

4.1 – SE/14/00188/FUL Date expired 3 April 2014

PROPOSAL:                               Erection of 5 bedroom detached dwelling with integral garage

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

WARD(S):                                 Sevenoaks Town & St Johns

- 1     The application has been returned to the Development Control Committee following the decision by the Committee to defer the item at the meeting of 20<sup>th</sup> May 2014.
- 2     The reason the application was deferred was to allow officers to seek clarification from the Highways Authority on the matters raised and whether their concerns had been satisfied.
- 3     The Highways Engineer has since provided the following comments:  
  
      ‘Thank you for confirming that the application site (as well as property number 9) is subject to a planning condition from 10/02639 stating that:  
  
      "The development hereby permitted shall not be used or occupied until a 2.4m visibility strip measured from and parallel to the face of the kerb has been provided across the whole of the site and anything which obstructs visibility at any height greater than 0.9m above the surface of the adjoining carriageway has been removed. Thereafter the visibility strip shall be maintained free from obstruction at all times.  
  
      Reason - In the interests of highway safety and visual amenity as supported by policy EN1 of the Sevenoaks District Local Plan."  
  
      On this basis I do not intend to raise any objections to the proposal. I would however recommend a planning condition requiring that the new driveway should be constructed of a bound surface within 5 metres of the highway boundary, for reasons of highway safety.’
- 4     The original report is reproduced below, followed by the statement of Councillor Raikes and a letter of representation included in the late observations to the previous Committee (see Appendix 1).
- 5     Members’ attention is also drawn towards the Inspector’s appeal decision relating to SE/10/02641/FUL, which is also appended to the officer’s report (see Appendix 2).
- 6     The recommendation remains unchanged other than the insertion of the condition above suggested by the Highways Engineer relating to the surface of the driveway.

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### ITEM FOR DECISION

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

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

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

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

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

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

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

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

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

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

proposed number/densities); and-a programme of implementation.

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

5) Soft landscape works shall be carried out before first occupation of the dwelling. The landscape works shall be carried out in accordance with the approved details.

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

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

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

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

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

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

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

9) The development shall achieve a Code for Sustainable homes minimum rating of level 3. Evidence shall be provided to the Local Authority -  
i) Prior to the commencement of development, of how it is intended the development will achieve a Code for Sustainable Homes Design Certificate minimum level 3 or alternative as agreed in writing by the Local Planning Authority; and  
ii) Prior to the occupation of the development, that the development has achieved a Code for Sustainable Homes post construction certificate minimum level 3 or alternative as agreed in writing by the Local Planning Authority.

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

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

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

11) No development shall be carried out on the land until a plan indicating the positions, design and materials of all means of enclosure to be retained and erected has

been submitted to and approved in writing by the Council.

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

### **Note to Applicant**

In accordance with paragraphs 186 and 187 of the NPPF Sevenoaks District Council (SDC) takes a positive and proactive approach to development proposals. SDC works with applicants/agents in a positive and proactive manner, by;

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,
- Allowing applicants to keep up to date with their application and viewing all consultees comments on line ([www.sevenoaks.gov.uk/environment/planning/planning\\_services\\_online/654.asp](http://www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp)),
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

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

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

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

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- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Working in line with the NPPF, the application was refused as the proposal failed to improve the economic, social or environmental conditions of the area.

#### Description of Proposal

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

#### Description of Site

- 4 The application site comprises a large detached dwelling set on a large plot, on the south side of Mount Harry Road, adjacent to Pendennis Road. The plot rises in

level from west to east and from north to south. The rear of the site possesses a large Horse Chestnut tree that is covered by a Tree Preservation Order.

- 5 The plot has a large frontage in comparison to some in the locality. However, plot and frontage sizes vary greatly as do the size and design of surrounding properties, particularly on the southern side of the street. Existing properties sit comfortably within their plots, with spacing between each property that creates a feeling of space and openness.

#### Constraints

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

#### Policies

##### *Sevenoaks District Local Plan*

- 7 Policy- EN1

##### *Sevenoaks District Core Strategy*

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

##### *Other*

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

#### Planning History

- 14 SE/09/02330 Demolition of existing dwelling, construction of 2no dwellings with integral garages and revised access. Refused 23.11.09  
  
SE/10/00744 Demolition of existing dwelling, construction of 2no dwellings with integral garages. Refused 26.05.10  
  
SE/10/02639 Demolition of existing dwelling and erection of a replacement dwelling with linked two storey garage. Granted 14.01.11  
  
SE/10/02641 Demolition of existing dwelling, construction of 2no dwellings with integral garages. Refused 14.01.11, Appeal dismissed 25.07.11
- 15 The current application is very similar in detail compared with the scheme considered by the Council and the Inspector in 2011, SE/10/02641/FUL, which comprised two new dwellings on the site. At the same time this application was

considered the applicant also gained permission for a single dwelling on the site that has now been constructed, SE/10/02639/FUL. Although the Council refused the application for two units on the grounds of harm to the character and appearance of the area, the Inspector only dismissed the appeal on the basis that no affordable housing provision had been made.

### Consultations

#### *Sevenoaks Town Council - 06.03.14*

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

#### *Kent Highways Engineer – 04.03.14*

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

#### *Tree Officer – 17.02.14*

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

#### *Thames Water – 17.02.14*

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

### Representations

- 23 Fourteen letters of representation have been received, seven of which are duplicated from three neighbours, raising concerns relating to the following matters –

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

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

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

#### *Principle of the development –*

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

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

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



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

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

- 31 The NPPF also states that the Government ‘attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.’ (para. 56)
- 32 Policy SP1 of the Core Strategy states that all new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated.
- 33 Policy EN1 of the ADMP, which can currently be afforded moderate weight, states that the form of proposed development should respond to the scale, height, materials and site coverage of the area. This policy also states that the layout of proposed development should respect the topography and character of the site and the surrounding area.
- 34 Policy EN1 of the Local Plan states that the form of the proposed development, including any buildings or extensions, should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. This policy also states that the design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard.

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

- 35 The Residential Character Area Assessment SPD lists four locally distinctive positive features of the Mount Harry Road area including individually designed mostly two storey detached houses that are set back from the road along a relatively regular building line with gaps between buildings and trees and boundary hedges. The document goes on to state that in proposing new development within the Mount Harry Road Character Area development should be set back from the road and respect the relatively regular building line and mature

trees and hedge, or wall and hedge, boundaries which contribute to the character of the area should be retained.

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

SP1 of the Core Strategy, policy EN1 of the Local Plan and the Sevenoaks Residential Character Area Assessment SPD.

*Impact on neighbouring amenity –*

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

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

#### Other Issues

##### *Protected tree –*

- 56 The NPPF states that planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland (para. 118).
- 57 The proposed house would be located sufficient distance away from the large mature Horse Chestnut tree to the rear of the site for the tree not to be impacted upon.
- 58 The Tree Officer has noted a wish for the tree to be retained within the ownership of one property. As proposed, a small proportion of the canopy of the tree would

fall within the ownership of the new dwelling, which is likely to result in an amendment to the red line of the application site.

- 59 However, the layout of the development replicates that recently considered by the Inspector, who raised no issue over the division of the existing plot in the manner that continues to be proposed here. It is also the case that the Tree Officer was previously satisfied with the proposed arrangement, under planning application number SE/12/02641/FUL, with only a condition relating to boundary treatment suggested to the Inspector in relation to the division of the plot under the canopy of the tree.
- 60 For these reasons I am of the view that the proposed layout of the development would not impact the protected tree, nor would future pressures result in any detrimental impact to the tree.

#### Parking provision and highways safety -

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

#### Affordable housing provision -

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

### *Code for Sustainable Homes –*

- 69 Policy SP2 of the Core Strategy states that new homes will be required to achieve at least Level 3 of the Code for Sustainable Homes. The applicant has acknowledged this requirement but no information relating to this has been submitted by the applicant. It is possible, however, for the achievement of Level 3 to be required by way of condition on any approval.

### *Use of water –*

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

### *Sustainable development –*

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

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

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

### **Conclusion**

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

### **Background Papers**

Site and Block plans

Contact Officer(s):

Mr M Holmes Extension: 7406

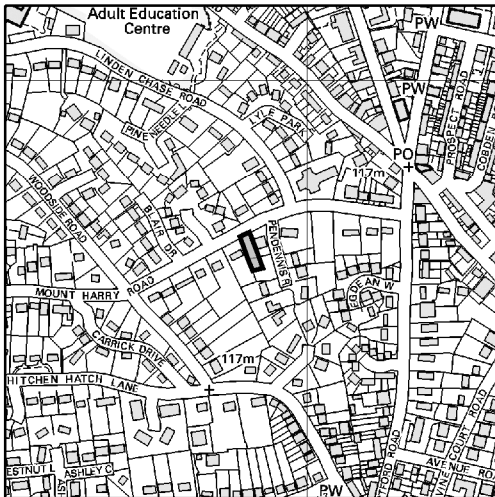
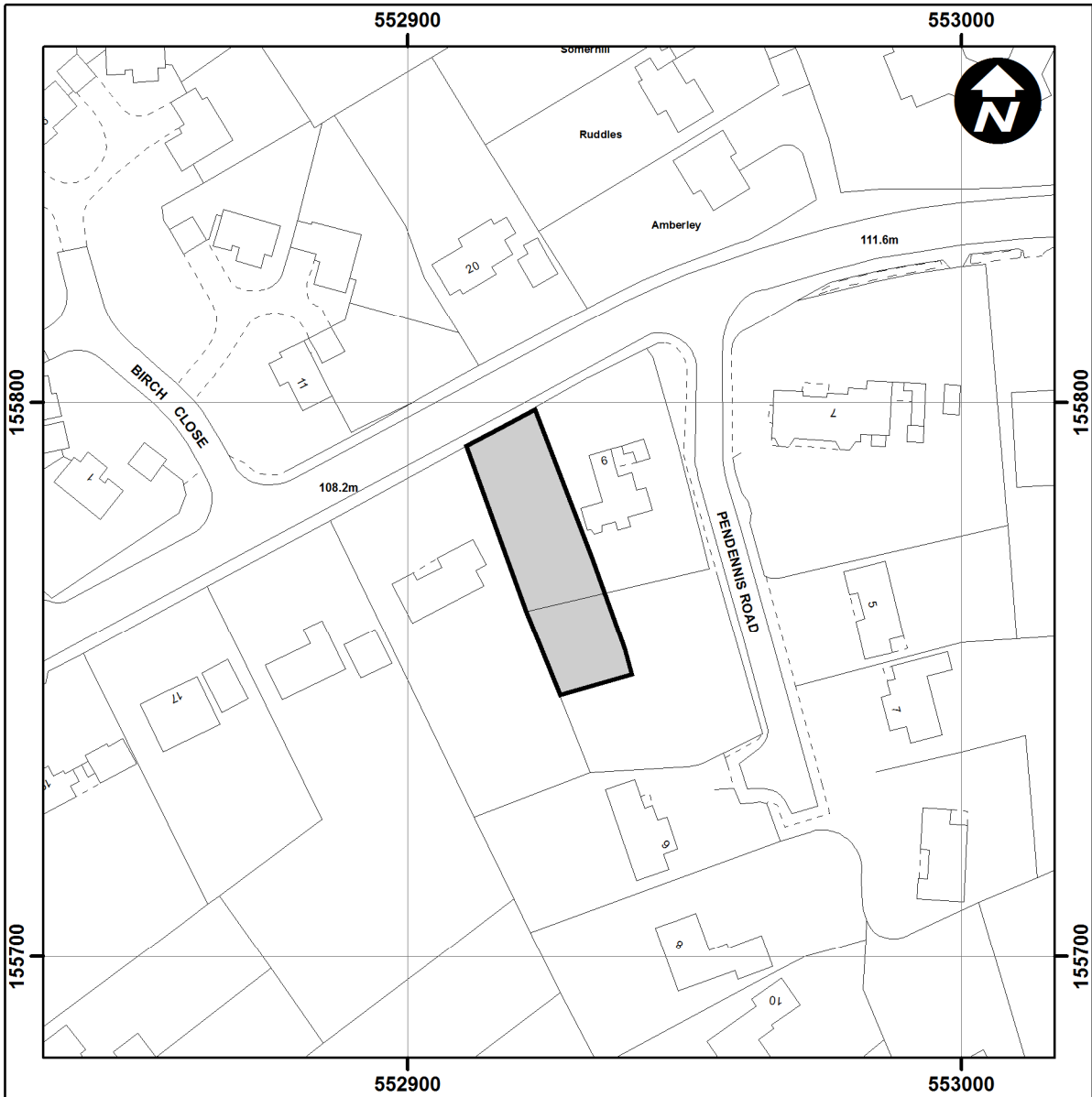
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

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

Link to associated documents:

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



# Site Plan

Scale 1:1,250

Date 06/05/2014

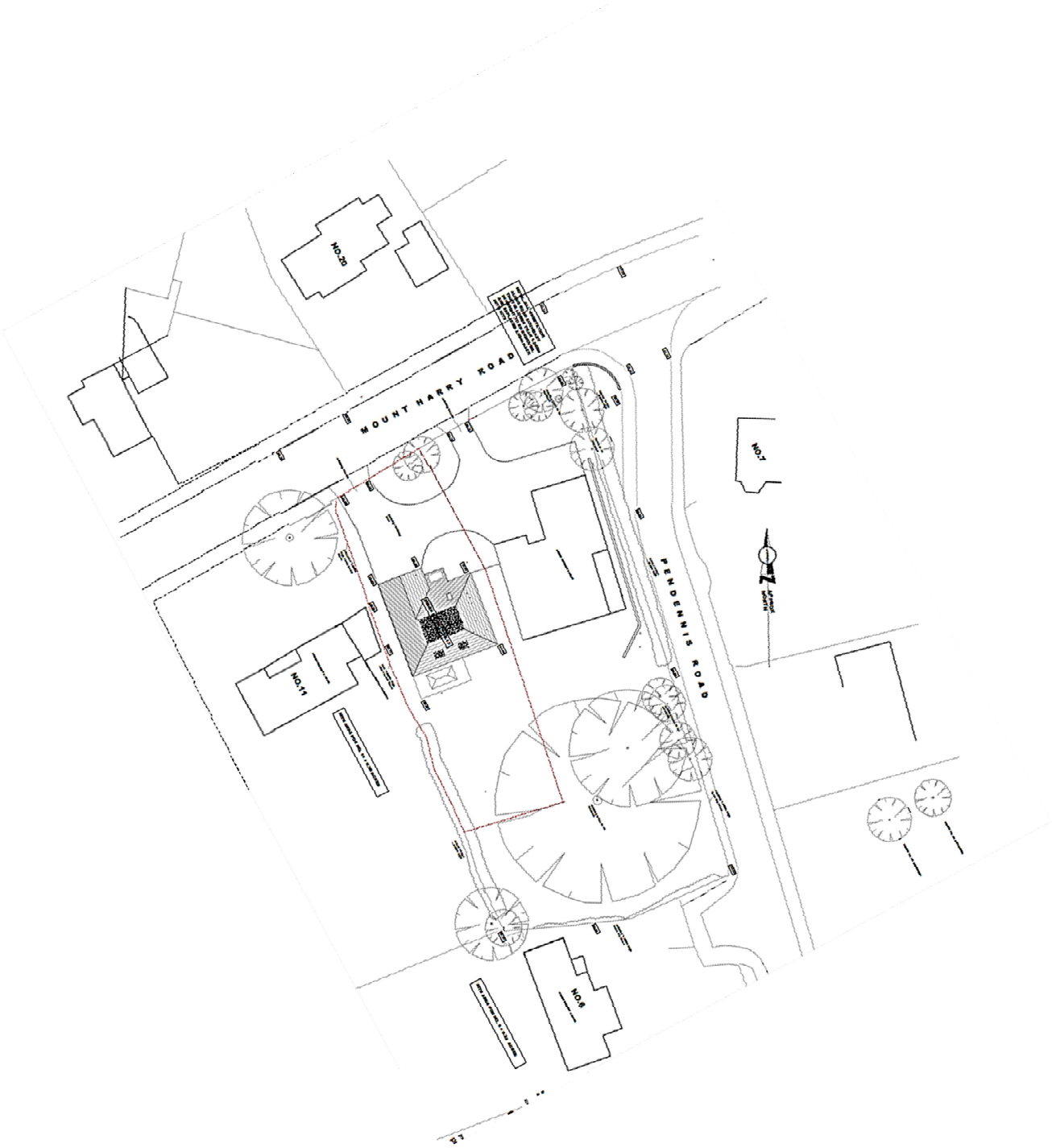


**Sevenoaks**  
DISTRICT COUNCIL

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**Block plan**



## Statement received from Councillor Raikes APPENDIX 1

Notes from Cllr Simon Raikes, Ward Councillor who requested that this be brought to DC

First, my apologies for not being here in person. I have an official engagement which predates this agenda so am unable to attend.

There have been previous proposals to redevelop this site, which was originally occupied by one residence. SDC agreed to the erection of one new house but declined a proposal to have two houses erected on what was a single site. This refusal was upheld by the Planning Inspector for the reason set out by the planning officer in paragraph 42 on page 115. This is however a new application.

The Residential Character Area Assessment section F04 sets out amongst the positive features of Mount Harry Road:

“Individually designed mostly 2 storey detached houses are set back from the road along a relatively regular building line with gaps between buildings”

Furthermore it quotes as negative features:

“Some new development has not respected the characteristic set back from the road or allowed spacing between buildings”

Different parts of Mount Harry exhibit different characteristics, but it would be fair to say that the South side between Pendennis and Woodside Road is characterised by large two storey buildings which carry the appearance of being well set apart and with large frontages and large gardens to the rear. Single storey garages to the side of the buildings reinforce the feeling of spaciousness, or gaps referred to in the RCAA

The application proposes a second substantial two and a half storey building (albeit disguised by the use of Velux windows to the front) on the original single site, filling most of the remaining width of the plot and eliminating the appearance of spaciousness between it and nos 9 and 11. This would have an adverse impact on the street scene and reflect the negative features found in the RCAA. It would also arguably be contrary to the design guidance set out in the RCAA which states inter alia that:

“Some infill development and redevelopment has occurred in this character area and there is limited potential for further such development and the area is likely to remain largely unchanged over time.”

(My underlining)

It should be noted that the frontages of 9 and 9A will be much narrower than the houses from no 11 westwards to Woodside Road if this development were to proceed, contrary to the character of the houses in this part of the road and thus also having an adverse impact on the street scene.

It should be noted that the existing houses also have substantial gardens and whilst it is argued that site coverage is similar to other houses, the site coverage in relation to plot size is substantially reduced. I therefore maintain that in the context of the neighbouring houses this application

continued....

represents overdevelopment of the site, and with the need to take account of the substantial tree on the site of no 9, it will restrict the amenity space for occupants of the new house.

I therefore ask members to refuse the application as it:

1. Does not meet the standards set out in section F04 of the Residential Character Area Assessment
2. It is injurious to the street scene
3. It would have an overbearing impact of neighbouring properties
4. It does not provide adequate amenity space for a house of this size

## **Letter of representation from neighbour Appendix 1**

### **9 Mount Harry Road Sevenoaks TN13 3JJ**

We live at 11 Mount Harry Road immediately next door to the proposed development

We are unable to attend the meeting tonight but have asked for our views and our neighbours to be relayed for the Committee's consideration.

This proposal is almost identical to that refused by the Council in 2011.

The number of objection letters lodged against the proposal illustrates the concerns of the neighbourhood which we would summarise as follows:-

1. This proposal amounts to a 3 storey house and will be out of character with the 2 storey houses in Mount Harry Road .
2. The house would sit on much higher land than our house - there is a marked difference in plot levels - and would dominate our house in particular.
3. The tiny garden would offer very little amenity to the occupier
4. The proposed house would be built with much less of a gap than other houses in the road and does not follow the guidelines in the Residential Character Area Assessment SPD. Mount Harry Road does not currently have properties cheek by jowl . Where properties are built up to the boundary , there is a single storey to one side of the plot which gives a rhythm and scale to the area.
5. The proposed house projects 2m in front of the build line of our house and does not respect the build line of other houses in the road. It would overlook our front garden and impinge on our privacy
6. In order to squeeze this enormous house onto this narrow plot the proposed house veers in towards our house exacerbating the overbearing effect of the proposal.
7. The mature mixed beech hedge between no.9+ no.11 will suffer from the reduced light and height of the proposed building and is therefore at risk. The loss of the hedge would further compromise the leafy appearance of the area.

We ask you to refuse this application as you did previously and to recommend the proposal is resubmitted in a scaled down format.

Julia and David Alcock

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## Appeal Decision

Site visit made on 19 July 2011

by **K D Barton BA(Hons) Dip Arch DipArb RIBA FCI Arb**

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

Decision date: 25 July 2011

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**Appeal Ref: APP/G2245/A/11/2147819**

**9 Mount Harry Road, Sevenoaks, Kent TN13 3JJ**

- The appeal is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant planning permission.
  - The appeal is made by Mr M Morris against the decision of Sevenoaks District Council.
  - The application Ref SE/10/02641/FUL, dated 10 September 2010, was refused by notice dated 29 September 2010.
  - The development proposed is the demolition of the existing dwelling and the erection of 2 no dwellings with integral garages.
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### Decision

1. The appeal is dismissed

### Whether the Proposal Makes Adequate Provision for Affordable Housing

2. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* requires determinations to be made in accordance with the development plan unless material considerations indicate otherwise. In this case, the *Sevenoaks District Council Local Development Framework Core Strategy* (CS) has been adopted since the Council's decision and now forms part of the development plan. CS Policy SP 3 seeks a financial contribution towards improving affordable housing provision off-site where residential developments of less than 5 units would involve a net gain. There would be a net gain of one unit in this case. The contribution would be based on the equivalent of 10% affordable housing and a draft *Affordable Housing Supplementary Planning Document*, referred to in the Core Strategy, includes a formula for calculating the contribution in each case. In the absence of a signed Section 106 Agreement or Undertaking the proposal would be contrary to the aims of CS Policy SP 3.
3. Reference has been made to an appeal decision (APP/L5240/A/10/2133955) where the Council was criticised for not including the issue of financial contributions as a reason for refusal. However, this case differs from that. At the time of the Council's decision a contribution would not have been required as the threshold for contributions in relation to affordable housing was 15 units. The adoption of the *Core Strategy* has since introduced a significant change in development plan policy and contributions are now required for developments of less than 5 units where there is a net gain, as in this case.

### Character and Appearance of the Surrounding Area

4. The appeal site, which has an area of approximately 0.225 hectare, lies within the built confines of Sevenoaks on the south side of Mount Harry Road at its junction with Pendennis Road. The site rises towards Pendennis Road and

towards the rear, where a Horse Chestnut tree is the subject of a Tree Preservation Order (TPO). Plots in the area vary in size and the appeal site is larger and has a wider frontage than some of its neighbours. The size and design of surrounding properties also varies. The area has a feeling of space and openness due, in part, to the extensive vegetation in the area.

5. The building that occupied the site has been demolished and construction has begun on a scheme that includes a similar building to that proposed on Plot 1 and which would be sited in an identical position. This house would be linked to an annex and would present a sizeable building to the street.
6. Both proposed dwellings would be set approximately 0.6 metres into the ground such that the ridge level of the house on Plot 1, closest to Pendennis Road, would be similar to that of the original house that has been demolished. The ridge level of the house on Plot 2, closest to 11 Mount Harry Road, would be around a metre lower than the ridge of the demolished house. The gap between the two proposed houses would be in the region of 3.4 – 3.7 metres and the gaps between the Plot 2 dwelling and the car port and flank wall of No 11 would be approximately 2.6 and 4.5 metres respectively. Whilst there are gaps of around 10 metres between some of the houses in the road there are also examples of smaller gaps. The proposal would reflect that and would be in keeping with its neighbours in that respect.
7. The two proposed houses would appear large when viewed from the road, as do other houses in the road, although the fact that they are set back in the site would mean that the depth of development would not be readily apparent. Indeed, the density would only be around 8 dwellings per hectare which is less than the policy guidelines for central urban areas but reflects the fact that the protected tree occupies a significant part of the site. Policy H5 of the *South East Plan* encourages higher densities with an overall target of 40 dwellings per hectare. The dwelling on Plot 1 would be set slightly further forward than that on Plot 2 but this would not be sufficient to make it appear unduly dominant. Whilst the drawing of the street scene appears to have some inaccuracies, the proposal would step down the hill and sit comfortably in the street scene. It would, therefore, comply with the aim of saved Policy EN1 of the Sevenoaks District Plan in this respect.

#### **Other Considerations**

8. CS Policy SP 2 requires new homes to achieve at least Level 3 of the Code for Sustainable Homes and to include at least a 10% reduction in total carbon emissions through the on-site installation and implementation of decentralised, renewable or low-carbon energy sources.
9. The Council considers that a condition could be attached requiring details of how it is intended to achieve Level 3 prior to commencement and a post construction certificate prior to occupation. Level 3 would approximate to meeting modern Building Regulations and so ought to be achievable without any significant change to the proposals. This matter could, and should, be addressed by the imposition of a condition if planning permission were to be granted to meet the aims of CS Policy SP 2.
10. 20 Mount Harry Road lies on the opposite side of the road to the appeal site and the separation distance of some 37 metres would be far in excess of that required by the Council's Standards. Indeed, the relationship between the

proposed dwellings and No 20 is comparable to that which exists between properties on opposite sides of the road all along Mount Harry Road. There would not therefore be any material overshadowing or overlooking of No 20.

11. The dwelling on Plot 2 would be closer to No 11 than the demolished building and have a ridge height of about a metre higher than that of No 11. However, the orientation of the buildings is such that there would be no significant loss of light or overshadowing. There would be one window at first floor level in the flank of the dwelling on Plot 2 but this would serve a bathroom. A condition could require it to be obscure glazed and non opening above eye height. There are three windows in the flank wall of No 11 but none serve a habitable room. Whilst first floor windows in the rear elevations of the house on Plot 2 might afford glimpse views across the garden on No 11 such views from bedroom windows are common in urban areas. The occupiers of No 11 would not suffer any unacceptable loss of outlook or privacy.
12. Notwithstanding the conclusions on the effect on the character and appearance of the surrounding area, the living conditions of the occupiers of nearby houses, and on sustainability it is the failure to make adequate provision for affordable housing that is the determining issue in this case.

*K D Barton*

INSPECTOR