

4.4 - SE/13/01124/FUL Date expired 17 June 2013

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**

The item has been referred to Development Control Committee on the request of Councillor Edwards-Windser and Councillor Lowe to consider those matters raised by the Parish Council, namely: that this proposal has a far smaller (reflective) glass frontage overlooking the Darent valley, the house is set back further into the property and will therefore not be so intrusive from the broader views and the building has been sunk into the ground in an effort to reduce the roof height. Taking everything into account, the developers have really worked hard to comply with the Otford VDS and satisfy the objections that the Parish Council had to the previous design.

**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, L08 of the Sevenoaks Core Strategy and the National Planning Policy Framework.

#### Description of Proposal

- 1 The application seeks the approval of the demolition of the existing dwelling and the erection of a replacement dwelling located to the east of the existing dwelling.
- 2 The application is a variation to what has been approved under application SE/11/02762. The design of the dwelling has been amended and the building repositioned.
- 3 It is proposed that the dwelling would be arranged over two floors, with a subterranean basement.
- 4 The proposed dwelling is L shaped, and is built into the site. The dwelling would have a garage area and an additional carport.
- 5 The design of the dwelling has been amended since application SE/13/00026 was refused. The only changes include setting the height of the roof on the western element down and removing the overhanging roof areas over the proposed balconies on this element.

## Description of Site

- 6 The site comprises a two storey detached dwelling located to the western boundary of the plot. The site rises reasonably steeply from west to east and from south to north. The site is a fairly open site internally, however is mainly bounded by trees and hedging.
- 7 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.
- 8 The property is served by a driveway that links the house to Pilgrims Way East to the south east of the site.

## Constraints

- 9 Metropolitan Green Belt, Kent Downs Area of Outstanding Natural Beauty (AONB). A Site of Nature Conservation Interest (SNCI) covers most of the site. A site of Special Scientific Interest (SSSI) is adjacent to the site.

## Policies

### *Sevenoaks District Local Plan*

- 10 Policies – EN1, EN6, EN17B, H13 and VP1

### *Sevenoaks Core Strategy*

- 11 Policies– SP1, L08

### *Other*

- 12 National Planning Policy Framework
- 13 Otford Village Design Statement

## Planning History

- 14 13/00026/FUL Demolition of existing house and erection of new replacement dwelling REFUSE 11/03/2013  
  
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  
  
10/02128/FUL Erection of replacement dwelling. WDN 29.09.2010  
  
10/00219/FUL Erection of replacement dwelling. REFUSE 09/04/2010  
  
09/02623/FUL Replacement dwelling. WDN 15/01/2010  
  
04/02346/FUL Insertion of 3 no. dormers in west roof slope to existing bedrooms. INSFEE 03/12/2004

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

85/01293/HIST Relocation of vehicular access. GRANT 23/10/1985

86/01598/HIST First floor extension to dwelling incorporating a balcony. GRANT 21/10/1986

76/00487/HIST Reconstruction of dwelling house destroyed by fire. GRANT 22.06.1976

SW/5/70/323 Extension to form a lounge. GRANT 15/08/70

SW/5/48/205 Alterations and extensions. GRANT (December 1948)

### Background

- 15 The previous application (11/02762/FUL) was approved in the Green Belt due 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.
- 16 Since this approval, a further application has been refused on Green Belt grounds. This is a revised scheme.
- 17 The approved application was determined in June 2012, and was determined under the National Planning Policy Framework. Since March 2013 some of the policies that were used in the determination of the previous application have been superseded in whole or part as they are no longer consistent with the NPPF.
- 18 The changes in policy and how this affects the proposal, in relation to the existing permission will be explained in more details later in the report.

### Consultations

#### *Otford Parish Council*

- 19 Support/no objection

### Representations

- 20 One letter of objection has been received in connection with the application. The main issues include the following:-
  - Effect on the Conservation Area. Helford has already lost trees in the preparation work on Hillway.
  - Design, appearance and materials/visual amenity – A large expanse of glass windows near the planned significantly sized veranda/balcony raises questions concerning reflection on a central apex upon the hillside in vision of many neighbours and across the two valleys.

## *Environmental Health*

21 Environmental Health have made the following comments:-

“I have no adverse comments or observations in respect of this application”.

## *KCC Ecology*

22 KCC Ecology have made the following comments:-

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

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.

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 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.'

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.

23 We previously provided comments on this site in 2012 (SE/11/02762/FUL). At that time we were satisfied that planning permission could be granted as they had submitted a management plan for the recreation and enhancement of chalk grassland. Please confirm that the change in footprint will not result in a larger area of chalk grassland being lost and the management recommendations within the management plan can still be implemented.

24 The following comments which we provided for Planning Application SE/11/02762/FUL are still relevant:

The proposed development is to be located within a Local Wildlife Site. 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 must be a condition of planning permission.

## Bats

- 25 The building was assessed as having low potential for bats and no bats were recorded during the emergence surveys. A precautionary approach has been recommended when the building is being demolished, the recommendations in paragraph 5.1 - 5.4 (Bat Survey) must be carried out.

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).

## Reptiles

- 26 The proposed footprint of the development does not have suitable reptile habitat present however there is suitable reptile habitat in the surrounding area. The recommendations detailed within the reptile appraisal must be carried out to ensure no reptiles are impacted by the proposed development.

The current management of the site must continue until work begins on the site - to ensure no suitable habitat for reptiles is created prior to works starting.

## Enhancements

- 27 One of the principles of the National Planning Policy Framework is that "opportunities to incorporate biodiversity in and around developments should be encouraged". We have reviewed the management plan and we are satisfied that it will result in the enhancement of the existing chalk grassland. 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. If you have any queries regarding our comments, please contact me.

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

### UV characteristics:

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

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

- 29 Street lighting 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. 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. 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

- 30 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;
  - 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.

*Natural England*

31 Natural England have made the following comments:-

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 This application is in close proximity to Otford to Shoreham Downs Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(l) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Kent Downs Area of Natural Beauty

33 The application site lies within the Kent Downs AONB. Natural England is concerned about the effect of this development on the natural beauty, local character and distinctiveness of the AONB. We request that you refer to the Kent Downs AONB Management Plan for detailed guidance on ways in which landscape character and local distinctiveness can be preserved, and how this development can be improved so that it is 'good enough to approve'. In addition, the Council may want to send details of the proposal to the AONB Unit, if you have not done so already in order to ensure that planning issues regarding this proposal take into account the various issues that arise as a result of the AONB designation. The AONB management plan can be viewed on the Kent Downs AONB website [www.kentdowns.org.uk](http://www.kentdowns.org.uk).

34 Aside from the comments on designated sites above, we would expect the LPA to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

Protected species

35 It is not clear from the information in support of this application what the impact on bats, a European Protected Species, will be. The ecological information submitted in support of this application does not verify the presence of bats and bat roost by adequate survey effort according to Bat Surveys - good practice guidelines. Any survey effort that has been undertaken was carried out in 2010 and is more than 2-3 years old and therefore is not an up to date survey.

36 Natural England advises the authority that further survey effort is required in accordance with Bat Surveys - good practice guidelines and you should request additional information from the applicant.

37 Natural England's standing advice found here provides guidance on how protected species should be dealt with in the planning system. Specific advice on bats is provided here: Standing Advice Species Sheet: Bats. If you would like any advice or guidance on how to use our standing advice, or how we used the standing advice to reach a conclusion in this case, please contact us on the number above.

- 38 We have not assessed the survey for badgers, barn owls and breeding birds, water voles, white-clawed crayfish or widespread reptiles. These are all species protected by domestic legislation and you should use our standing advice to assess the impact on these species

#### Biodiversity Action Plan (BAP) Priority Habitat

- 39 The national habitat inventories indicate that this development coincides with an area of BAP priority habitat. The National Planning Policy Framework states that 'when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.'

#### Local wildlife sites

- 40 If the proposal site is on or adjacent to a local wildlife site, e.g. 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 before it determines the application.

#### Biodiversity enhancements

- 41 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 NPPF. 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'.
- 42 Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

#### *Kent Wildlife Trust*

- 43 Kent Wildlife Trust have made the following comments:-

Thank you for the opportunity to comment on the revised scheme for this development.

- 44 I understand that these revisions to the approved scheme involve re-locating the proposed house closer to the plot boundaries. 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.

45 Whilst the submitted drawings suggest that this will be possible and the Design & Access Statement certainly confirms that this is the applicant's intention, the 'margins' are small. Critical to achieving this objective, and avoiding any further breach of the normal planning presumption against the loss of valued Local Wildlife Site habitat, will be an accurate 'setting out' of the house footings. 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.

#### *KCC Highways*

46 KCC Highways have made the following comments:-

I refer to the above planning application and confirm that provided the following requirements are secured by condition or planning obligation, then I would raise no objection on behalf of the local highway authority:-

Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

### **Group Manager Planning Services Appraisal**

#### *Impact on Metropolitan Green Belt*

47 National planning policy guidance relating to Green Belt is set out in paragraph 80 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, where the openness of the countryside/landscape would be adversely affected.

#### *Whether the proposal is inappropriate in the Green Belt*

48 In the terms of paragraph 89 of the NPPF the replacement of a building in the Green Belt is not inappropriate development provided that the new building is in the same use and is not materially larger than the one it replaces.

49 The proposal subject to this application involves replacing a building of the same use, the main criteria to ascertain is whether the replacement dwelling is material larger than the existing dwelling. It is important to note that the term 'materially larger' is not empirically defined in national policy. However, this means that the key comparison is between the existing dwelling on site and the proposed dwelling. The status of the original dwelling which first existing on the site is of limited relevance to the Green Belt considerations under the NPPF.

50 As with previous Green Belt policy, the 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.

- 51 Although the term 'materially larger' is not empirically defined in national planning policy, it is considered that any development should be comparable with the scale, bulk and footprint of the existing dwelling on the site. However, in assessing the impact on openness, site coverage is only one of the considerations, which may be relevant. The scale, height, bulk and massing of the buildings will contribute to the impact of any built form on the site.
- 52 The existing external floor area of the dwelling as it is currently built on site is, 409.308 m<sup>2</sup>. This is slightly greater than previously calculated in application SE/13/00026, as the applicant has put forward the argument that the enclosed undercroft space at the rear should be included in the external floor area calculations. This is considered to be a valid argument and we have accepted the inclusion of this area as part of the floor space of the existing dwelling.
- 53 As stated above it is proposed to replace an existing dwelling with a new building for residential purposes. The proposed dwelling would be arranged on two floors with an underground basement.
- 54 It is however proposed to replace the dwelling with a much larger dwelling with the external ground (and enclosed undercroft areas at ground floor over sailed by the first floor) and first floor measuring 494.5 m<sup>2</sup>, with an underground basement area measuring an additional 279.1 m<sup>2</sup>. With a combined floor area of 773.6 m<sup>2</sup>.
- 55 The applicants are of the view that our calculations are incorrect and that the floor space of the partially open carport and the open over sailed areas should be not be classed as external floor space as they do not make up habitable floor area. They claim that the development is acceptable as the habitable floor area (excluding the over sailed areas and carport) would be comparable with the existing floor area of the dwelling. This is however not the view held by the Council.
- 56 These open areas as shown on the plan, significantly add to the bulk and scale of the dwelling and have an adverse impact on the openness of the Green Belt. They can also be used in all weathers (as it would be shielded by the weather) and can be filled with residential paraphernalia (such as chairs and tables) in essence these spaces can be used for the enjoyment of the property. Again, the open carport can also be used in a similar way to the adjacent garage (the floor space of which is not contested by the applicants). The NPPF test does not refer in detail to floor space or habitable floor space. The test is whether the proposal is materially larger, and this is assessed, as described above by comparing bulk, scale and footprint including floor space. Whether or not enclosed space is habitable, or has four walls and a roof, any newly enclosed space will as a matter of fact have and impact on the Green Belt that needs to be assessed to establish if a proposal is materially larger.
- 57 It is the Council's view that any space above ground level that has some form of enclosure has an impact on the openness of the Green Belt and it is the Council's view that it should counted as external floor space. In this respect, the Council has included the floor space of the proposed over sail areas and the carport in the

calculations. It is therefore concluded that floor area of the proposed dwelling significantly exceeds the floor area of the existing dwelling by 85.19 m<sup>2</sup>.

- 58 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. The main North West element of the existing dwelling measures 7 metres to the ridge of the roof, with the top of the roof eaves measuring 4.8 metres. The projecting elements are much smaller in terms of their scale and height and measure 5 metres as these consist of accommodation in the roof space. In contrast the whole of the proposed dwelling measures 8 metres in height and 5 metres to the roof eaves.

For clarification, the table sets out the following measurements:-

	Existing Dwelling	Proposed Dwelling
Floor space above ground	409.308	494.5 m <sup>2</sup>
Eaves height	4.8 m highest point 2.5 m at lowest point	5 m
Ridge height	7 m at highest point 5 m at its lowest point	8 m
Finished floor level	Lower than proposed	132.3

- 59 It is important to highlight, that the floor space above ground level has been measured. Although it is acknowledged that the property also has a basement, 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.
- 60 In contrast, to the scheme that was permitted under application SE/11/02762, the dwelling is significantly larger in external floor area (as the floor area was comparable with the existing dwelling). In addition to this, it is also submitted that the proposal is significantly bulkier, with a bulkier roof. I consider that that proposal would therefore have a greater impact on the openness of the Green Belt.
- 61 In addition to the policy advice in the NPPF in part and should continue to be applied apart from those parts of the policy which are referred to below which should be given less or no weight.

As stated above this policy states the following:-

H13 Proposals for replacement dwellings in the Green Belt must comply with the following criteria:

- 1) The existing building is a dwelling and its “original” use has not been abandoned;

- 2) The existing dwelling was designed and originally constructed and occupied for residential use and built on permanent foundations on the site;

*Criteria (1) and (2) relate to issues not referred to in the NPPF. They provide valuable local guidance.*

- 3) The existing dwelling has a frontage to an existing road from which vehicular access can be obtained or it already has such access and mains water and electricity are available;

*Criteria (3) is not supported by the NPPF*

- 4) The gross floor area of the replacement dwelling does not exceed the gross floor area of the “original” dwelling by more than 50%;

*This criterion (4) is considered to provide guidance to help the assessment of whether the proposed replacement is materially larger*

- 5) The replacement dwelling is 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 Areas of Outstanding Natural Beauty;

*Criterion (5) is considered to be consistent with the NPPF.*

- 6) The existing dwelling on the site is removed before the new dwelling is first occupied or within such period as may be agreed with the Local Planning Authority;
- 7) The proposal strictly adheres to the “original” curtilage, which should be clearly defined in the planning application.

*Criterion (6) and (7) are not explicitly supported by the NPPF but are reasonable considerations to take into account.*

- 62 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 that the use as a dwelling has not been abandoned. I am also of the view that the replacement dwelling is well designed, sympathetic to the character of the area and sited and designed to minimise the visual intrusion into the landscape in accordance with criterion 5 of policy H13 of the Sevenoaks District Local Plan.
- 63 The original dwelling was formed of a small bungalow. The plan submitted for application SW/5/48/205, shows the floor to be approximately 49.76 m<sup>2</sup>. If criterion 4 of policy H13 is applied, the new dwelling permissible under should not exceed 74.64 m<sup>2</sup>. The floor area of the proposed dwelling is 409.308 m<sup>2</sup> for the ground and first floor areas and the proposed basement equates to an addition 279.1 m<sup>2</sup>. The size of the dwelling therefore significantly exceeds this policy requirement. The proposal would amount to a 722.56 % (which doesn't include the basement area) increase over the size of the original dwelling.
- 64 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, and in view of this, 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*

- 65 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.
- 66 The test of openness relies on, not about where a development will be seen from, but whether the openness of the Green Belt is affected.
- 67 The existing house is built into the side of the slope of the plot and is made up of a mish mash of additions that creates a dwelling that possesses a low-key appearance in the plot and 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.
- 68 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 area and all the terraced areas/undercroft areas.
- 69 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.
- 70 The proposed oversailed areas and the carport 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. In particular, it is considered that they add additional bulk, particularly at roof level. The proposal would therefore inevitably, materially erode the openness of the Green Belt.
- 71 In contrast to the scheme that was permitted under application SE/11/02762, the dwelling is a lot bulkier, with a larger roof. I consider that that proposal would therefore have a greater impact on the openness of the Green Belt.

#### *Very Special Circumstances*

- 72 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.

- 73 The case for very special circumstances put forward revolves around the fact that the proposed dwelling, minus the fully subterranean basement area, would not exceed the habitable floor area of the existing and the proposed site of the new dwelling would be less visible than the site of the existing house.
- 74 Details of these and an assessment of whether these circumstances are very special, and if they are, whether they clearly outweigh the harm in principle to the Green Belt and any other harm, will be made later in this report, once all of the potential areas of harm have been considered and assessed.

*Impact on landscape character of the area –*

- 75 The application site is located in a highly sensitive area within the AONB. With reference to the Countryside and Rights of Way Act 2000 (as cited below), Section 85 of that Act 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.
- 76 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.
- 77 The Otford Village Design Statement states the following:-  
“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”
- 78 As the property is located in the AONB, the Kent Downs AONB Landscape Design Handbook is applicable, it states the following:-  
“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.”
- 79 The proposed dwelling is to be sited higher up the slope but built into it. The appearance of the dwelling is considered to be an improvement upon the appearance of the existing dwelling, both in design and in the finishing materials proposed.
- 80 As stated above it is proposed that the dwelling would be located in a different position on the site than the existing dwelling, (and would be located to the east of the original dwelling). The Kent Downs AONB handbook, states that “new

development should respect and complement the rural settlement form, pattern, character and its landscape setting, reinforcing local distinctiveness. One way of doing this is for sensitive boundary treatment and materials”

- 81 The appearance of the dwelling is considered an improvement upon the appearance of the existing dwelling, both in design and in the finishing materials proposed.
- 82 The first area of concern is the impact on the development on the wider landscape and in particular, the visual impact of the proposal in particular from long distance views to the site and from the footpath to the north. The property would not be visible from the immediate area as it is set back from Pilgrims Way and is accessed via a private access drive that is heavily screened by vegetation. The main viewing point for the public would be from the north of the site, along the public footpath and from wider views than this from the east.
- 83 As stated above the footpath which forms part of the North Downs Way, runs to the north of the site. This right of way has a 2m high, 100m long close boarded fence on the Hillway side (and as the applicant states due to water erosion the actual footpath is now some 500mm below the fence base line) and as such the proposed fence is considered to obscure the view to the development. At the end of the fence 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 again precludes any views of the open Green Belt land and the proposed relocation site of Hillway.
- 84 It is acknowledged that repositioning the dwelling to the east of the site would obviously make the dwelling appear more visible from the east than the existing dwelling. This is offset against the fact that the dwelling would however be set further back within the site than in contrast to the existing dwelling. In addition to this, the dwelling would also be located at a slightly higher level than the existing dwelling, which would make the dwelling slightly most exposed.
- 85 Other than very restricted views of the proposed replacement Hillway from right across the Darent valley, and with the new site now over the brow of the hill, sunken below existing ground level and tucked further round to the east the new bungalow appearance Hillway will be very much hidden and most certainly will not be slightly more exposed compared to the existing dwelling.
- 86 With appropriate conditions including a landscaping condition which would ensure that appropriate screening would be achieved to help mitigate the visual impact of the development, it is considered that the repositioning of the dwelling to the east of the site would be acceptable in principle.
- 87 With appropriate conditions, I consider that the siting of the new dwelling would be acceptable from a visual perspective.
- 88 Although there is no objection to the re-siting of the dwelling, I have some concerns over the design the dwelling even though it is an improvement over the existing dwelling. The dwelling would be L shaped and would be extensive in terms of its scale and size. The design of the dwelling appears quite stark in terms of its appearance and the elevations do not appear to be very detailed with a strange mix of fenestration. With an appropriate materials condition and landscaping, it is however considered that the proposal would not harm or detract from the landscape character of the AONB.

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

- 89 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."
- 90 The NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
  - proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;
  - development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
  - opportunities to incorporate biodiversity in and around developments should be encouraged;
  - 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, unless the need for, and benefits of, the development in that location clearly outweigh the loss.
- 91 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.
- 92 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. Application SE/10/00219, was refused for two reasons, one being the detrimental impact of the development on the SNCI and the second



being a failure by the applicant to submit a bat survey. The applicants however overcame these reasons with the approval of permission that they got under application SE/11/02762.

- 93 The proposed development is to be located within a Site of Nature Conservation Interest (SNCI). 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.
- 94 This application is in close proximity to Otford to Shoreham Downs Site of Special Scientific Interest (SSSI).
- 95 The consultee comments are relevant to this issue. The 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 adverse impact on the SNCI, providing that the conditions that were imposed under application 11/02762.
- 96 Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. They have advised in their view that the SSSI does not represent a constraint in determining this application. They have also raised no objection to the proposal and the impact that it would have on the SNCI.
- 97 KCC Ecology have raised no objection to the proposal. In view of the fact that none of the consultees has 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 and any protected wildlife, with the addition of relevant conditions.

#### Other Issues

##### *Impact on neighbouring amenity*

- 98 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.
- 99 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*

- 100 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.
- 101 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.

102 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*

103 NPPF states that very special circumstances to justify inappropriate development will not exist unless the harm because of inappropriateness, and any other harm, is clearly outweighed by other considerations.

- The applicant has advised that the floor area of the car port area (below the Master Bedroom complex) (is 45.24 m<sup>2</sup>) if this is added onto the proposed dwelling that the total floor space would be 412.98 m<sup>2</sup> and would thus not make the dwelling 'materially larger'.
- The 'over sailed' areas and the carport, should not be counted as part of the area of the new dwelling for the purposes of considering Policy H13 compliance. As space is not habitable, and as H13 makes clear, the correct comparison should be of habitable space.
- Under application 11/02762 – the permitted replacement – the basement space due to its lack of impact upon the openness of the Green Belt. The 21.5 metre by 1.8 metre balcony approved on that house was not taken into consideration. If the same approach is taken here, then the above ground areas of the permitted. The open but covered space at ground floor is not directly comparable to normal habitable space in that it clearly has less impact upon the openness of the Green Belt due to it being open and 2.7m below the existing 'field' surrounding land.
- Even if the over sailed space was taken into account in the overall space calculation together with the basement, then very special circumstances exist to justify it, namely the lack of harm to openness due to the additional space being partly underground and partly open sided, non-habitable areas. It is also worth considering that in this sensitive location, covered, but open space, would be ideally suited for storage of outdoor furniture/garden items, thereby reducing the need for sheds or other outdoor storage buildings normally associated with houses in large grounds.
- Unlike the existing Hillway, and the approved design, this latest proposed design does sit substantially lower (3m+) in the ground which I hope that you can accept dramatically minimises its impact on the openness of the Green Belt compared to the existing Hillway and the approved design.

104 The applicant's very special circumstance case is based on the fact that they consider that the proposed habitable floor area of the dwelling is no greater than the existing floor area of the dwelling. The argument by the applicants is that the floor space 'over sailed' by the first floor and carport should not be counted as part of the area of the new dwelling for the purposes of considering Policy H13 compliance. They are of the view that the space is not habitable, and as H13 make clear.

105 It is the Council's view the proposed dwelling is not in fact comparable to the floor area of the existing dwelling and the scale and massing is significantly larger. In

any event the test under the NPPF, does not compare habitable floor area but assess where the proposed design is materially larger than the existing dwelling.

- 106 The applicants do not consider it necessary to include the carport or the large area of undercroft in the external floor area calculations. The approach is not comparable with the NPPF, where we assess the bulk, scale and massing as well as floor space to assess the impact on the Green Belt.
- 107 With the enclosed undercroft and the carport, the floor space of the proposed dwelling with the ground and first floor measuring 494.5 m<sup>2</sup>, with an underground basement area measuring an additional 279.1 m<sup>2</sup>. In this respect, it is considered that the proposal 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.
- 108 The previous application (11/02762/FUL) was approved as a very special circumstances case 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. This decision was made when policy H13 had more weight in comparison to the NPPF.
- 109 In report on 11/02762 – the permitted replacement – the applicant states that we effectively discounted the basement space due to its lack of impact upon the openness of the Green Belt, and did not take account of the 21.5 metre by 1.8 metre balcony approved on that house. If the same approach is taken here, then the above ground areas of the permitted and proposed dwellings remain the same.
- 110 It was previously concluded that there were very special circumstances in relation to the proposed basement under application 11/02762. The Council is not contesting the size and scale of the proposed basement in respect of the proposed application in view of the fact that the space would be fully below level and subterranean.
- 111 The applicants also have mentioned the fact that a large balcony was proposed on the previous approved scheme. Although this statement is true, the space was not enclosed and was open on all sides. In this respect, it was not considered to be habitable. The proposed unenclosed balcony to the west was not included in the calculations. However, the policies that apply now give more weight to the NPPF over policy H13 so the key test is whether the new scheme would be materially larger than the existing and the % of floor space increase has less weight.
- 112 The applicants also state that even if the over sailed space was taken into account in the overall space calculation together with the basement, then very special circumstances exist to justify it, namely the lack of harm to openness due to the additional space being underground and partly open sided, non-habitable areas. In addition to this, it is also proposed that the carport space would be ideally suited for storage of outdoor furniture/garden items, thereby reducing the need for sheds or other outdoor storage buildings normally associated with houses in large grounds.

- 113 Even though the sides of the ground floor veranda area open, this area still has a bulk that impacts on the openness of the Green Belt. Again, the fact that there is limited outdoor storage, is not a very special circumstance. Integral to the house is a large double garage that can be used to provide space of this nature. If sheds and the like are required by the applicants then some of the floor area should be used for storage of this nature not in addition to.
- 114 The applicants also make the case that unlike the existing Hillway, and the Approved Design, this latest Proposed Design does sit substantially lower (3m+) in the ground which minimises its impact on the openness of the Green Belt compared to the existing Hillway and the approved design. Regardless of this, the proposed house is a lot more bulky in terms of its size and scale in contrast to the house that is to be demolished. This circumstance case is supposed to be based on the fact that the proposal is not materially larger, but in my view the proposed dwelling is materially larger, it is greater in its size and scale and has a greater impact on the openness of the Green Belt.
- 115 In conclusion, it is therefore submitted that 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 Issues

- 116 The Parish Council were concerned about the design of the previous scheme that was granted permission under application 11/02762/FUL. They are of the view that the design of the house now proposed is more acceptable as it has a far smaller (reflective) glass frontage overlooking the Darent valley. In addition to this, they also mention the fact that the house is considered more satisfactory as it is set back further into the property and will therefore not be so intrusive from the broader views and the building has been sunk into the ground in an effort to reduce the roof height.
- 117 It is acknowledged that the proposal would have some benefits to the landscape but the overriding consideration is the impact on the openness of the Green Belt. It is also possible for the dwelling to be designed so that it could include the comments from the Parish Council and also meet the Green Belt test in the NPPF.
- 118 To support the Parish Council's case they have relied on the new Village Design Statement July 2012, which has been submitted for approval to SDC in October 2012. The document has actually been approved yet. In view of this it is considered that this document would hold limited weight in reaching a decision on the application.
- 119 The third party objection raises concerns about the effect on the proposal on the Nature Conservation Area. The impact of the proposal on the SNCI and adjacent SSSI, has already been explored in the report and thus it is not considered necessary to explore this anymore.
- 120 In addition to this, the objection letter also raises concern about the design, appearance and materials/visual amenity. In particular that there is a large expanse of glass windows near the planned significantly sized veranda/balcony

raises questions concerning reflection on a central apex upon the hillside in vision of many neighbours and across the two valleys.

- 121 The comments from the third party objection has been noted, however the extent of glazing is not considered to be a reason to refuse the application. The previous application had a greater amount of glass in contrast to the approved scheme. In addition to this the large glazed areas would be screened to an extent by the proposed balustrade and the overhang of the existing roof. The issue could potentially be resolved by the use of non reflective glass.

## **Conclusion**

- 122 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. 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.
- 123 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): Vicky Swift Extension: 7448

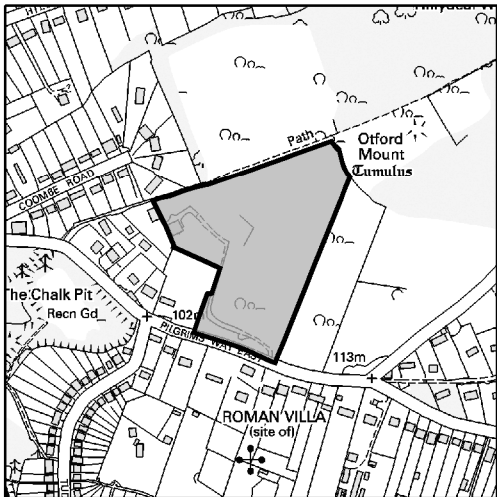
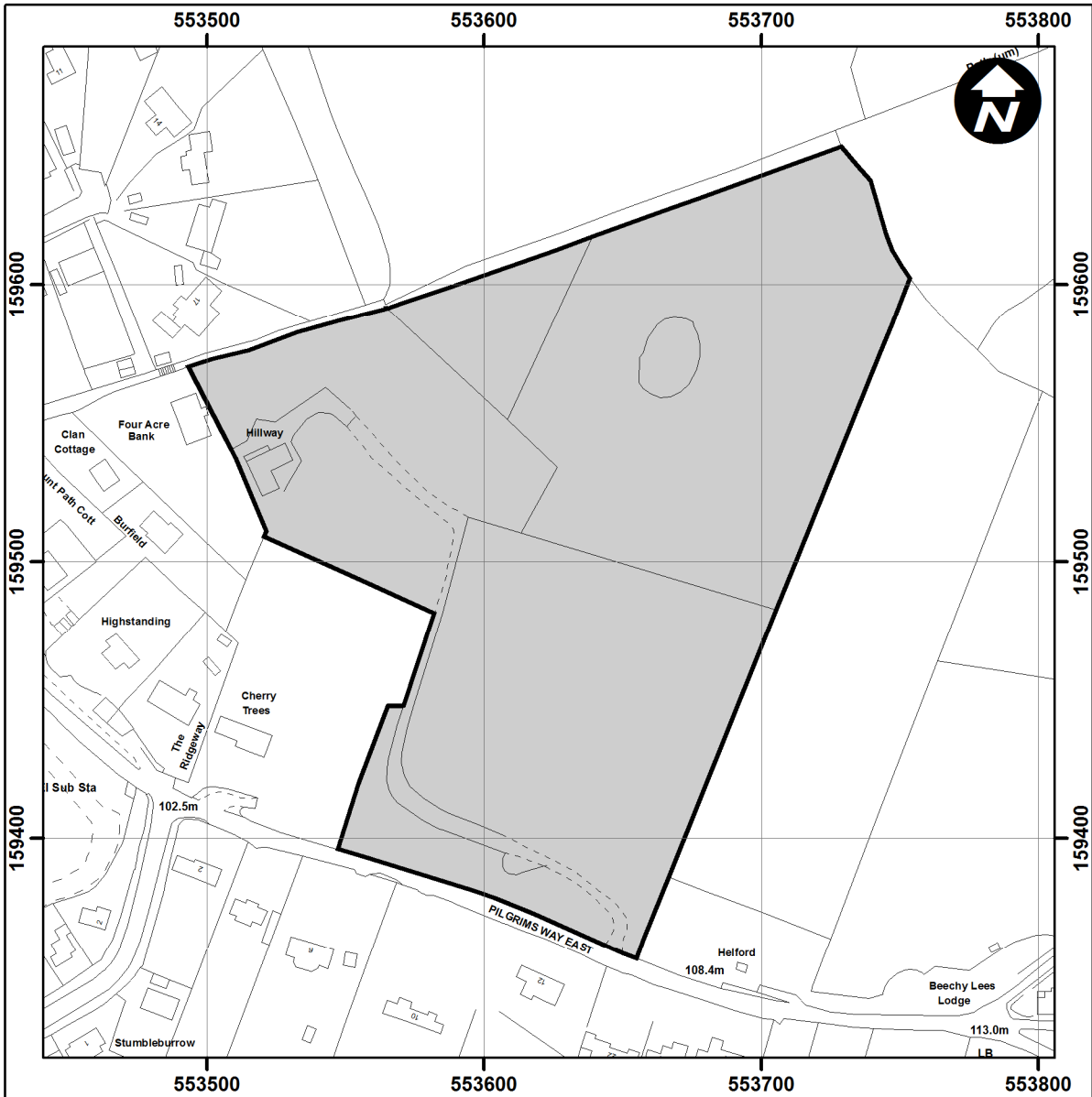
**Pav Ramewal**  
**Chief Executive Designate**

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=MLABGUBK8V000>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MLABGUBK8V000>



# Site Plan

Scale 1:2,500

Date 26/06/2013



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**BLOCK PLAN**

