

**6.01 Reference: 310/11/093**

**ENFORCEMENT OF PLANNING CONTROL**

**1 The Stables, Halstead Place, Halstead, Kent TN14 7BJ**

**ITEM FOR DECISION**

This matter has been referred to the Development Control Committee by Councillor Grint to assess whether it is expedient to take enforcement action to remove the shed.

Planning permission was refused for the erection of a garden shed (retrospective) at Development Control Committee on 25 August 2011. The shed remains on site.

**RECOMMENDATION:**

That authority is to serve an Enforcement Notice, subject to the Head of Legal and Democratic Services agreeing the wording of the terms of the Notice, requiring the removal of the shed.

Compliance period:            Three months

**Description of Site**

- 1        1 The Stables is an end of terrace grade II property located within the Halstead Place site. The site has recently been developed for 33 houses and is located within the Green Belt. The current development was approved because of the very special circumstances advanced that the proposal would lead to an overall reduction in development on site, would possess a less intensive use, improve the setting of the listed buildings and the Site of Ancient Monument, improved landscape management, public access and ecological benefits.

**Constraints**

- 2        Conservation Area
- 3        Section 106 - S106/SE/08/01915
- 4        Tree Preservation Order
- 5        Metropolitan Green Belt

**Policies**

*South East Plan (2009)*

- 6        Policy CC1 - Sustainable Development

- 7 Policy CC3 - Resource Use
- 8 Policy CC4 - Sustainable Design and Construction
- 9 Policy CC6 - Sustainable Communities and Character of the Environment
- 10 Policy M1 - Sustainable Construction
- 11 Policy SP5 - Green Belt

*Sevenoaks District Local Plan*

- 12 Policy EN1 - Development Control – General Principles
- 13 Policy H6B and Appendix 4 - Residential Extensions
- 14 Policy EN23 - Conservation Area

*SDC Core Strategy*

- 15 Policy SP1 - Design of New Development

*Other*

- 16 Planning Policy Guidance 2: Green Belt
- 17 Planning Policy Statement 5: Planning for the Historic Environment
- 18 Planning Policy Statement 7: Sustainable Development in Rural Areas
- 19 Halstead Village Design Statement

Planning History

20	06/00815/FUL	Redevelopment of site to provide 61 dwellings (57 no. new & 4 no. through conversion) with associated car parking, access and landscaping.	REFUS E	27/06/2006
21	06/00855/LBCALT	Conversion of listed Stable Block building and adjacent Coach House for residential use.	GRANT	30/06/2006
22	06/02534/FUL	Redevelopment of site to provide 49 no. dwellings (45 no. new and 4 no. through conversion) with associated car parking, access and landscaping provision.	REFUS E	19/12/2006
23	06/02535/CAC	Demolition of unlisted building and structures within a	GRANT	22/11/2006

Development Control Department - 17 November 2011

designated conservation area as part of a proposed residential development.

24	07/00766/FUL	Redevelopment of site to provide 48 no. dwellings (44 no. new and 4 no. through conversion) with associated car parking, access, landscaping and open space provision.	REFUS E	20/06/2007
25	07/00053/RFPLN	Redevelopment of site to provide 49 no. dwellings (45 no. new and 4 no. through conversion) with associated car parking, access and landscaping provision.	APWIT H	13/08/2007
26	08/01915/FUL	Redevelopment of site to provide 33 no. dwellings (29 no. new build and 4 no. through conversion) with associated car parking, access, landscaping and open space provision.	GRANT	20/02/2009
27	09/00690/FUL	Temporary permission for the erection and subsequent partial removal after 2No. year of a sales suite.	GRANT	22/05/2009
28	11/01433/FUL	Erection of garden shed to side of property (retrospective)	REFUS E	17/08/11

### Principal Issues

29 The principal issue is Impact on the Green Belt

#### *Impact upon the Green Belt*

30 PPG2 (Green Belts) 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. The limited extension or alteration of an existing dwelling can be appropriate and case law has shown that a shed that is not used for a domestic living accommodation cannot be described as an extension or alteration as it's a detached outbuilding.

31 The site is located within the Green Belt. It was concluded in the report for the overall residential development on the site, that all new buildings constitute

(Item No. 6.01) 3

inappropriate development in the Green Belt. As outlined above planning permission was granted for the redevelopment of the site because of the special circumstances advanced that clearly outweighed any harm to the openness of the Green Belt. Various conditions were attached to the planning permission to remove permitted development rights to prevent further development on the site to protect the openness of the Green Belt, hence the requirement for the current submission.

- 32 Policy H14B refers to outbuildings in the Green Belt but this policy only applies if the outbuilding is also in the Area of Outstanding Natural Beauty. Halstead Place School, including this application site, is not in the Area of Outstanding Natural Beauty. There is therefore no local policy that applies to their proposal and it is therefore inappropriate development in the Green Belt.
- 33 Though modest in scale the shed as a new building within the Green Belt, is due to the additional bulk created in the form of the proposal, is harmful to the openness of the Green Belt.
- 34 PPG2 states that the most important attribute of Green Belts is their openness. The erection of a shed leads to the erection of a three dimensional form that wasn't previously in place and accordingly has a detrimental impact upon the openness of the Green Belt. A recent appeal decision (see Appendix A) at Halstead Place has stated that if there were no other storage facilities available that this could potentially add weight to the applicants case. In this instance the property possesses a car barn located to the rear of the dwellinghouse.

### Human Rights

- 35 Article 8 of the Human Rights Act provides for everyone to have the right to respect for their family life, home and correspondence. This is subject to the proviso that there shall be no interference by public authority with the exercise of this right except when pursuing a legitimate aim in law as is necessary in a democratic society, in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others. Article 8 applies even if the placing of the shed is unauthorised. However, in my opinion any rights of the owners of the site to put the shed on the land is outweighed by the public interest. I am satisfied that the serving of an enforcement notice is expedient in this case. The site lies within the Metropolitan Green Belt. The primary objectives in this area are to protect the character, amenity and openness of the Green Belt and the countryside in general.

### **Conclusion**

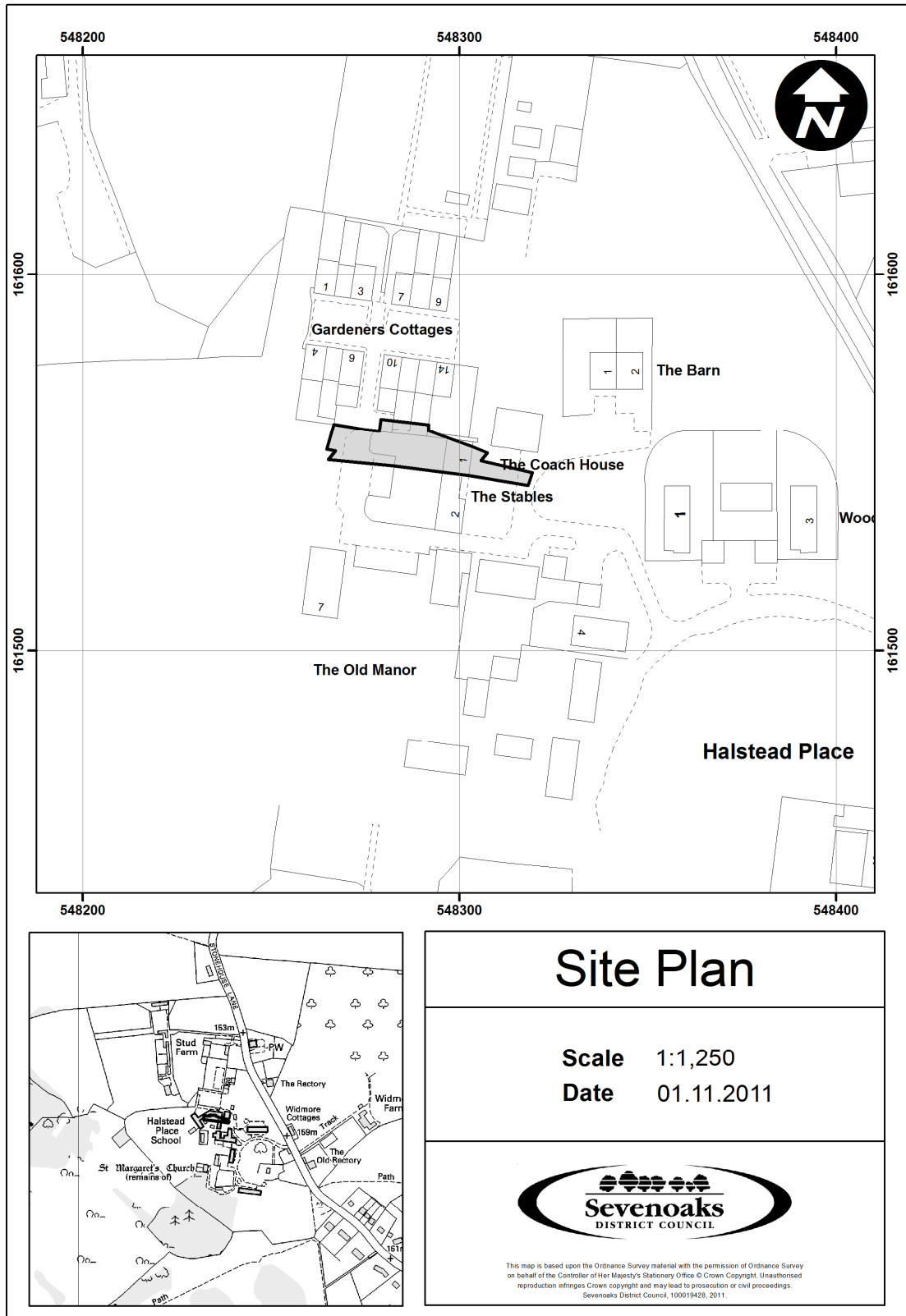
- 36 The shed represents inappropriate development that would be harmful to the openness of the Green Belt.

**Background Papers**

Site Plan

Contact Officer(s): Guy Martin Extension: 7351

**Kristen Paterson**  
**Community and Planning Services Director**





The Planning  
Inspectorate

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## Appeal Decision

Site visit made on 20 September 2011

by **Alan Woolnough BA(Hons) DMS MRTPI**

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

Decision date: 3 October 2011

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**Appeal Ref: APP/G2245/A/11/2154922**

**The School Master's Lodge, Halstead Place, Church Road, Halstead, Kent  
TN14 7HQ**

- 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 Ward Homes against the decision of Sevenoaks District Council.
  - The application ref no SE/10/02885/FUL, dated 8 October 2010, was refused by notice dated 10 December 2010.
  - The development is described on the planning application form as: 'Retrospective planning permission for the erection of a gazebo in the garden of Plot 32 of approved development under application ref: SE/08/01915/FUL, for a two-year period'.
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### Formal Decision

I dismiss the appeal.

### Procedural Matters

1. The address of the appeal site is given on the application and appeal forms as Plot 32, Former Halstead Place School. However, it is apparent that the address used in the above heading is now the correct one.
2. The development the subject of this appeal had already taken place by the time of my site visit.

### Main Issues

3. The appeal site lies within the Halstead Conservation Area. Under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. In this case the Council is satisfied that the proposal would conserve these interests and I concur. The main issues in determining this appeal are therefore:
  - whether the appeal development amounts to inappropriate development in the Green Belt for the purposes of Planning Policy Guidance Note 2: *Green Belts* (PPG2) and the development plan and the effect of the development on the openness of the Green Belt; and
  - whether any harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
4. The Appellant is willing to accept a temporary planning permission for two years. I have borne this in mind in reaching my decision.

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## Reasoning

### *Green Belt*

5. Paragraph 3.4 of PPG2 sets out the range of new buildings that is not inappropriate in the Green Belt. This includes the limited extension or alteration of existing dwellings but not the erection of outbuildings within their curtilages. On the evidence before me, the development plan contains no policies which refine the definition of inappropriate development so as to exclude outbuildings in certain circumstances.
6. In the case of *Sevenoaks DC v SSE & Dawe* [1997] EWCH Admin 1012 it was held that the words 'extension... of existing dwellings' were capable of including the erection of domestic outbuildings in the sense that they were a normal domestic adjunct to the dwelling and that the mere fact that they might be physically separated from the main house does not prevent them from being part of the dwelling. However, it was concluded that whether the erection of an ancillary building or structure within the curtilage of a dwellinghouse should be viewed as constituting an extension to the dwelling was a matter of fact and degree in every case.
7. In this instance, the gazebo is of substantial size and located in the far corner of the garden, well away from the house itself. It thus reads clearly in the street scene as a separate structure and, this being so, I find that it cannot be treated as a domestic extension for the purposes of applying PPG2. It is therefore inappropriate development which is, by definition, harmful to the Green Belt, and is acknowledged by the Appellant as such.
8. I also note that the Appellant has conflated the concepts of openness and visual amenity. The prominence of development has no bearing on the degree to which it affects the openness of the Green Belt, which is referred to in paragraph 1.4 of PPG2 as the most important attribute of Green Belts. The gazebo erodes openness by reason of its general bulk alone, albeit to a limited degree, irrespective of the extent to which it can be seen. It is therefore necessary for me to consider whether the harm thus caused is clearly outweighed by other considerations, so as to amount to very special circumstances.

### *Very special circumstances*

9. The gazebo is clearly visible in the street scene from the main access road serving the estate, across the communal green. Whilst its prominence might in due course be reduced by screen vegetation this, by its very nature, would provide only temporary mitigation. Having said this, as previously indicated, the structure has no adverse implications for the character or appearance of the conservation area, having been designed to a high standard. It does not detract from the wider estate development and does not therefore conflict in this respect with the development plan, national policy or other relevant guidance. However, it is not so attractive a feature as to significantly enhance the character and appearance of the locality.
10. The gazebo is relatively small in volume and would amount to permitted development pursuant to the Town and Country Planning (General Permitted Development) Order 1995 as amended were it not for the fact that rights to this effect have been removed by the original planning permission for the wider estate. Nonetheless, permitted development rights for the erection of domestic



outbuildings have been removed with the clear aim of preserving the openness of the Green Belt. Whilst I accept that the character of this part of the Green Belt has been changed by the estate development, this does not in itself detract from the importance of upholding the principle of maintaining openness embodied in national policy. Indeed, my general impression is that the new estate, with its wide swathe of green open space, has been laid out with this principle very much in mind.

11. The limited effect of the gazebo itself on openness does not provide justification for granting planning permission, as proposals of this kind in similar circumstances could be repeated too often. I have noted the presence of domestic sheds elsewhere on the Halstead Place estate, some of which have been supported by the local Parish Council and at least one now benefiting from a planning permission. Nonetheless, each development must be assessed primarily on its own merits and, in any event, I do not know the full circumstances of those other cases.
12. I note that the gazebo was erected to provide domestic storage for the occupiers of The School Master's Lodge, the initial absence of alternative facilities separate from the dwelling itself meaning that certain items would otherwise have to be stored in the open in a manner not conducive to visual amenity or security. Were it the case that storage facilities were not otherwise available, I would give particular weight to this consideration. However, on the evidence before me, the circumstances that have created this problem no longer apply.
13. The domestic double garage that was approved for this property as part of the original planning permission for the estate has been incorporated into a sales suite for use by the Appellant company and, indeed, at the time of my visit the marketing of dwellings on the estate was still taking place. However, the most recent permission for the suite that has been drawn to my attention, ref no SE/11/0821/CONVAR, expired on 30 September 2011 and I have seen nothing to indicate that its continued presence is likely to be endorsed.
14. In the absence of a planning permission for the retention of the sales suite, ongoing marketing does not provide justification for the retention of the gazebo for even a temporary period. The solution to the occupiers' storage problems is now readily available, the relevant permission being subject to a requirement to reinstate their garage. Whilst I acknowledge the advantages of on site selling from a commercial viewpoint, it has not been demonstrated that an alternative facility elsewhere on the estate could not fulfil this function, subject to the appropriate permission being secured.
15. I have noted the support for the retention of the gazebo from others. However, I conclude that neither these nor any other considerations, individually or cumulatively, clearly outweigh the harm that arises from the gazebo so as to constitute the very special circumstances required to justify a departure from normal Green Belt guidelines. The development is therefore contrary to national policy in PPG2.

*Alan Woolnough*

INSPECTOR

