

3.2 - 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 was referred to Development Control Committee by Councillor Edwards-Winsor 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, L08 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),

- 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

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”.

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>

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.

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

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

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

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;

- 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.

- 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.
 - Slating 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.

- 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 409.308m². 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 m². If criterion 4 of policy H13 is applied, the new dwelling permissible should not exceed 74.64 m². The floor area of the proposed dwelling is 487.91 m² for the ground and first floor areas, the proposed basement equates to an additional 279.1 m². The cumulative total would therefore equate to 767.01 m². 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 m² 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 m².
- 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 m² above ground level not 494.5 m² as sited in the previous report to development control committee. At 487.91 m² the currently proposed dwelling represents approximately a 32.79 m² reduction in floor area which equates to an approximate 6.3% reduction.

- 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 m² in comparison to the existing dwelling on site which is 409.308 m² 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 m². As an example of what this size means, note that a typical double garage can be around 30 m².
- 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:-

	Existing Dwelling	Approved Dwelling	Proposed Dwelling
Floor space above ground including undercroft areas	409.308m ² (now includes small undercroft area)	394.008m ²	487.91m ² (including all undercroft areas on ground floor)
Floor space with the proposed basement levels	409.3008	616.659 m ²	767.01m ²
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.

- 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.

- 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

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 amble 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

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 nay 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

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 m² and underground basement area measuring an additional 279.1 m² 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.

- 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.

- 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 m² in comparison to the existing dwelling on site which is 409.308 m² 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

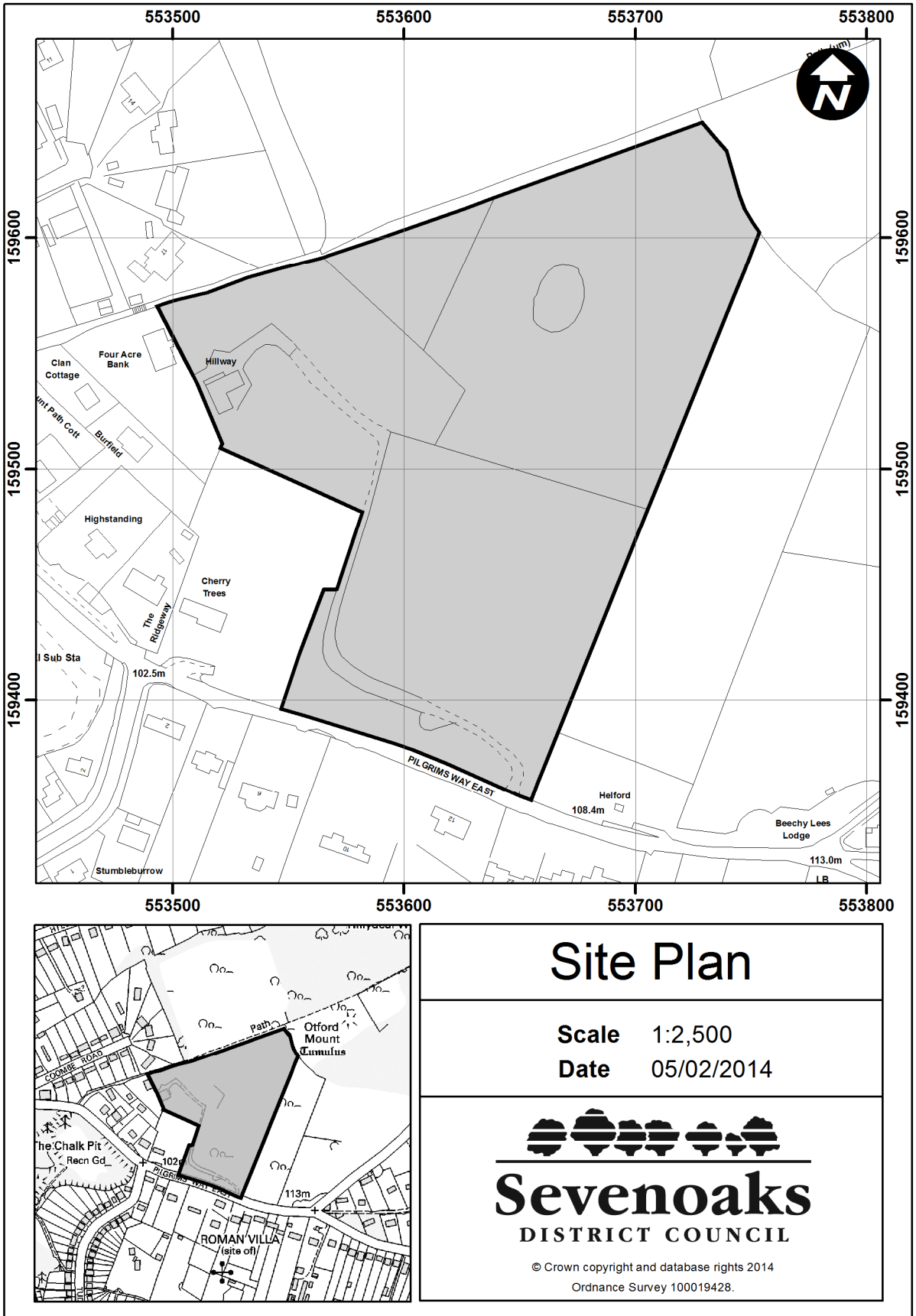
Richard Morris
Chief Planning Officer

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>



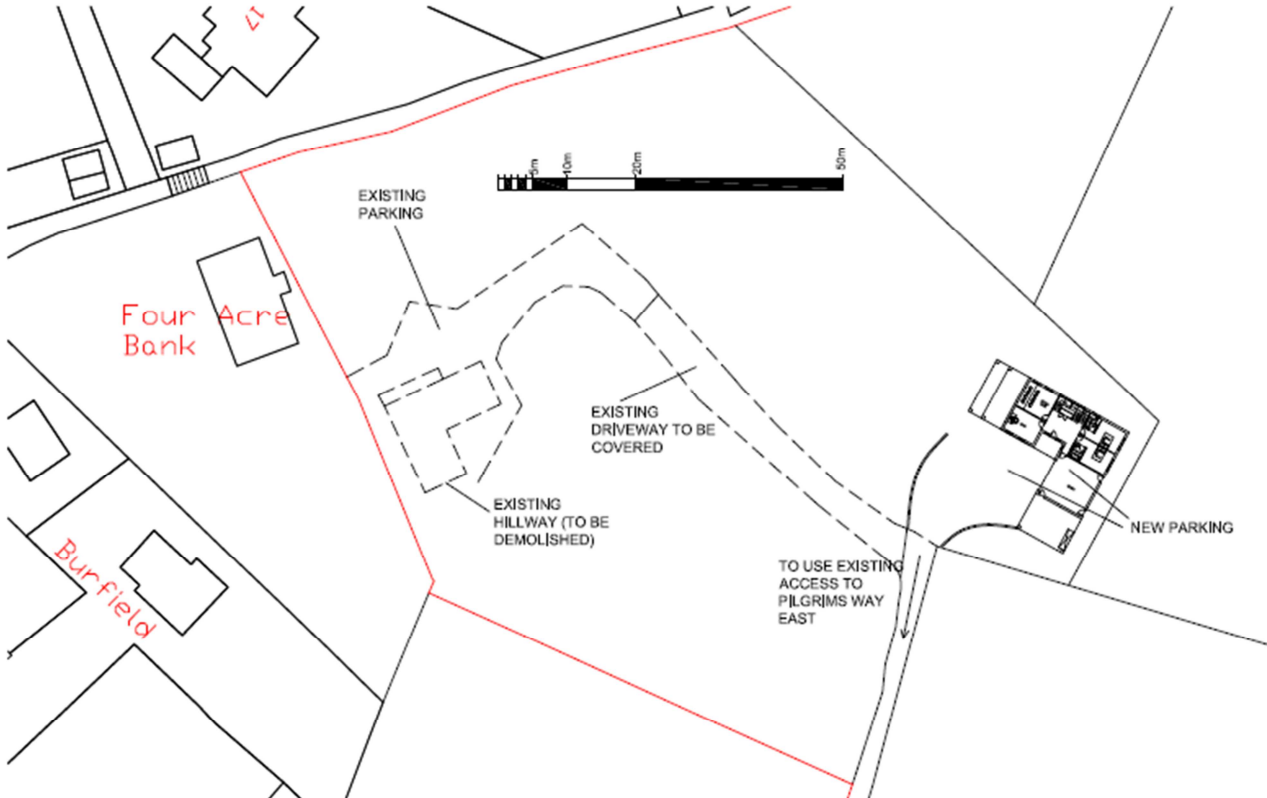
Site Plan

Scale 1:2,500
 Date 05/02/2014



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 Ordnance Survey 100019428.

Block Plan



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 m² if this is added onto the proposed dwelling that the total floor space would be 412.98 m² 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.

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- 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 m², with an underground basement area measuring an additional 279.1 m². 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

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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. ¶