoaks District Local Plan.

8) No development shall be carried out until a scheme of hard landscaping (which includes surfacing details), has been submitted to and approved in writing by the Council. The development shall be carried out in accordance with the approved details. The hard landscape works shall be carried out before the first dwelling is occupied or in accordance with a programme of implementation agreed in writing with the Council. The landscape works shall be carried out in accordance with the approved details.

Reason: To maintain the visual amenity of the area as supported by policies EN1 of the Sevenoaks District Local Plan.

9) Notwithstanding the information on the plans, no development shall be carried out until full details of all existing and proposed means of enclosure have been submitted to and approved in writing by the Local Planning Authority. These details shall include a plan indicating the positions, design and materials of all means of enclosure and a timetable for implementation. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the appearance of the development is in harmony with the existing character of the area; as supported by Policy EN1 of the Sevenoaks District Local Plan.

10) Before occupation of the dwelling hereby approved the existing buildings shown for removal on the approved plan no. P07 shall be demolished and all materials arising there from shall be removed from the site.

Reason: In the interests of residential and visual amenities of the area and the open character of the Green Belt in accordance with Policy EN1 of the Sevenoaks District Local Plan, LO8 of the Sevenoaks Core Strategy and the advice and guidance in the NPPF.

11) The works required for the development authorised by this permission shall only

be carried out in accordance with the details of the Kent Wildlife Trust Management Plan dated June 2011 (The Management Plan).

Reason: In the interests of nature conservation as supported by Policy EN17B of the Sevenoaks District Local Plan.

12) No development shall commence until details have been submitted of a monitoring scheme for the Kent Wildlife Trust Management Plan dated May 2011 (the Management Plan). This monitoring scheme shall include details of routine monitoring of key indicators of success and details of how management of the site will be amended due to the monitoring results. The Management Plan shall be monitored in accordance with the approved details.

Reason: In the interests of nature conservation as supported by Policy EN17B of the Sevenoaks District Local Plan.

13) No development shall commence, until a strategy for biodiversity enhancement, has been submitted to and approved in writing by the Local Planning Authority together with a timetable for implementation and maintenance. The development shall be carried out and maintained in accordance with the approved details.

Reason: In the interests of nature conservation as supported by Policy EN17B of the Sevenoaks District Local Plan.

14) The development shall achieve a Code for Sustainable homes minimum rating of level 3. 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 Code for Sustainable Homes Design Certificate minimum level 3 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 Code for Sustainable Homes post construction certificate minimum level 3 or alternative as agreed in writing by the Local Planning Authority.

Reason: In the interests of environmental sustainability and reducing the risk of climate change as supported in Planning Policy Statement 1, policies CC2 & CC4 of the South East Regional Plan and the advice and guidance in the NPPF.

15) The development hereby permitted shall be carried out in accordance with the following approved plans 100 A, P01, P02 A, P03 B, P04/1 C and P04/2 C, P07 D and P07 received 29<sup>th</sup> November 2013

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

16) No development shall commence until a scheme of lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting details shall be in accordance with the following details:-

- a) Low-pressure sodium lamps or high-pressure sodium must be used instead of mercury OR metal halide lamps where glass glazing is preferred due to its UV filtration characteristics.
- b) Lighting must be directed to where it is needed and light spillage avoided. Hoods must

## Agenda Item 4.6

be used on each light to direct the light and reduce spillage.

c) The times during which the lighting is on must be limited to provide some dark periods. If the light is fitted with a timer this must be adjusted to the minimum to reduce the amount of 'lit time'.

d) Lamps of greater than 2000 lumens (150 W) must not be used.

e) Movement sensors must be used. They must be well installed and well aimed to reduce the amount of time a light is on each night.

f) The light must be aimed to illuminate only the immediate area required by using as sharp a downward angle as possible. This lit area must avoid being directed at, or close to, any bats' roost access points or flight paths from the roost. A shield or hood can be used to control or restrict the area to be lit. Avoid illuminating at a wider angle as this will be more disturbing to foraging and commuting bats as well as people and other wildlife.

g) The lights on any upper levels must be directed downwards to avoid light spill and ecological impact.

h) The lighting must not illuminate any bat bricks and boxes placed on the buildings or the trees in the grounds

Reason: In the interests of nature conservation as supported by Policy EN17B of the Sevenoaks District Local 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) The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

### **Background**

- 1 Since March Committee where members resolved to grant planning permission in principle, subject to agreeing the wording of conditions with local ward members officers have corresponded with Local Ward members to agree the list of conditions proposed.
- 2 However, it was suggested that condition 10 which requires demolition of the existing house before occupation of the replacement dwelling and condition 13 which require a strategy for biodiversity enhancements to be submitted be amended.
- 3 Officers did not agree that it was appropriate to amend the wording of condition 10 which is imposed to protect the openness of the Green Belt.
- 4 In respect of condition 10, following initial consultation with local members regarding the wording of the above conditions, local ward member Cllr Edwards Winser responded with the view that the wording of the condition recommended by officers is impracticable as it is likely to involve the applicant and his family having to either put a large caravan on site, or move into rented accommodation and put all possessions into storage, move out of the house, demolish it, then build the new one and move back in again once the new dwelling is completed.
- 5 Consequently, the following amendment to the condition was recommended:  
  
*"Upon completion and occupation of the permitted dwelling, the existing dwelling shall be ceased to be used for ANY purpose and within a period of ONE month thereafter the current dwelling shall be demolished and all materials and risings from such demolition be removed from site."*  
  
It was also suggested a time limit of 12 months from commencement of building works be added to the wording of the condition.  
  
In respect of condition 13, local ward member Cllr Edwards Winser was initially of the view that condition 13 lacked precision and should specify exactly what the phrase 'enhancement' means. It was suggested that the wording provided by Natural England in their response to the application be incorporated into the condition.
- 6 As no agreement could be met in regard to the conditions, it was agreed that the application be brought back to the Planning Committee.

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### Chief Planning Officer's Appraisal

#### Policy

- 7 As members are aware, one of the principle constraints applicable to this scheme and relevant to condition 10 is the location of the site in the Green Belt. The policy criteria relating to the Green Belt is detailed in the Officers initial report to Development Control Committee dated March 2014 appended for information.
- 8 Since the previous report to Development Control Committee, members will be aware that following the recent examination of the emerging Allocations and Development Management Plan (ADMP), policies contained within the ADMP are in the final stages of preparation and can now be attributed some weight in decision taking. At present, limited weight is given to policies which may be subject to main modifications. Moderate weight can be given to those policies where there are objections but no main modifications are proposed. Significant weight is given to policies where there are no objections and no modifications are proposed.
- 9 In respect of the Green Belt, emerging policies GB4 and GB5 of the ADMP are relevant to the assessment of this planning application and can be afforded moderate weight and significant weight, respectively.
- 10 Members are advised that it is officers view that the proposed development would be contrary to policy GB4 of the ADMP, however, members previously resolved to grant planning permission as members considered there to be very special circumstances in this case which would clearly outweigh the harm to the Green Belt by reason of inappropriateness. Member's attention is therefore drawn to policy GB5 of the ADMP which relates to replacement dwellings granted under very special circumstances and states that:
- Where new dwellings are permitted in the Green Belt on grounds of very special circumstances or as part of a rural exception scheme, the Council will remove permitted development rights for extensions and outbuildings to prevent future additions that cumulatively impact upon the openness of the Green Belt.*
- Applications to extend dwellings or erect or extend outbuildings to dwellings that have or are permitted on grounds of very special circumstances, or as part of a rural exception scheme will not be permitted.*
- 11 Members will note that conditions 3 and 4 (above), recommend the removal of permitted development rights.

#### Condition 10

- 12 It is recommended that condition 10 be imposed as recommended by Officers in order to protect the openness of the Green Belt. The same condition was imposed on application reference SE/11/02762/FUL for an alternative scheme to erect a replacement dwelling at the site.
- 13 Following the approval of SE/11/02762/FUL, there was correspondence with the previous case officer about the removal or variation of condition 10 of the planning permission which requires demolition of the existing house before occupation of the replacement dwelling. The correspondence outlined that the Councils normal practice for replacement dwellings in the Green Belt, is to require



demolition of the existing dwelling prior to commencement on site. This is done to protect the openness of the Green Belt and because it is officers view that this type of condition is easier to enforce.

- 14 In some circumstances, as in this case, officers recommend demolition of the existing dwelling on occupation of the replacement. It is officer's view that there is no justification for delaying demolition of the existing dwelling beyond that date as the harm to the Green Belt would be extended and it then becomes more difficult for the planning authority to enforce against the removal of the existing dwelling on site resulting in a greater risk of its retention and thus additional and potentially permanent harm to the openness of the Green Belt contrary to the policy criteria referred to in detail in the officers original report to Development Control Committee.
- 15 In addition to the above, and material to the consideration of this issue is the fact that in allowing the appeal against the Councils refusal of application reference SE/13/01124/FUL for an alternative replacement dwelling on the site, the Planning Inspector considered the condition recommended by the Council to be appropriate and consequently applied the condition to his grant of planning permission. A copy of the Inspectors decision is appended to this report for information (Appendix 2).
- 16 Members are advised that other alternatives to the wording of condition 10 have been suggested but officers consider the version we propose to be the one which is clear and precise, best meets the tests for conditions as set out in Planning Practice Guidance, protects the Council's policy position in terms of minimising the harm to the Green Belt and has been supported by the Planning Inspector.

### *Condition 13*

- 17 In response to the comments made in respect of condition 13 rather than include Natural England's wording in the condition which would make it very lengthily, officers recommended that an informative be placed on the permission written in conjunction with the condition which specifies the details which Cllr Edwards Winser requested officers make clear. No further comments were made in relation to the officer's recommendation in this respect.

### Other Matters

- 18 It has been brought to officer's attention that the applicant is hesitant about the material and colour of material to be used in the colouration of the external walls. It is stated that Otford Parish Council would prefer the external walls to be of "the local vernacular red brick finish". Cllr Edwards Winser has asked whether it is possible to add this to the list of conditions.
- 19 In response, condition 2 (above) requires samples of materials to be submitted and approved by the Local Planning Authority in writing prior to the commencement of the development. An informative can be added to refer to the preference for a local red brick finish.

### Recommendation

- 20 That as per the resolution of Development Control Committee in March, planning permission be granted subject to the conditions as set out at the beginning of the

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report together with the addition of the following informative written in conjunction with condition 13:

### INFORMATIVE

1) In respect of condition 13 above, the applicant's attention is drawn to the comments received from Natural England dated 18 December 2013 in response to the application, which address the issue of enhancements. These comments have been copied in full for information for the benefit of the applicant. The applicant is advised to consider incorporating enhancements recommended by Natural England into any subsequent strategy for biodiversity enhancement.

#### *Biodiversity enhancements*

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*'. Section 40(3) of the same Act also states that '*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.

#### *Landscape enhancements*

This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

2) Please note that the preference for facing materials for the main dwelling, to be submitted for condition 2, would be for a local red brick finish.

Contact Officer(s):

Claire Baldwin Extension: 7367

**Richard Morris - Chief Planning Officer**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MX0M9JBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MX0M9JBK8V000>

3.2- <u>SE/13/03557/FUL</u>	Date expired-31-January-2014	□
PROPOSAL:	Demolition-of-existing-house-and-erection-of-new-replacement-dwelling	□
LOCATION:	<u>Hillway</u> , Pilgrims Way East, Otford, Sevenoaks TN14 5RX	▣
WARD(S):	Otford & Shoreham	□

**ITEM FOR DECISION**

This application was referred to Development Control Committee by Councillor Edwards-Winser on the grounds that:

1. → In comparison to the previously refused scheme approximately 20-30% of the roof has now disappeared and presumably a similar decrease in habitable floor area would occur as a result.
2. → If the floor areas of the existing Hillway, the already approved replacement, the recently refused application and this current application are compared, then it is fairly obvious that the habitable floor areas have been reduced each time, as has the visual impact – which is the main reason that OPC, the Village Society and many other residents welcome the efforts of the developer to reduce the impact and improve the openness of the MGB.

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

The land lies within the Green Belt where strict policies of restraint apply. The proposal would be inappropriate development harmful to the maintenance of the character of the Green belt and to its openness. The Council does not consider that the special circumstances put forward in this case are sufficient to clearly outweigh the harm to the Green Belt in principle and to its openness. The proposal is therefore contrary to policies H13 of the Sevenoaks Local Plan, LO8 of the Sevenoaks Core Strategy and the National Planning Policy Framework.

**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),

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- → By providing a regular forum for planning agents, ¶
- → Working in line with the NPPF to encourage developments that 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 → The application seeks planning permission for the demolition of the existing dwelling and the erection of a replacement dwelling located to the east of the existing dwelling. ¶
- 2 → It is proposed that the dwelling would be arranged over two floors, and would include a subterranean basement. ¶
- 3 → The proposed dwelling is L-shaped, and would be built into the site. The dwelling would have a garage area and an additional carport. ¶

Description of Site ¶

- 4 → The site is occupied by a two-storey detached dwelling located close to the western boundary of the plot. The site rises reasonably steeply from west to east and from south to north. The site is relatively open internally but bounded by trees and hedging. ¶
- 5 → The existing house possesses little in the way of architectural merit having started out as a small bungalow that has been added to over the years, significantly increasing the size of the property. Due to the boundary treatment and steep rise of the slope that the house finds itself on, the dwelling is currently seen in isolation. ¶
- 6 → The property is served by a driveway that links the house to Pilgrims Way East to the south-east of the site. ¶

Constraints ¶

- 7 → Metropolitan Green Belt ¶
- 8 → Kent Downs Area of Outstanding Natural Beauty (AONB) ¶
- 9 → Site of Nature Conservation Interest (SNCI) covers most of the site. ¶
- 10 → Site of Special Scientific Interest (SSSI) adjacent to the site. ¶

Policies ¶

Sevenoaks District Local Plan ¶

- 11 → Policies -- EN1, EN6, EN17B, H13 and VP1 ¶

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### Sevenoaks Core Strategy

12 Policies- SP1, L08

### Other

13 National Planning Policy Framework

14 Otford Village Design Statement

### Planning History

15	SW/5/48/20	Alterations and extensions	GRANT	
	SW/5/70/323	Extension to form a lounge	GRANT	15/08/1970
	76/00487/HIST	Reconstruction of dwelling house destroyed by fire	GRANT	22/06/1976
	86/01593/HIST	First floor extension to dwelling incorporating a balcony	GRANT	21/10/1986
	85/01293/HIST	Relocation of vehicular access	GRANT	23/10/1985
	85/01466/HIST	Erection of two storey extension to provide garaging with room over, formation of dormers and re-tiling roof	GRANT	27/11/1985
	09/02623/FUL	Replacement dwelling	WDN	15/01/2010
	10/00219/FUL	Erection of replacement dwelling	REFUSE	09/04/2010
	10/02128/FUL	Erection of replacement dwelling	WDN	29/09/2010
	11/02762/FUL	Demolition of existing dwelling house and erection of new replacement dwelling as amended by plans received 04.04.12	GRANT	12/09/2012
	13/00026/FUL	Demolition of existing house and erection of new replacement dwelling	REFUSE	11/03/2013
	13/01124/FUL	Demolition of existing house and erection of new replacement dwelling.	REFUSE Appeal Lodged	18/07/2013

### Consultations

#### *Otford Parish Council-*

16 Support the application stating:

"The bulk of the building has been reduced by a reduction in roof line. The oversailing and undercroft areas are also reduced thus addressing the concerns of the planning officer for the previous application. The Council supported the previous application".

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*County Archaeology have made the following comments -*

- 17 The site of the application lies within an area which has revealed prehistoric activity; a Scheduled Roman villa lies to the south and the Medieval Bishops Palace at Otford lies to the south west. Remains associated with this activity may be revealed during ground works and I recommend the following condition is placed on any forthcoming consent:
- 18 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.
- Reason: To ensure that features of archaeological interest are properly examined and recorded.
- 19 I would be pleased to discuss any of the above further and can provide a specification on request.

*Environment Agency have made the following comments -*

- 20 Thank you for consulting us on the above proposal. We have no objection but the following comments should be noted.
- Foul drainage
- 21 Foul drainage should be connected to the main sewer. Where this is not possible we recommend the installation of a Package Treatment Plant and not Septic Tanks. If these are installed and it is proposed to discharge treated effluent to ground or to a surface watercourse, the applicant may require an Environmental Permit from us. The granting of planning permission does not guarantee the granting of a permit under the Environmental Permitting Regulations 2010. A permit will only be granted where the risk to the environment is acceptable.
- 22 To qualify for a registered exemption the rate of sewage effluent discharge must be 2 cubic metres a day or less to ground or 5 cubic metres a day or less to watercourse. You must also be able to satisfy a number of specific criteria. A Standard Rules Permit is available for discharges of secondary treated sewage (to surface water only) of between 5 cubic metres a day and 20 cubic metres a day.
- 23 Discharges of treated sewage greater than 2 cubic metres a day to ground and greater than 20 cubic metres a day to a surface water require a Bespoke Permit. Additional information is available on our website:
- <http://www.environment-agency.gov.uk/homeandleisure/118753.aspx>
- 24 To help you choose the correct option for sewage disposal, additional information can also be found in our Pollution Prevention Guidelines (PPG) 4: Treatment and Disposal of Sewage where no Foul Sewer is available which can be found at:
- <http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>

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*SDC Environmental Health have made the following comments -*

- 25 Environmental Protection has no observations or objections in relation to this proposal (application number 13/03557/FUL) to demolish the existing dwelling and erect a replacement dwelling to the eastern part of the site.

*Kent Highways Services have made the following comments-*

- 26 I refer to the above planning application and having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority.

*Thames Water have made the following comments -*

Waste Comments:

PACKAGE TREATMENT PLANT

- 27 Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.

Reason: To ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Water Comments:

- 28 With regard to water supply, this comes within the area covered by the Mid Kent Water Company. For your information the address to write to is - Mid Kent Water Company PO Box 45, High Street, Snodland, Kent, ME6 5AH Tel - (01634) 240313.

*Kent Wildlife Trust have made the following comments -*

- 29 I understand that these latest revisions involve design alterations to the proposed house. I have no objection to such revisions, so long as you are satisfied and can take steps to ensure that there is no further encroachment onto the remaining chalk grassland to the east and north.
- 30 I therefore invite the Council to:
- re-impose the relevant 'nature conservation' terms, conditions and agreements applied to application 11/02762, and inspect; and
  - approve the position of house footings prior to any further construction proceeding.

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*Natural England have made the following comments-*

31 Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

32 Natural England's comments in relation to this application are provided in the following sections.

*Statutory nature conservation sites - no objection*

Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

*Protected species Bats*

33 It is noted that a survey for European Protected Species has been undertaken in support of this proposal. Natural England does not object to the proposed development. On the basis of the information available to us, our advice is that the proposed development would be unlikely to affect bats.

34 For clarity, this advice is based on the information currently available to us and is subject to any material changes in circumstances, including changes to the proposals or further information on the impacts to protected species

*Local wildlife sites*

35 If the proposal site is on or adjacent to a local wildlife site, eg Site of Nature Conservation Importance (SNCI) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local wildlife site, and the importance of this in relation to development plan policies, before it determines the application.

*Biodiversity enhancements*

36 This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the National Planning Policy Framework. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.

*Landscape enhancements*

37 This application may provide opportunities to enhance the character and local distinctiveness of the surrounding natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for

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example through green space provision and access to and contact with nature. Landscape characterisation and townscape assessments, and associated sensitivity and capacity assessments provide tools for planners and developers to consider new development and ensure that it makes a positive contribution in terms of design, form and location, to the character and functions of the landscape and avoids any unacceptable impacts.

*KCC Ecology have made the following comments-*

- 38 Under the Natural Environment and Rural Communities Act (2006), “*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*”. In order to comply with this ‘Biodiversity Duty’, planning decisions must ensure that they adequately consider the potential ecological impacts of a proposed development.
- 39 The National Planning Policy Framework states that “*the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible.*”
- 40 Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System states that “*It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted otherwise all relevant material considerations may not have been addressed in making the decision.*”
- 41 Natural England has published Standing Advice on protected species and Ancient Woodland. When determining an application for development that is covered by the Standing Advice, Local Planning Authorities must take into account the Standing Advice. The Standing Advice is a material consideration in the determination of applications in the same way as a letter received from Natural England following consultation.
- 42 We previously provided comments on this site for a number of planning applications including SE/11/02762/FUL and SE/13/01124/FUL. As such we are familiar with this site and the ecological information and management plans which have been submitted in support of this application.
- 43 We are satisfied with the information which has been provided with the planning application and subsequently by the applicant and planning officer. As such we do not require additional information to be submitted prior to determination of the planning application.

*Management Plan for the re-creation and enhancement of Chalk Grassland*

- 44 The submitted information details that the site will be managed in conjunction with Kent Wildlife Trust and the applicant. The management plan was produced two years ago but the applicant has confirmed that the management plan for the site is already being implemented.

*Reptiles*

- 45 The 2010 survey detailed that the proposed footprint of the development does not have suitable reptile habitat present. We did have some concerns that the

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management of the grassland would have changed since 2010 and there was not suitable habitat for reptiles present within the site.

- 46 However the planning officer has confirmed that the footprint of the proposed development site has already been excavated and there is no vegetation remaining within this area.
- 47 As such we are satisfied that there is no requirement for an updated reptile survey to be carried out.

*Bats*

- 48 No bats were recorded emerging from the building and we are satisfied with the results of the updated bat survey 2013.
- 49 The emergence survey identified that bats were commuting and foraging within the site. Lighting can be detrimental to roosting, foraging and commuting bats. We advise that the Bat Conservation Trust's *Bats and Lighting in the UK* guidance is adhered to in the lighting design (see end of this note for a summary of key requirements).

*Enhancements*

- 50 One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around developments should be encouraged".
- 51 We have reviewed the management plan and we are satisfied that it will result in the enhancement of the existing chalk grassland.
- 52 However other enhancements which can also be incorporated in to the site include the inclusion of bat bricks/tiles in the new building, bird and bat boxes in the surrounding areas, native and local provenance planting, pond creation and refugia for herpetofauna could all be included in order to help promote biodiversity alongside development.
- 53 Details of other ecological enhancements to be incorporated in to the site must be submitted as a condition of planning permission.

*Bats and Lighting in the UK*

Bat Conservation Trust and Institution of Lighting Engineers

Summary of requirements

- 54 The two most important features of street and security lighting with respect to bats are:
1. The UV component. Low or zero UV installations are preferred to reduce attraction of insects to lighting and therefore to reduce the attraction of foraging bats to these areas.
  2. Restriction of the area illuminated. Lighting must be shielded to maintain dark areas, particularly above lighting installations, and in many cases, land adjacent to the areas illuminated. The aim is to maintain dark commuting corridors for

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foraging and commuting bats. Bats avoid well lit areas, and these create barriers for flying bats between roosting and feeding areas.

*UV characteristics:*

55 Low

- Low pressure Sodium Lamps (SOX) emit a minimal UV component.
- High pressure Sodium Lamps (SON) emit a small UV component.
- White SON, though low in UV, emit more than regular SON.

56 High

- Metal Halide lamps emit more UV than SON lamps, but less than Mercury lamps
- Mercury lamps (MBF) emit a high UV component.
- Tungsten Halogen, if unfiltered, emit a high UV component
- Compact Fluorescent (CFL), if unfiltered, emit a high UV component.

57 Variable

- Light Emitting Diodes (LEDs) have a range of UV outputs. Variants are available with low or minimal UV output.

58 Glass glazing and UV filtering lenses are recommended to reduce UV output.

*Street lighting*

59 Low-pressure sodium or high-pressure sodium must be used instead of mercury or metal halide lamps. LEDs must be specified as low UV. Tungsten halogen and CFL sources must have appropriate UV filtering to reduce UV to low levels.

60 Lighting must be directed to where it is needed and light spillage avoided. Hoods must be used on each lamp to direct light and contain spillage. Light leakage into hedgerows and trees must be avoided.

61 If possible, the times during which the lighting is on overnight must be limited to provide some dark periods. If the light is fitted with a timer this must be adjusted to reduce the amount of 'lit time' and provide dark periods.

*Security and domestic external lighting*

62 The above recommendations concerning UV output and direction apply. In addition:

- Lighting should illuminate only ground floor areas - light should not leak upwards to illuminate first floor and higher levels;
- Lamps of greater than 2000 lumens (150 W) must not be used;

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- Movement or similar sensors must be used - they must be carefully installed and aimed, to reduce the amount of time a light is on each night;
- Light must illuminate only the immediate area required, by using as sharp a downward angle as possible;
- Light must not be directed at or close to bat roost access points or flight paths from the roost - a shield or hood can be used to control or restrict the area to be lit;
- Wide angle illumination must be avoided as this will be more disturbing to foraging and commuting bats as well as people and other wildlife;
- Lighting must not illuminate any bat bricks and boxes placed on buildings, trees or other nearby locations.

#### Representations

- 63 One letter has been received objecting to the application on the following grounds:
- that a piece of Greenbelt land belonging to us and in our guardianship for very sound conservation reasons (quite apart from familial ones), was utilised to gain approval for moving a dwelling to further encroach upon Greenbelt chalk land of significant ecological conservation value, as part of this proposal.
  - The loss of trees and adverse impact on a conservation area in our property, as well as more generally upon this hillside, remain material considerations in further decisions regarding this planning proposal, to our minds.

#### Background

- 64 The previous application (11/02762/FUL) was approved in the Green Belt due to very special circumstances as the proposed habitable floor area of the dwelling was no greater than the existing floor area of the dwelling. In this respect, the floor space was considered to be acceptable and the bulk of the building was considered to be comparable to the bulk and scale of existing dwelling, so there would have been no greater impact on the Green Belt.
- 65 The approved application was determined in June 2012, and was determined under the National Planning Policy Framework. Since March 2013 a number of policies that were used in the determination of application SE/11/02762/FUL have been superseded in whole or part as they are no longer consistent with the NPPF.
- 66 It should be noted that application SE/11/02762/FUL remains extant and therefore presents a fall back position which will be taken into consideration in the determination of this application.
- 67 Since the approval of SE/11/02762/FUL, a further two applications have been refused on Green Belt grounds reference SE/13/00026/FUL and SE/13/01124/FUL. Application SE/13/01224/FUL is currently at appeal. The current application is a further revised scheme.

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- 68 The changes in policy and how it affected the refusal of the previous scheme SE/13/01124/FUL is set out in detail in the previous report to Development Control Committee dated 17 July 2013. The same policy approach is adopted in the determination of this application.
- 69 In a bid to address the previous grounds of refusal the applicant has revised the scheme. The principal revisions are set out at paragraph 1.4 of the applicants Design, Access and Planning Statement and summarised below:
- Reduction in the first floor area of 36 square metres and corresponding roof volume above.
  - Slatting of the floor to the master bedroom balcony and lounge balcony.

### Chief Planning Officer's Appraisal

#### *Impact on the Green Belt*

- 70 National planning policy guidance relating to Green Belt is set out in Section 9 of the NPPF. This document states that the primary purpose of the Green Belt is to keep land open to prevent urban sprawl and to safeguard the countryside. The document states that there is a general presumption against inappropriate development. Inappropriate development, by definition, is development that is harmful to the Green Belt because it detracts from its openness.
- 71 The NPPF, states that inappropriate development in the Green Belt should not be approved except in very special circumstances. When considering any planning application, local planning authorities 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 other considerations.
- 72 Paragraph 89 of the NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. It goes on to list a number of exceptions to this which include:
- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- 73 At a local level Sevenoaks Local Plan policy H13 sets out the criteria against which applications for replacement dwellings in the Green Belt need to be assessed. Policy H13 of the Local Plan which remains compliant in part with the NPPF, and a detailed summary of the policy and the weight given to it were set out in detail at paragraph 61 of the previous officer's report to Development Control Committee. As the policy remains compliant in part it is therefore necessary to consider whether the proposal complies with policy H13 of the Local Plan.
- 74 As set out at paragraph 62 of the previous officers report the house was originally built as a dwelling and is built on permanent foundations. The site is also accessed via an existing vehicular access available from an existing road and services (e.g. mains water) and the use as a dwelling has not been abandoned. In my view the replacement dwelling remains relatively well designed, sympathetic to the character of the area and sited and designed to minimise any undue intrusion into the rural landscape in accordance with criterion 5 of policy H13 of the Sevenoaks District Local Plan.

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- 75 The 50% test referred to in criterion 4 of Local Plan policy H13 relates to acceptable increase in gross floor area above the original. It was established under application SE/13/01124/FUL and set out at paragraph 52 of the officer's report to Development Control Committee that the existing dwelling on the site is 409.308m<sup>2</sup>. Having reviewed the previous planning application against the existing, I have no reason to disagree with this figure. The original dwelling on the other hand was a small bungalow. The plan submitted for application SW/5/48/205, shows the floor area to be approximately 49.76 m<sup>2</sup>. If criterion 4 of policy H13 is applied, the new dwelling permissible should not exceed 74.64 m<sup>2</sup>. The floor area of the proposed dwelling is 487.91 m<sup>2</sup> for the ground and first floor areas, the proposed basement equates to an additional 279.1 m<sup>2</sup>. The cumulative total would therefore equate to 767.01 m<sup>2</sup>. The size of the dwelling therefore significantly exceeds this policy requirement. However, in concurrence with the previous officer, it is my view that the floor space in the basement is not material as it would all be below ground level and have no impact on the openness of the Green Belt. Notwithstanding this fact, excluding the basement, the proposal would still amount to a 980.53% increase over the size of the original dwelling and as a consequence would conflict with policy H13 of the Local Plan.
- 76 Having therefore established there is a conflict with policy H13, it is now necessary to consider whether the proposal complies with the aforementioned criterion set out at paragraph 89 of the NPPF. Firstly, the proposed development involves replacing a building of the same use. Therefore, the principal test upon which to focus is whether the replacement dwelling is materially larger than the existing dwelling.
- 77 It should be noted that the term 'materially larger' is not defined in national planning policy, however, it is considered that any development should be comparable with the scale, bulk and footprint of the existing dwelling on the site. The 50% test referred to in criterion 4 of Local Plan policy H13 (which relates to acceptable increase in gross floor area above the original), provides guidance on how the Council will assess whether a replacement dwelling is materially larger. However, in assessing the impact on openness, site coverage is only one of the considerations, the scale, height, bulk and massing of the building(s) will also be an important consideration in assessing the impact any built form has on the site and on the Green Belt.
- 78 As stated in the preceding paragraphs, it is proposed to replace an existing dwelling with a new building for residential purposes. The property would be arranged over two floors and would include a subterranean basement. In total including the basement the proposed dwelling would amount to 767.01 m<sup>2</sup> which is in my view 'materially larger' in floorspace terms, than the existing dwelling on site. Excluding the basement, the total proposed gross floor area above ground level by my calculations amounts to 487.91 m<sup>2</sup>.
- 79 It is acknowledged that the dwelling currently proposed has been reduced in size in comparison to the previously refused application SE/13/01124/FUL currently at appeal. I have reviewed the previous officer's calculations and calculate the floor area of the previously proposed dwelling to amount to 520.7 m<sup>2</sup> above ground level not 494.5 m<sup>2</sup> as sited in the previous report to development control committee. At 487.91 m<sup>2</sup> the currently proposed dwelling represents approximately a 32.79 m<sup>2</sup> reduction in floor area which equates to an approximate 6.3% reduction.

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- 80 The applicants focus amongst other things on the fact that the current proposal represents a reduction in the size of the previous scheme and consequently would have a lesser impact on the Green Belt. However, it is important to note that the NPPF test to determine whether the current scheme is acceptable is whether it is 'materially larger' than the *existing* dwelling on site rather than a comparison with a scheme for which permission was refused. Despite the reduction in built form at first floor, a proposed floorspace of 487.91 m<sup>2</sup> in comparison to the existing dwelling on site which is 409.308 m<sup>2</sup> would, in my view, mean that the proposed dwelling would remain 'materially larger' than the existing dwelling. The difference in floorspace would be 78.6 m<sup>2</sup>. As an example of what this size means, note that a typical double garage can be around 30 m<sup>2</sup>.
- 81 The applicants are of the view that only the habitable floor space should be calculated. The reduction in built form at first floor has been taken into consideration in calculating the floor area. The applicants argue that the floors to the proposed balconies accessed off of the master bedroom and lounge have been slatted to allow air gaps and therefore, the space beneath these should not form part of the officer's calculations. However, I do not share this view. The NPPF test does not refer in detail to floor space or habitable floor space. The test as stated previously, is whether the proposal is 'materially larger', and this is assessed, as described above, by comparing bulk, scale and footprint including floor space.
- 82 Despite the slatted floors to the aforementioned balconies, these open areas at ground floor as shown on the submitted plans, add to the bulk and scale of the dwelling and consequently contribute to the impact which the dwelling would have on the openness of the Green Belt. Furthermore, given that the site is relatively isolated it would be difficult to condition that the balcony floor remains slatted and therefore such a condition in my view, would fail the tests set out in Circular 11/95. It is my view that these areas remain capable of being used for the enjoyment of the property and for storing residential paraphernalia albeit that this may be limited in some areas as a result of the air gaps. It is also noted that the undercroft adjacent to the ground floor cinema room and study is over-sailed by the lounge at first floor. In conclusion, in my view, notwithstanding the slatted floors, these areas continue to provide a form of enclosure which would impact on the openness of the Green Belt.
- 83 In addition to the floor area, to assess whether a replacement dwelling is materially larger it is also considered appropriate to measure the height and scale of the existing and proposed dwellings. This was a method used by the previous planning officer which it is considered necessary to continue to adopt.
- 84 As per the previous scheme, little weight is placed on the basement when assessing whether the replacement dwelling is materially larger, as the basement would be entirely underground with no part of it visible – no walls, windows or access points. It is concluded that this type of basement does not have an impact on the openness of the Green Belt. Whilst it does have a material impact on the size and bulk of a house when considering the materially larger test this impact is limited by the design of the basement which is completely underground and which in addition has no impact on the openness of the Green Belt.
- 85 The tables below show the size and scale of the existing, approved and proposed dwelling:-

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	Existing Dwelling	Approved Dwelling	Proposed Dwelling
Floorspace above ground including <u>undercroft areas</u>	409.308m <sup>2</sup> (now includes small <u>undercroft area</u> )	394.008m <sup>2</sup>	487.91m <sup>2</sup> (including all <u>undercroft areas</u> on ground floor)
Floorspace with the proposed basement levels	409.3008	616.659 m <sup>2</sup>	767.01m <sup>2</sup>
Eaves height	4.8m highest point 2.5m at lowest point	5.2 m at highest point	5m
Ridge height	7m at highest point 5m at its lowest point	8 metres at highest point	8m
Finished floor level	Lower than proposed	unknown	132.75

86 In contrast, to the scheme that was permitted under application SE/11/02762, the dwelling is significantly larger in external floor area above ground. The floor area above ground to the dwelling proposed under SE/11/02762/FUL was comparable with the existing dwelling. In addition to this, it is also submitted that as a consequence, the proposal is significantly bulkier, with a bulkier roof.

87 I therefore consider that the proposal would have a greater impact on the openness of the Green Belt than both the existing dwelling and dwelling approved under SE/11/02762/FUL.

88 In view of the above, it is considered that the proposal conflicts with the advice and guidance in the NPPF as the proposal would be materially larger, and it would conflict with the advice in policy H13 of the Sevenoaks District Local Plan. Consequently, the proposal is considered to be inappropriate development in the Green Belt. It is therefore necessary to assess the very special circumstances put forward by the applicant to determine whether these clearly outweigh the harm that the proposal represents, which will be done later in the report.

*Extent of Harm*

89 The NPPF confirms that the most important aspect of Green Belts is their openness and the fundamental aim of Green Belt Policy is to maintain land open. It states that the open character must be maintained as far as can be seen ahead.

90 The test of openness is not reliant upon degree of visibility but upon an absence of built development. Openness can be diminished by the cumulative “footprint” of discreetly sited incremental additions to existing individual buildings as much as it can by conspicuous swathes of new development.

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- 91 The existing house is built into the side of the slope of the plot and has been extend over the years to create a dwelling of a low-key appearance in the plot. The dwelling is of limited architectural merit. Views of the dwelling are restricted in part due to the rising slope of the hill that the house is sited on and the location of the surrounding properties.
- 92 Although the proposed dwelling would be higher on the site, the location of the dwelling is considered to be acceptable from a visual perspective, given that it would be built into the land and located to the east of the site in a slightly less exposed position. The proposed dwelling is not considered to be overly prominent or out of scale in terms of its location. The dwelling would however be larger in bulk and scale than the existing house, given the inclusion of a basement, balcony and undercroft areas. Although the proposed dwelling is not considered to be overly prominent, the proposed dwelling would continue to be visible and could be seen from Otford recreation ground.
- 93 The NPPF requires that any replacement building needs to be designed to minimise the harm to the openness of the Green Belt and in a form that would not be materially larger than the existing dwelling.
- 94 Although there has been a reduction in the built form of the proposed dwelling at first floor, the balcony and associated undercroft areas continue to add to the bulk and mass of the building and in this respect they increase the 3-dimensional massing of the building and harm the openness of the Green Belt. The proposal would therefore inevitably, materially erode the openness of the Green Belt over and above the existing dwelling.
- 95 In contrast to the scheme that was permitted under application SE/11/02762/FUL, despite the reduction in size in comparison to the previously refused scheme 13/01124/FUL, the dwelling remains bulkier, with a larger roof. I consider that this proposal would therefore have a greater impact on the openness of the Green Belt than both the existing dwelling and the dwelling approved under SE/11/02762/FUL.

### *Very Special Circumstances*

- 96 A case for very special circumstances has been submitted which will be discussed later in the report.

### *Impact on landscape character of the area –*

- 97 The application site is located within the AONB. Section 85 of the Countryside and Rights of Way Act 2000 requires decision-makers in public bodies, in performing any function affecting land in an Area of Outstanding Natural Beauty, to have regard to the purpose of conserving and enhancing the natural beauty of that area.
- 98 Paragraph 11 of the NPPF states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty. It states that the primary purpose of these designations is to conserve and enhance the natural beauty of the landscape. LO8 from the Sevenoaks Council Core Strategy also recognises the importance of the visual quality of the landscape and does not support development, which would adversely affect the natural beauty of the area.

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- 99 Other relevant guidance is contained within the Otford Village Design Statement (OVS) Kent Downs AONB Landscape Design Handbook which state:

*“Given the small size and intimate character of the village, opportunities for extreme innovation are limited. Highly innovative houses must be designed to harmonise with the surrounding area. However, new buildings designed as a pastiche of country mansions or baronial halls are not the answer. The better newer properties take an eclectic approach, using a range of traditional materials and features and being built to an appropriate scale. Natural planting helps them merge with the landscape. They show how careful location and sympathetic landscaping can promote acceptability and sympathetic harmony within the village” (OVS)*

*“The siting, scale and design of much new housing and commercial development around urban edges can have an adverse impact on the AONB landscape through change in character of views in and out of the AONB, cumulative loss of landscape features, and erosion of character through use of standardised layouts and designs.” (AONB Handbook)*

- 100 The proposed dwelling would be located in an alternative position to the existing dwelling, higher up the slope and built into it. The appearance of the proposed dwelling is considered to be an improvement upon the appearance of the existing dwelling, both in design and in the finishing materials.
- 101 It is necessary to assess the impact on the development on the wider landscape, in particular, the visual impact of the proposal from long distance views to the site and from the footpath to the north. The principal viewing point for the public would be from the north of the site, along the public footpath and from wider views ranging from the east to the west. In particular I witnessed views of the property from Otford Village recreation ground.
- 102 The public footpath referred to forms part of the North Downs Way, and runs to the north of the site. This right of way has a 2m high, 100m long close boarded fence on the Hillway side. It was stated in the previous application that due to water erosion the actual footpath is now some 500mm below the fence base line and as such the proposed fence would obscure the development. Where the fence terminates the view of the property can be gained, by which time there is a 100m+ wide wooded area to the East of the footpath which precludes any views of the open Green Belt land and the proposed site of the replacement dwelling.
- 103 It is acknowledged that repositioning the dwelling to the east of the site would make the dwelling appear more visible from the east in comparison to the existing dwelling. This is offset against the fact that the dwelling would be set further back within the site in contrast to the existing dwelling. The proposed dwelling would be located at a higher level than the existing dwelling, which would make the dwelling more exposed.
- 104 It would remain possible to obtain views of the proposed replacement dwelling from across the Darent valley. The proposed repositioning of the dwelling would be over the brow of the hill, and it would be sunken below the existing ground level in parts and tucked further round to the east. When compared to the existing dwelling, the proposed dwelling would be equally as exposed.
- 105 With appropriate conditions including materials and landscaping to ensure that appropriate screening would be achieved to help mitigate the visual impact of the

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development and materials are used which are sympathetic to the surrounding landscape character, it is considered that the repositioning of the dwelling to the east of the site would be acceptable in principle.

- 106 On balance, it is considered that the proposal would not harm or detract from the landscape character of the AONB and that the character and appearance of the AONB would therefore be preserved.

### *Impact on Site of Nature Conservation Interest, SSSI and biodiversity*

- 107 The proposed development is to be located within a Site of Nature Conservation Interest (SNCI) and would also be located in close proximity to Otford to Shoreham Downs Site of Special Scientific Interest (SSSI).
- 108 The National Planning Policy Framework states "the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and delivering net gains in biodiversity where possible." Paragraph 118 of the NPPF states that local planning authorities should aim to conserve and enhance biodiversity and sets out a number of guiding principles to be taken into consideration when determining planning applications.
- 109 At a local level, policy EN17B of the Local Plan states that within SNCIs 'In other areas of nature conservation interest, including SNCIs and LNRs, development will not be permitted if it is likely to cause a loss of wildlife habitats and other features of nature conservation interest, unless it can be shown that the need for the development overrides the particular interest and no suitable alternative site is available. Where harm arises, adequate compensation or mitigation will be required.
- 110 The pre-ambles before the policy also states, Local Planning Authorities are required to direct development away from Sites of Special Scientific Interest, unless it can be shown that the particular proposal will not harm the wildlife interest. Further, a general requirement is placed on authorities to ensure that the many other habitats or features of local importance for nature conservation, including Sites of Nature Conservation Interest and Local Nature Reserves are protected, together with the management of Council owned land, to encourage wildlife conservation.
- 111 The acceptability of a replacement dwelling in the location proposed and its consequent impact on the natural environment has been established through the granting of planning permission SE/11/02762/FUL.
- 112 To compensate for the loss of Chalk Grassland a management plan has been produced by the Kent Wildlife Trust to re-create and manage chalk grassland on the site. The implementation of the management plan can be a condition of any planning permission granted. Furthermore, Kent Wildlife Trust has raised no objection, in principle, to a replacement house being constructed within this location and consider that the proposal would have no significant adverse impact on the SNCI, providing that the conditions that were imposed under application 11/02762/FUL are imposed to any subsequent grant of planning permission.
- 113 Based upon the information provided, Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes. Natural England does not object to the proposal in respect of bats and is satisfied with the survey submitted. Natural England does advise that the proposed

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development provides an opportunity to secure biodiversity and landscape enhancements and these can be secured by condition.

114 KCC Ecology has also raised no objection to the proposal.

115 In view of the fact that none of the consultees have raised any objection to the proposal on conservation and wildlife grounds I consider that the proposal would have no adverse impact on the SSSI, SNCI, protected wildlife and habitat subject to the imposition of relevant conditions.

*Impact on neighbouring amenity*

116 Policy EN1 of the Sevenoaks District Local Plan requires that any proposed development should not have an adverse impact on the privacy of neighbouring properties and also ensures a satisfactory environment for future occupants.

117 The siting of the proposed dwelling is considered to be sufficient distance away from neighbouring properties not to impact upon the amenities that the occupiers of those adjoining properties currently enjoy.

*Parking and highways safety*

118 Policy EN1 of the Sevenoaks District Local Plan requires that proposed development should ensure the satisfactory means of access for vehicles and provide parking facilities. Policy VP1 of the Sevenoaks District Local Plan requires that vehicle parking provision in new developments should be made in accordance with adopted vehicle parking standards.

119 The proposal would make provision for the parking of cars within the proposed garaging, plus additional areas of hard standing to the front and side of the house, and would retain the use of the driveway up from Pilgrims Way East.

120 It is therefore considered that the proposal is acceptable in terms of parking provision and highways safety.

*Whether the Special Circumstances clearly outweigh the harm to the Green Belt and any other harm.*

121 NPPF states that, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities 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 other considerations.

122 The applicants have submitted a similar case for very special circumstances to that previously submitted under application SE/13/01124/FUL. Details of the very special circumstances advanced and an assessment of whether these circumstances were very special, and, whether they clearly outweighed the harm in principle to the Green Belt and any other harm, was appraised in the Officer's Report on this proposal (see Appendix 1). The previous officer concluded that the very special circumstances put forward for the building, in whole or part, did not outweigh the harm in principle or the other harm to the purposes of including land in the Green Belt, to the openness of the Green Belt and to the visual amenities of

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the Green Belt and therefore, there were not considered to be any very special circumstances.

123 In the case of the current application, the applicant advises:

- The areas at ground floor beneath the balcony to the first floor master bedroom, lounge and balcony to the lounge are open on three sides with slatted roofs and have significantly less impact on 'openness' than would fully enclosed space. In addition, they are at the ground floor level which is dug into the hillside, meaning that a large part of the voids in question are below natural ground level and so, again, have even less impact on openness. The same can be said for the rear (north) ground floor areas of the dwelling, where the 'sub natural ground level' location reduces impact on openness as compared with the existing dwelling.
- The re-location of the dwelling brings with it an enhancement to the appearance of the AONB, and reduced impacts on openness of the Green Belt through the removal of over 80 metres of the existing access drive through an open area of the site, and re-location of the house to a less publicly visible location. In addition, as with the permitted scheme, the proposed replacement would bring with it enhancements to the SNCI through the newly agreed management of the chalk grassland in conjunction with Kent Wildlife Trust.
- To the limited extent that H13 remains relevant to the application, it is significant that Hillway was only brought into the Green Belt via an amendment to the Green Belt boundary which occurred approximately 10 years ago. H13 seeks to prevent the cumulative erosion of the Green Belt through successive enlargements or replacements, but here the starting point for assessing impact on the Green Belt is the size of the house when it first fell within the designation. The only alteration to Hillway since Green Belt designation is the addition of dormer windows. Arguably, therefore, the 50% increase allowance under H13 should be applied to Hillway as it stands. Against that assessment, the proposed dwelling falls well inside the increase limit. Whilst H13 doesn't specifically cater for 'late arrivals' in the Green Belt, none-the-less the designation history is of relevance and material to the consideration of the effect of the proposed dwelling on openness.

124 As stated and appraised in details in the preceding paragraphs, despite the slatted floors to the aforementioned balconies, these open areas at ground floor as shown on the submitted plans, add to the bulk and scale of the dwelling and consequently contribute to the impact which the dwelling would have on the openness of the Green Belt. Taking these areas into consideration, the proposed dwelling with the ground and first floor measuring 487.91 m<sup>2</sup> and underground basement area measuring an additional 279.1 m<sup>2</sup> is materially larger than the existing dwelling for the reasons set out earlier in this report and summarised in the table comparing floor space and roof heights.

125 The applicant refers to the fact that the proposed dwelling will be set partly below natural ground level and so, again, have even less impact on openness and it would enhance the appearance of the AONB.

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- 126 As also stated previously, it should be noted that the test of openness is not reliant upon degree of visibility but upon an absence of built development. Consequently, whilst this arrangement may be beneficial to the impact which the proposed dwelling would have in the landscape, in my view, it does not detract from the fact that the proposal would be inappropriate development in the Green Belt, harmful to its openness. Furthermore, whilst it is acknowledged that the existing dwelling is of no architectural merit and the proposed dwelling would represent an improvement visually, it has already been identified that the proposal constitutes inappropriate development and is harmful by definition to the maintenance and openness of the green belt. The fact that the proposal is acceptable in respect of design and layout does not in my view override the presumption against inappropriate development by way of very special circumstances. This approach would mean that provided a structure was well designed this would override the harm in principle from permitting inappropriate development. This is not the case as the proposal would nonetheless have a greater visual impact upon openness than the existing dwelling to the detriment of the Green Belt.
- 127 In response to the final bullet point above, the applicant correctly points out that policy H13 does not specifically cater for 'late arrivals', similarly neither does the NPPF. Consequently, I give this argument limited weight.
- 128 Overall, in my view the very special circumstances that have been put forward for the building, in whole or part, do not outweigh the harm in principle or the other harm to the purposes of including land in the Green Belt, to the openness of the Green Belt and to the visual amenities of the Green Belt and therefore, there can be no very special circumstances in this case.

*Other Matters*

- 129 In response to the neighbour representation received in instances where the ownership of land is in dispute, it is a matter to be resolved between the parties involved and is not a material planning consideration which would justify refusing an application.
- 130 The matter of conservation of the natural environment has been taken carefully into consideration in consultation with the relevant statutory consultees and in conclusion it is considered that subject to relevant conditions, the proposal would have no significant adverse impact.

**Conclusion**

- 131 The application site lies within the Metropolitan Green Belt where there is a presumption against inappropriate development. The NPPF in paragraph 89 sets out what is considered to constitute appropriate development this includes:
- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- 132 The applicants focus amongst other things on the fact that the current proposal represents a reduction in the size of the previous scheme currently at appeal and consequently would have a lesser impact on the Green Belt.

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- 133 It is important to note that the test to determine whether the current scheme is acceptable is whether it is 'materially larger' than the existing dwelling on site. Despite amendments to the scheme, at 487.91 m<sup>2</sup> in comparison to the existing dwelling on site which is 409.308 m<sup>2</sup> my view is that the proposed dwelling would remain 'materially larger' than the existing dwelling.
- 134 For the reasons outlined above, the Council consider that the proposal constitutes inappropriate development. By definition therefore the application proposal causes harm to the Green Belt.
- 135 In such circumstances therefore the applicant is required to demonstrate that very special circumstances exist that would outweigh the harm to the Green Belt by reason of inappropriateness and any other harm in order to justify such development. It is not however considered that the justifications advanced comprise the very special circumstances required. The very special circumstances that have been advanced are not considered to clearly outweigh the harm to the Green Belt.

### Background Papers

Site and Block plans



Contact Officer(s): Claire Baldwin Extension: 7367

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

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Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MXOM9JBK8V000>

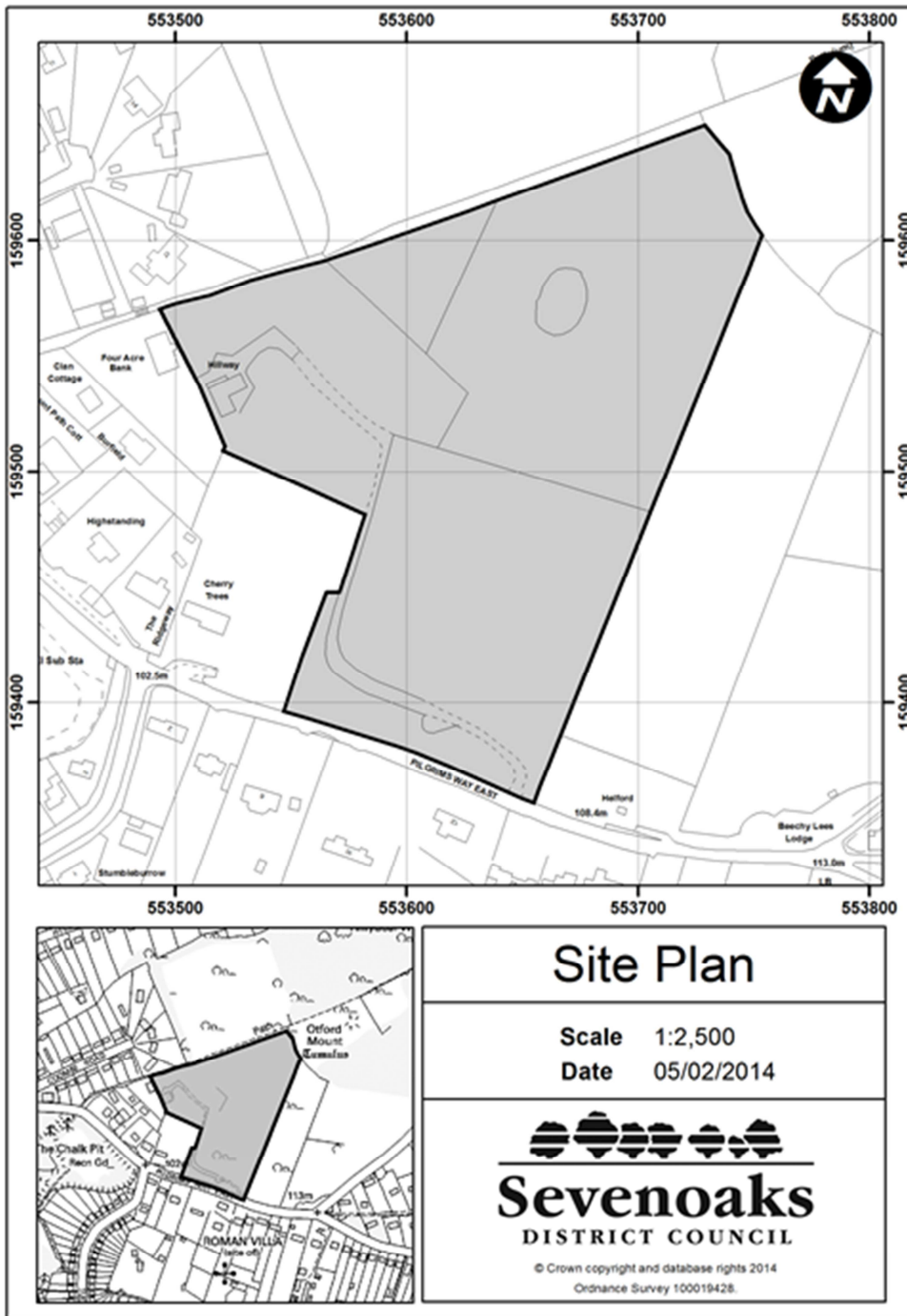
Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MXOM9JBK8V000>

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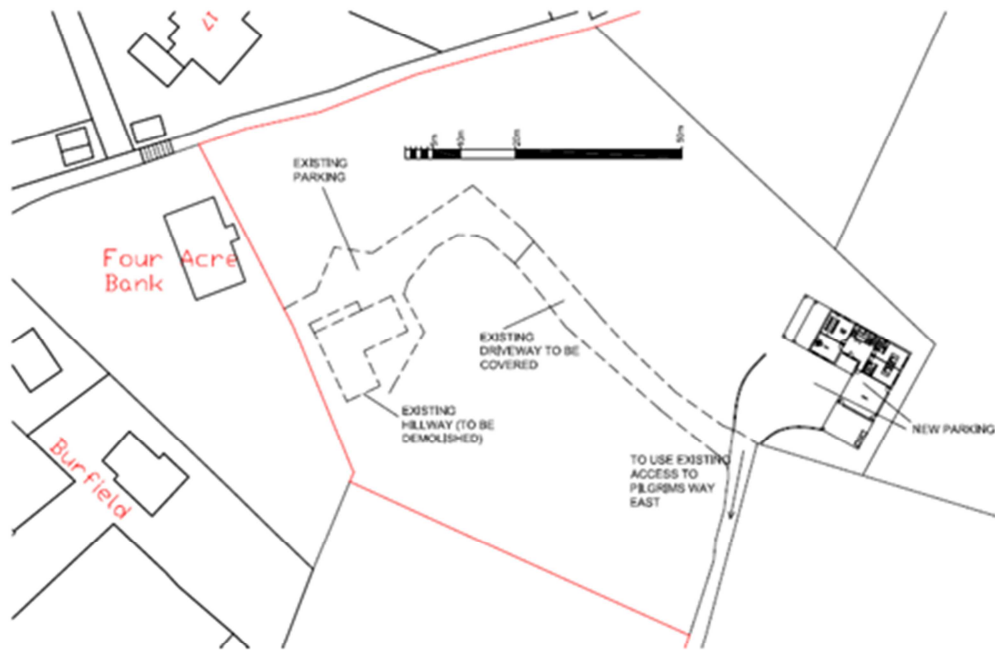
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**Block Plan**



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## Inspector's Appeal Decision (SE/13/01124/FUL) - Appendix 2



The Planning Inspectorate

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## Appeal Decision

Site visit made on 27 February 2014

by R J Maile BSc FRICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 March 2014

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**Appeal Ref: APP/G2245/A/13/2204409**

**Hillway, Pilgrims Way East, Otford, Sevenoaks, Kent, TN14 5RX.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs J Drake against the decision of Sevenoaks District Council.
  - The application ref: SE/13/01124/FUL, dated 12 April 2013, was refused by notice dated 18 July 2013.
  - The development proposed is demolition of existing house and erection of new replacement dwelling.
- 

### Procedural Matter

1. I have considered this appeal having regard to the Planning Practice Guidance, which came into force on 6 March 2014. However, in the light of the facts of this case its content does not alter my conclusions.

### Decision

2. The appeal is allowed and planning permission is granted for demolition of existing house and erection of new replacement dwelling at Hillway, Pilgrims Way East, Otford, Sevenoaks, Kent, TN14 5RX, in accordance with the terms of the application ref: SE/13/01124/FUL, dated 12 April 2013, subject to the conditions set out in Annex A to this decision.

### Main Issue

3. The main issues in this case are:
  - a) Whether the proposal would be inappropriate development for the purposes of National policy and the policies of the Development Plan.
  - b) The effect of the development upon the openness of the Green Belt and the landscape quality of the Kent Downs Area of Outstanding Natural Beauty ('the AONB').

### Reasons

- a) *Whether inappropriate development.*
- 

[www.planningportal.gov.uk/planninginspectorate](http://www.planningportal.gov.uk/planninginspectorate)

4. The appeal site forms part of an area of open chalk Downland that is within the Green Belt and the Kent Downs AONB. It is located on the periphery of the village of Otford. There is sporadic development along the north side of Pilgrims Way East, including the existing dwelling, Hillway, which is served by a steep approach drive from the road.
5. The existing property, which has been the subject of alterations and additions over the years, comprises a two storey dwelling of no architectural merit.
6. National policy in the National Planning Policy Framework ('the Framework') states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances (paragraph 87). Paragraph 89 sets out a number of exceptions, including the replacement of a building provided that the new building is in the same use and not materially larger than the one it replaces.
7. In line with National policy, "saved" Policy H13 of the Local Plan<sup>1</sup> states that proposals for replacement dwellings within the Green Belt must comply with a total of seven criteria. Criterion 4 requires that the gross floor area of the replacement dwelling does not exceed the gross floor area of the "original" dwelling by more than 50 per cent. Criterion 5 requires the replacement dwelling to be well designed, sympathetic to the character of the area and sited and designed so as to minimise visual intrusion into the landscape. Particular care will be required within AONB's.
8. Material to my decision is a planning permission granted to the appellants on 12 September 2012 (ref: SE/11/02762/FUL). I have been provided with a copy of the approved drawings for that planning permission. It is also relevant that National policy does not define the term 'materially larger.'
9. There is some disagreement between the parties as to the respective floor area measurements of the existing dwelling, that for which planning permission has already been granted and the scheme now before me.
10. In terms of impact upon the openness of the Green Belt, I consider the volume above natural ground level to be a more appropriate indicator of whether or not a replacement dwelling is materially larger than the existing and in this case, also, that for which planning permission already exists.
11. The figures that have been provided on behalf of the appellants indicate that the total floorspace in terms of the volume of new build above natural ground level would be similar in respect of the permitted and the proposed schemes. Furthermore, the volume of both replacement dwellings is far less than that of the existing.
12. Importantly, also, the ridge height relative to adjoining natural ground level is less in terms of the replacement structure the subject of this appeal when compared to both the existing and permitted schemes.
13. For these reasons, I have concluded that development as proposed would not be materially greater in volumetric terms than the existing dwelling and that it

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<sup>1</sup> The Sevenoaks District Local Plan (2000).



would be similar to that for which planning permission has recently been granted.

14. As such, I find on the first main issue that the proposal is not inappropriate development for the purposes of National and Development Plan policy.

*b) Effect upon openness of Green Belt and landscape quality of AONB*

15. Given the reduction in volume above ground level that would be achieved by setting the replacement dwelling further into the hillside, its impact will be less than that of the existing dwelling and that for which permission already exists.

16. The detailed design, with a considerable reduction in glazing at first floor level and to the terraced enclosures, will reduce the visual impact in terms of the Green Belt and the landscape quality of the AONB as required by Policy LO8 of the Council's Core Strategy<sup>2</sup>.

17. My findings on this second main issue are supported by the Parish Council, by certain members of the District Council Planning Committee and by nearby residents, who have indicated a strong preference for the current proposal as compared to that for which planning permission has recently been granted.

### **Other Matters**

18. Policy LO8 also seeks to ensure that the countryside and its biodiversity will be protected and enhanced.

19. In the subject case, the appellants have commissioned an ecological survey of Hillway and have also worked in co-operation with The Kent Wildlife Trust in order to implement proposals which will enhance the biodiversity of the land within the appellants' ownership, which includes an extended area of chalk Downland and scrub. I have imposed conditions to give effect to this enhancement.

### **Conditions**

20. The Council has suggested a total of 19 conditions should I be minded to allow the appeal, which I have considered against the tests set out at paragraph 206 of the Framework. I find all of the conditions to be reasonable and necessary in the circumstances of this case, although I have amended the wording of certain of them, or have combined others, in the interests of clarity.

21. My reasons for the conditions are as follows:

22. Condition 1 is the standard commencement condition imposed in accordance with section 91(1) (a) of the Town and Country Planning Act 1990. Conditions 2, 3, 4, 5, 6, 7 and 10 will ensure a satisfactory appearance to the completed development in the interests of the visual amenities of the area, given the location of the appeal site within the Green Belt and the Kent Downs AONB.

23. Condition 8 is necessary in order that the development shall be carried out in accordance with sustainable building practices, while Conditions 9, 11, 12 and 13 are imposed in the interests of nature conservation.

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<sup>2</sup> Sevenoaks District Council Local Development Framework Core Strategy Development Plan Document (2011).

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24. As to Condition 14, otherwise than as set out in this decision and conditions it is necessary that the development shall be carried out in accordance with the approved plans, both for the avoidance of doubt and in the interests of proper planning.

### **Conclusion**

25. For the reasons given above, I conclude that the appeal should be allowed.

*R. J. Maile*

INSPECTOR