

4.2 – SE/14/02630/FUL Date expired 21 October 2014

PROPOSAL: Demolition of existing dwellings and outbuildings, erection of two replacement dwellings, change of use of part of site to be incorporated as residential curtilage and creation of vehicular access on to Valley Road.

LOCATION: 1 & 2 Cross Cottages, Valley Road, Fawkham DA3 8LX

WARD(S): Fawkham & West Kingsdown

### **ITEM FOR DECISION**

The planning application has been referred to Development Control Committee at the request of Councillor Parkin on the unusual history of the site and the need to redevelop it.

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

The land lies within the Metropolitan Green Belt where strict policies of restraint apply. The replacement dwellings and associated curtilages, by reason of their siting, size and form would constitute inappropriate development harmful to the maintenance of the character of the Green Belt and to its openness contrary to the National Planning Policy Framework, policy H13 of the Local Plan (2008) and emerging policy GB4 of the Allocations and Development Management Plan (Draft Submission 2013).

The proposed development, by reason of its inappropriate siting, size and form would result in visual intrusion into the existing rural landscape which would be harmful to the open and rural character of this part of the site, contrary to the National Planning Policy Framework, policy L08 of the Core Strategy (2011), policies EN1 and H13 of the Local Plan (2008) and emerging policies EN1 and GB4 of the Allocations and Development Management Plan (Draft Submission 2013).

In the absence of appropriate ecological or habitat surveys and details of necessary mitigation or enhancement, the proposed development would fail to conserve or enhance biodiversity contrary to the NPPF, paragraph 99 of Government Circular (ODPM 06/2005), policies SP11 of the Core Strategy (2011) and EN17B of the Local Plan (2008).

### **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 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 Demolition of existing semi-detached dwellings and outbuildings, erection of two detached dwellings, change of use of part of site to be incorporated as residential curtilage and creation of vehicular access on to Valley Road.
- 2 The proposals comprise the creation of two separate residential plots. Plot 1 would comprise a four-bedroom two-storey detached dwelling located at the northern end of the application site, positioned approximately 24m from Valley Road and 30m from Pennis Lane. The proposed dwelling would be located further back on the application site than the existing cottages and marginally further north. The dwelling would face Pennis Lane. With the exception of the inclusion of a small part of the vacant land adjacent to Pennis Lane, the proposed residential curtilage would utilise part of the existing residential curtilage of Cross Cottages. Access to Plot 1 would be via an existing access from Pennis Lane. The existing woodland to the rear of the plot would be retained.
- 3 Plot 2 would comprise a five-bedroom two-storey detached dwelling located approximately 76m south of Plot 1 on part of the existing agricultural land. The dwelling would be set back from Valley Road by over 20m and accessed via a new vehicular access onto Valley Road approximately 5m south of the existing access on the opposite side.
- 4 A comprehensive landscaping scheme is proposed, to include provision of new trees across the site, including a band of trees directly north of Plot 2 and south of the overhead power lines. Land not forming part of a residential curtilage would be retained as open grassland.
- 5 The application differs from application reference 13/01064/FUL in a number of ways. In terms of design the previous proposal was for formal mock-Georgian style dwellings. The proposed residential curtilages have been reduced in size.

### Description of Site

- 6 The application relates to approximately 1.76 hectares of land located on the southeast side of Valley Road, a relatively narrow country lane which winds

through the shallow sided valley between Longfield and Fawkham. The majority of the site is screened from the road by dense hedgerow.

- 7 The site is elevated above Valley Road by approximately 1m and comprises a number of parts. At the northern end are two semi-detached dwellings fronting Valley Road with garden areas and two single storey outbuildings, on an area measuring approximately 45m in width by 80m in length. The outbuildings comprise a detached garage and workshop (originally approved as a loose box under application TH/5/59/130) both of which are located within the extended residential curtilage of no.2 Cross Cottages. Historic maps show that Cross Cottages were originally three dwellings.
- 8 To the NE of no.1 Cross Cottages is a vacant plot of land that bounds Pennis Lane. This land is not residential curtilage and measures approximately 35m in width by 45m in length. To the rear of this is an area of established woodland, measuring 35m by 45m.
- 9 To the SW of no.2 Cross Cottages is a large field, measuring approximately 40m by 80m and a stable block. To the SW of this is a further parcel of land measuring 95m by 80m and a pig sty. There is no record of any planning permission for the pig sty.
- 10 Two overhead power lines cross from the SE to NW of the site and over the existing stable building adjacent to the curtilage of no.2 Cross Cottages.

The site is located in the Green Belt and in an area of archaeological potential.

#### Constraints

- 11 Metropolitan Green Belt
- 12 Area of Archaeological Potential

#### Policies

##### *Sevenoaks Core Strategy*

- 13 Policies - L01, L08, SP1, SP11

##### *Sevenoaks District Local Plan (SDLP)*

- 14 Policies - EN1, EN17B, EN25A, H13, VP1

##### *Emerging Allocations and Development Management Plan (ADMP)*

- 15 Emerging Policies – EN1, EN2, EN4, EN5, GB4, T1, T2

##### *Other*

- 16 National Planning Policy Framework (NPPF)
- 17 National Planning Practice Guidance (NPPG)

## Planning History

- 18 13/01064/FUL: Demolition of existing dwellings and erection of two replacement dwellings, change of use of adjacent land to incorporated within in residential curtilage and creation of vehicle access on Valley Road. REFUSED 18.09.2013

Reason for refusal 1: The land lies within the Green Belt where strict policies of restraint apply. The proposal would be inappropriate development harmful to the maintenance of the character of the Green belt and to its openness. The Council does not consider that the special circumstances put forward in this case are sufficient to clearly outweigh the harm to the Green Belt in principle and to its openness. The proposal is therefore contrary to policies H13 of the Sevenoaks Local Plan, LO8 of the Sevenoaks Core Strategy and the National Planning Policy Framework.

Reason for refusal 2: The proposal would detract from the character and appearance of that area. This conflicts with policy LO8 of the Sevenoaks Core Strategy and the advice and guidance within the National Planning Policy Framework.

Reason for refusal 3: The site is considered to have some ecological value. In the absence of an ecological appraisal the applicant has failed to demonstrate that the development would not have an adverse impact on biodiversity. This would be contrary to SP11 of the Sevenoaks Core Strategy and the advice and guidance in the NPPF.

- 19 TH/5/59/133: Alterations to access. Granted 9th June 1959 (This relates to 2 Cross Cottages)
- 20 TH/5/59/130: Proposed loose boxes. Granted 5 May 1959. (This permission relates to the building that is identified as a workshop and the stable block adjacent)

## Consultations

### *Fawkham Parish Council:*

- 21 'Support: Improves housing stock. Appears to have addressed previous concerns regarding the physical volume of the development (i.e. appears now to comply with policy H14A). Provides a nicer look with increased hedging. Improves safety for residents. Supportive of the curtilage as proposed (with improved safety and hedging).

### *Kent County Council (Highways):*

- 22 'There are no objections in principle to this proposal subject to the new vehicle access works and works on or adjacent to the highway associated with the closure of the existing vehicle accesses being carried out to the requirements of KCC Highways under appropriate licence or agreement and prior to the new houses being occupied.
- 23 I would also recommend an appropriate condition in respect of the following:  
Provision of wheel washing facilities prior to commencement of work on site and for the duration of construction.

INFORMATIVE: It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.'

*Tree Officer: (comments pertaining to application reference 13/01064/FUL)*

- 24 'The proposals for Plot 1 appear to locate the footprint of the new build within what is mostly an open area of land. The loss of an amount of vegetation between the existing open land and the rear garden of number 1 will be necessary but not overly an issue. Suitable landscaping consisting of existing or new planting should be provided and agreed. The existing vehicular access should be closed as part of the overall landscaping. The proposal for Plot 2 will necessitate the creation of an opening within the existing mature hedging. I can to a degree except such work but have concerns regarding the effects of the need to create sight lines. Although this part of the road is marked at a low speed. Vehicles do tend to drive along at a much faster rate. I can accept the cut through to create a 2.4 metre opening but would be interested to know the Highway Officers view on the amount of vegetation that will need to be cut back to create the 70 metre vision along the road, which equates to 140 metres when both directions are cut back. Hard and soft landscape details will be required along with boundary treatment details please, inclusive of details of the new woodland.'

*KCC Ecology:*

- 25 '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.
- 26 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."
- 27 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."
- 28 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.

- 29 We have reviewed the ecological information which has been provided and we require additional information to be provided prior to determination of the planning application.

#### *Bats*

- 30 The ecological scoping survey has detailed the following:

- Evidence of bats within the stables
- Moderate to high roosting potential within cross cottages.

The survey has recommended that emergence surveys are required – as the ecological scoping survey was carried out in June 2014 it is very disappointing that the bat surveys were not carried out during the 2014 bat survey season (Optimal bat survey season is May – August). As detailed protected species are a material consideration within the planning process and as such we advise that the surveys must be carried out prior to determination of the planning application.

The survey results will enable us to identify what mitigation is required to ensure that the proposed development does not result in the loss of a bat roost. We are aware that the applicants have stated that they are willing to incorporate bat tiles and bricks within the building to create new roosting opportunities. However until the bat surveys have been carried out we are unable to confirm if this is sufficient mitigation.

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).

#### *Dormice*

- 31 The ecological scoping survey has detailed that the hedgerows provided optimum habitat for dormice. The site plans show that a section of hedgerows will be removed to create a new access in to the site. As such we require additional information assessing the impact the proposed works will have on dormice. We realise that it is only a small section of hedge being lost but as it will result in part of the hedgerow becoming isolated we require this information to be provided prior to determination of the planning application.

#### *Reptiles*

- 32 The ecological survey has highlighted that there is suitable habitat within the site for reptiles – however it is not clear how much suitable habitat is present within the site. To enable us to fully understand how the reptiles will be impacted by the proposed development, please provide the following:

- A map of the site clearly showing where the suitable reptile habitat is located.
- Clarification if these areas will be impacted by the proposed development.

If it is only a small area to be impacted it may be appropriate to use a precautionary approach to clear the site. However if a larger area of suitable reptile habitat will be lost as a result of the proposed development a reptile survey

will need to be carried out. We advise that if a reptile survey is required it must be carried out prior to determination of the planning application.

#### *Breeding Birds*

- 33 There is suitable habitat within the site to be used by breeding birds. All nesting birds and their young are legally protected under the Wildlife and Countryside Act 1981 (as amended) as such if planning permission is granted we advise that the buildings and vegetation is removed outside of the breeding bird season (March to August). If that is not possible an ecologist must examine the site prior to works starting and if any nesting birds are present all works must cease until all the young have fledged.

#### *Enhancements*

- 34 One of the principles of the National Planning Policy Framework is that “opportunities to incorporate biodiversity in and around developments should be encouraged”. Enhancements are over and above any mitigation which is required. As such we suggest that enhancements to be incorporated in the site are decided, once the above information has been provided and it is known what mitigation is required.’

#### *Natural England:*

Statutory nature conservation sites – no objection

- 35 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*

- 36 We have not assessed this application and associated documents for impacts on protected species. Natural England has published Standing Advice on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a ‘reasonable likelihood’ of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy. You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

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

#### *Local sites*

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

### *Biodiversity enhancements*

- 38 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'.

### Representations

- 39 Notification letters were sent to the occupiers of 16 residential properties surrounding the site. A press notice was published on 11.09.2014 and a site notice was displayed on 12.09.2014. The statutory consultation period ended on 09.10.2014.
- 40 3 objections received. Summary of objections below:
- Object to demolition of existing buildings;
  - Existing buildings make positive contribution to environment;
  - Retention of existing buildings more sustainable;
  - Attempt to bypass Green Belt restrictions;
  - Openness of Green Belt would be reduced by development of Plot 2;
  - Development of agricultural land outside existing residential curtilage would be harmful to Green Belt and contrary to planning policy;
  - Query validity of including size of existing outbuildings in calculations;
  - Replacement dwellings should be on site of the demolished and of a similar size;
  - Proposed buildings bear no relation to local style;
  - Proposed buildings visually larger than existing;
  - Loss of affordable housing stock;
  - Harm to road safety;
  - Loss of hedgerow and harm to wildlife;
  - Loss of hedgerow and harm to character of the road;
  - Lack of special circumstances.



## Chief Planning Officer's Appraisal

### *Principle of development in the Green Belt:*

- 41 Current Government advice, in the form of the NPPF, supports the protection of the Green Belt and seeks to restrict development. Paragraph 79 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The advice states that there is a general presumption against inappropriate development within the Green Belt. Such development should not be approved, except in very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt.
- 42 However, paragraph 89 of the NPPF confirms that, providing the openness of the Green Belt is preserved and that there is no conflict with the purposes of including land within the Green Belt, then exceptions include:
- the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.
- 43 The proposed development involves the demolition of two semi-detached dwellings (and outbuildings) and their replacement with two detached dwellings. For the proposed development to be considered appropriate under this exception the replacement buildings must not be materially larger and must be in the same use as the existing. On this basis the only buildings that can be assessed (under this specific element of paragraph 89) are the existing and proposed dwellings, as these are the only buildings that are in the same use. Whilst the applicant has included the built form of the existing workshop and garage to the rear of No.2 CC for the purposes of calculating the built form, there is no policy justification for including these outbuildings, which are located over 15m to the south of No.2 CC. This consideration therefore falls to be assessed as part of any case for very special circumstances. The existing stables and pig sty building are not in the same use as the proposed dwellings and accordingly their floor area, bulk and scale cannot be used to justify in whole or part any redevelopment under this part of the NPPF.
- 44 The following assessment will compare the footprint, floor area and heights of existing dwelling No.1 against the proposed dwelling comprising Plot 1 and the footprint, floor area and heights of existing dwelling No.2 against the proposed dwelling comprising Plot 2.

	<b>Existing No.1 CC</b>	<b>Proposed Plot 1</b>	<b>Difference</b>
Footprint (sqm)	82.89	98.8	+15.91 (+19.2%)
Floor area (GIA) (sqm)	147.8	202.3	+54.5 (+36.91%)
Depth (front to back) (m)	9.9	9.9	0
Width (m)	8.7	12.2	+3.5
Height to ridge (m)	6.3	6.8 - 7.2	+0.5 - 0.9
Height to eaves (front and rear) (m)	3.3	4.1 - 5	+0.8 - 1.7
Height to eaves (side) (m)	3.5	4.1	+0.6

	Existing No.2 CC	Proposed Plot 2	Difference
Footprint (sqm)	92.46	150.9	+58.4 (+63.2%)
Floor area (GIA) (sqm)	146.7	318.8	+172.1 (+117.3%)
Depth (front to back) (m)	10.2	9.4	-0.8
Width (m)	9.4	17.5	+8.1
Height to ridge (m)	6.3 - 6.8	6.8 - 7.5	+0.7 - 1.2
Height to eaves (front and rear) (m)	3.3	4.1 - 5	+0.8 - 1.7
Height to eaves (side) (m)	4.2	4.1	-0.1

- 45 The combined total footprint of the two replacement dwellings (249.7sqm) would represent a 42.4% increase over the combined total footprint of the two existing dwellings. The combined total floor area of the replacement dwellings (521.1sqm) would represent a 77% increase over the combined total floor area of the two existing dwellings.
- 46 Whilst the depth of the replacement buildings would be the same or less than the existing, they would both be considerably wider (by 3.5m and 8.1m). The ridge height of the replacement buildings would only be marginally higher than the ridge height of the existing.
- 47 No definition of 'materially larger' is provided in the NPPF; however saved policy H13 of the SDLP and emerging policy GB4 of the ADMP sets out the criteria against which proposals for replacement dwellings in the Green Belt need to be assessed. Of particular relevance to the issue of size is criterion 4 of policy H13 which requires '*the gross floor area of the replacement dwelling not to exceed the gross floor area of the 'original' dwelling by more than 50%*'. Criterion (d) of emerging policy GB4 also states that the gross floor area of a replacement dwelling can be up to 50% greater than the floor area of the 'original' dwelling (measured externally).
- 48 On the basis of the above calculations, and specifically the increase in footprint and floor area of Plot 2 over the existing floor area of No.2 CC, and the combined increase in floor area of both Plots 1 and 2 over the combined floor area of the original dwellings exceeding 50%, it is considered that the replacement buildings would be materially larger than the existing. In summary, the substantial increase in floor area, combined with the increase in width and increase in overall built form would attract the description of 'materially larger' and therefore constitute inappropriate development.
- 49 A further exception to the construction of new buildings being inappropriate in the Green Belt and stated at paragraph 89 of the NPPF relates to:
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

50 Annex 2 of the NPPF sets out the definition of previously developed land as follows:

*Previously developed land: 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 excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.*

51 In order to ascertain whether the application site constitutes previously developed land for the purposes of the NPPF it is necessary to look at the history of the site and existing buildings. The previous case officer identified that the site appeared to be informally divided into five parcels of land comprising:

- The residential properties and gardens of Nos. 1 and 2 CC (over the passage of time this has included an extension of the curtilage which now incorporates the former loose box, identified on the plan as a workshop);
- Stables and surrounding area of land;
- Vacant land on the corner of Pennis Lane and Valley Road (this land contains no buildings);
- Wooded land to the rear of the corner plot (this land contains no buildings);
- The pig sty and surrounding land.

52 The table below shows the floor area and heights of all existing buildings identified as to be demolished.

	<b>Existing No.1 CC</b>	<b>Existing No.2 CC</b>	<b>Garage (in curtilage of No.2 CC)</b>	<b>Workshop (in curtilage of No.2 CC)</b>	<b>Stables</b>	<b>Pig Sty</b>	<b>Total</b>
Floor Area (sqm)	147.8	146.7	34.1	64.64	86.8	67.32	547.36
Height (m)	6.3	6.3	2.6	3.6	2.5	2.5	

53 The existing dwellings are capable of constituting previously developed land, as are the garage and workshop which are now located within the residential curtilage of No.2 CC. However, even accounting for these two single storey buildings as existing floor area, the proposed development would still represent a 32.5% increase over the existing floor area.

- 54 The stables and pig sty are not located within any residential curtilage and although there is a record of planning permission for the stables, there is no record of planning permission for the pig sty. It is considered reasonable to assume the stables, pig sty and surrounding land in the centre of the site could have been used for agricultural purposes. Although it is not clear whether there was a change of use of the land from agriculture to horsiculture (in relation to the stables) the stables have blended into the landscape in the process of time and for this reason would not constitute previously developed land. In the case of the pig sty and land associated, it is quite reasonable to assume that this would have been used for agricultural purposes as this would have been a building/land for the keeping of livestock, in this case pigs.
- 55 In summary I am of the opinion that the stables, pig sty and land associated with these structures do not fall within the definition of previously developed land. These specific buildings cannot therefore be used as a trade off in terms of their floor space, bulk or massing when considering whether the proposed development would be appropriate in the Green Belt under this part of the NPPF.
- 56 In summary, the replacement buildings would be materially larger than the existing. In addition the southern end of the application site does not comprise previously developed land. The proposed development does not fall within the list of exceptions set out in paragraph 89 of the NPPF, and therefore when assessed against the wording of the NPPF the proposal would constitute inappropriate development that is, by definition, harmful to the Green Belt, in conflict with the aims of the NPPF. Paragraph 88 of the NPPF is clear that *'substantial weight should be given to any harm to the green belt and that 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.'*

#### *Impact on openness of the Green Belt*

- 57 The NPPF makes clear that the essential characteristics of the Green Belt are its openness and permanence. Openness is not reliant upon degree of visibility but upon an absence of built development. The purpose of the Green Belt is also to protect land against unrestricted sprawl and safeguard countryside from encroachment.
- 58 As existing, the majority of built form including the semi-detached dwellings and ancillary outbuildings are concentrated towards the northern end of the site such that the mass and bulk of existing built form is relatively consolidated. With the exception of the existing two-storey dwellings, the other buildings are single storey. Three of the four outbuildings have ridge heights no greater than 2.6m; the workshop has a ridge height of 3.6m.
- 59 As proposed the development would be redistributed across the site, with the largest of the two buildings (comprising Plot 2) located on largely open land towards the southwest. The replacement dwellings would be marginally higher than the existing dwellings (6.8-7.5m) and significantly higher than the outbuildings. The replacement buildings would be greater in terms of footprint, size, height, bulk and volume than the existing buildings and together with the residential curtilage of plot 2 in particular would plainly result in a significant reduction in the openness of the Green Belt. This would be contrary to the NPPF and to criteria b of emerging policy GB4 of the ADMP which states that the design

and volume of replacement dwellings should not materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion.

- 60 In summary, harm to the Green Belt in this case would be caused both by virtue of the inappropriateness of the development proposed and by virtue of the harm caused to openness. An examination of whether any very special circumstances exist to outweigh the harm by reason of inappropriateness and any other harm will be considered at the end of the report.

*Design and impact on the character and appearance of the surrounding area:*

- 61 Paragraph 56 of the NPPF 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'*. 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. Outside settlements, priority will be given to the protection of the countryside and any distinctive features that contribute to the special character of the landscape and its biodiversity will be protected and enhanced where possible.
- 62 Policy L08 of the Core Strategy recognises the importance of the visual quality of the landscape and requires development to respect the countryside by having no detrimental impact upon the landscape character. Policy EN1 of the SDLP and emerging policy EN1 of the ADMP state that the form of proposed development should be compatible in terms of scale, height, density and site coverage with other buildings in the locality. The design should be in harmony with adjoining buildings and incorporate materials and landscaping of a high standard. Policy H13 of the SDLP is also relevant and states that replacement dwellings should be well designed, sympathetic to the character of the area and designed so as to minimise visual intrusion into the landscape.
- 63 The local area is inherently rural, located outside of the village of Fawkham. The general grain of development in the area is of large, relatively isolated detached dwellings and small groups of buildings, including former farmsteads. There is little consistency in terms of size, design or materials. Cross Cottages were formerly agricultural workers cottages. Notwithstanding their architectural merit they are neither statutorily or locally listed and are not located within a conservation area. No consent is required for their demolition.
- 64 The proposed dwellings would be substantial in size; however would be of high quality, comprising well articulated and considered elevations comprising traditional materials (clay tiles, brick, timber windows, lead and oak) and in terms of scale, form and design would not appear inappropriate in the context of the surrounding buildings. In this respect the development represents an improvement over the previously refused planning application.
- 65 By reason of the proposal to extend the hedgerow across the existing opening adjacent to Cross Cottages, the proposal to incorporate a generous set back from Valley Road and also to reduce the extent of residential curtilage in this location, it is considered that the replacement building comprising Plot 1 would have no greater impact on the character or appearance of the area than the existing building.

- 66 Notwithstanding the merits of the design of the building comprising plot 2, it would result in the introduction of a large building where minimal built form currently exists. Plot 2 would also include a modest curtilage to the front, side and rear. Although the building would be set back from the front of the site it would be visible from Valley Road. The new vehicular access, residential garden and building beyond would depart from the current consolidated nature of development on the site and intrude into the existing rural landscape which would be harmful to the open and rural character of this part of the site.
- 67 The introduction of a new residential curtilage in this location would also be contrary to saved policy H13 of the SDLP and emerging policy GB4 of the ADMP which requires replacement dwellings to adhere to the 'original' dwelling curtilage. The applicant states that the proposal to create a new residential curtilage would be of benefit to the locality, to the openness of the Green Belt and to each replacement dwelling. Benefits to highway safety are cited, specifically through the removal of the existing vehicular crossovers to both nos. 1 and 2 Cross Cottages onto Valley Road and through trimming hedges at the junction of Pennis Lane and Valley Road to improve sightlines. Whilst these works may be beneficial to highway safety, it has not been demonstrated that this same benefit could not be achieved without the associated harm to the Green Belt, particularly caused through the creation of Plot 2. Benefits to be gained from infilling the existing gap in the hedgerow to the front of Cross Cottages are also cited; however this could also be achieved without causing the harm by creating Plot 2. The applicant also states that the creation of two distinct residential curtilages would be more consistent with the general grain of development in the area. Notwithstanding that the existing site comprises abutting curtilages this is also not considered to represent a benefit that would outweigh the harm to the openness of the Green Belt from creating Plot 2.

*Impact on residential amenity:*

- 68 Paragraph 17 of the NPPF identifies a set of core land use planning principles that should underpin decision making. 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. Policy EN1 of the SDLP and emerging policy EN2 of the ADMP requires that any development should not have an adverse impact on the amenities of neighbours and also ensures a satisfactory environment for future occupants.
- 69 The nearest residential dwellings to the north, Cross House, are separated from the application site by a screen of substantial trees and Pennis Lane. The nearest residential dwelling to the east, Foxborough, is separated by woodland. Those to the south (Scudders Farm) are a considerable distance away and separated by open grassland and trees. The proposed development would not result in any harm in terms of loss of light, outlook or privacy to any surrounding occupiers and would comply with relevant policy.

*Impact on highways:*

- 70 Policy EN1 of the SDLP requires that proposed development should ensure the satisfactory means of access for vehicles and provides parking facilities in accordance with the relevant standards. Emerging policy T1 of the ADMP requires new developments to mitigate any adverse travel impacts. Emerging policy T2

relates to vehicle parking, including cycle parking and requires provision in accordance with advice from the Highway Authority.

- 71 The proposed access to Plot 1 via an existing access from Pennis Lane would be acceptable. The proposed parking arrangements would comply with relevant policies and would not cause harm to highway safety. The proposed access to Plot 2 would be via a new access onto Valley Road. The Highways Officer raises no objection to either the access or the parking provision and the proposals are therefore acceptable in this regard.

*Trees and landscaping:*

- 72 Policy EN1 of the SDLP and emerging policy EN1 of the ADMP requires the layout of new development to respect the topography of the site and retain important features including trees, hedgerows and shrubs. New landscaping and boundary treatment will be required in appropriate cases. As existing the site is well landscaped, particularly along the northwest edge adjacent to Valley Road. Although it would be necessary to remove an existing section of hedge (approximately 11.5m) to create the access to plot 2, this would be offset by the proposal to infill the existing (32m) 'gap' in front of Cross Cottages with indigenous plant species. It is also proposed to reinforce existing hedgerow planting adjacent to Pennis Lane and to plant small areas of woodland between the two plots within the site. The Tree Officer's comments relate to the previous application; however in light of the fact that they did not previously object, and that the landscaping has been improved as part of this submission, they remain valid. In summary the proposal to retain the majority and, where necessary, compensate for the loss of existing landscaping and plant new trees will result in an overall enhancement of the site in accordance with relevant policy.

*Biodiversity and ecology:*

- 73 Policy SP11 of the Core Strategy states that the biodiversity value of the District will be conserved and opportunities sought for enhancement to ensure no net loss of biodiversity. The site is not located within or adjacent to a Site of Special Scientific Interest, Local Wildlife Site or other identified site of biodiversity value.
- 74 In order to address the previous reason for refusal the applicant has submitted an ecological scoping survey which identifies evidence of bats within the stables and moderate to high roosting potential within Cross Cottages. Whilst the survey recommended that emergence surveys be required none were carried out. KCC Ecology, in accordance with guidance contained in the Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System, advise that bat surveys and additional information relating to the presence of reptiles and dormice be made available prior to determination of the planning application in order to inform the extent of mitigation that may be required.
- 75 Notwithstanding that the applicant is proposing to provide some mitigation Government guidance is clear that the nature and extent of mitigation has to be informed by full and proper surveys. The application fails to adequately address the immediate and wider ecological implications of the development and, in the absence of such information, fails to comply with policies SP11 of the Core Strategy or EN17B of the SDLP.

*Archaeology:*

- 76 The site is located within a designated Area of Archaeological Potential. Policy EN25A of the SDLP and emerging policy EN4 of the ADMP seek to ensure the preservation of important archaeological remains. The proposals would entail development on largely undeveloped land where archaeological remains could exist and it is therefore considered appropriate that details of appropriate screening be secured by condition.

*Very special circumstances:*

- 77 The 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 put forward a number of very special circumstances to justify inappropriate development in the Green Belt, including:

Improvement in openness;

- 78 The applicant contends that the proposed development would represent a 4.8% reduction in floor area, 36% reduction in footprint and 4% reduction in elevational area to Valley Road over all the existing structures on site and that this would improve openness. This calculation involves counting the non-residential structures against the new development. Openness is not however limited to an assessment of floor area, footprint or elevational area. As concluded above it is considered that the development would, by reason of its siting, scale and bulk, be visually intrusive and harmful to the openness of the Green Belt. I therefore accord this no weight.

- 79 History of murder at the site;

It is a known fact that a murder was committed and suicides occurred at no.2 Cross Cottages. The applicant contends that for this reason 'the replacement dwellings should be located as far away from the site of the existing dwellings as is reasonably practical having regard to current planning policy.' Although I concur that the history of the site is a compelling reason for its redevelopment, it has not been demonstrated that this could not be achieved via appropriate development in the Green Belt. I therefore accord this limited weight.

Presence of overhead power lines;

- 80 The applicant has submitted various newspaper articles regarding research on the relationship between power lines and health. There is however no definitive evidence of any link. Whilst it is acknowledged that there are overhead power lines that cross the site and that these represent a genuine constraint on redevelopment, there are understood to be no physical constraints beyond respecting the 'safe working zones' extending by 6m either side of the power lines. The proposed dwellings would be sited considerably beyond these zones; plot 2 would be located 35m south and plot 1 would be located 23m to the north, as opposed to the existing dwellings which are sited within 5m and 15m. I therefore accord this fact limited weight.

No proposal to enlarge residential curtilages;



- 81 It is acknowledged that there would be no enlargement to the size of the residential curtilages, although the proposal involves the creation of new curtilages in different parts of the site. The applicant confirms that the curtilages have been identified based on the distance from the existing no.2 Cross Cottages, opportunities to improve highway safety by utilising the existing Pennis Lane access, retention and enhancement of existing landscaping, distance from neighbouring dwellings, ability to reflect established grain of development and distance from overhead power lines. Notwithstanding there would be no increase in size none of the above factors are considered to carry such weight as to outweigh the harm that would be caused by the relocation of the curtilages.
- 82 In conclusion, none of the above are considered to constitute the very special circumstances that would outweigh the harm in principle (by reason of being inappropriate) or the other harm, including to the openness of the Green Belt and to the character and appearance of the surrounding area.

CIL:

- 83 The application is accompanied by a CIL Additional Information Form which identifies that the development would be CIL liable. There is no application for, or intention to apply for an Exemption or Relief.

**Conclusion:**

- 84 The site lies within the Metropolitan Green Belt where there is a presumption against inappropriate development. The proposed development has been found to be inappropriate, which by definition is harmful to the Green Belt. In addition the proposed development has been found to be harmful to openness and to the rural character and appearance of the area. In such circumstances 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. The justifications advanced by the applicant are not considered to constitute the very special circumstances required and do not clearly outweigh the harm that would be caused.
- 85 Whilst the proposals represent an improvement over the previously refused planning application, specifically in terms of more appropriate form and design and reduced residential curtilages, the principle of this development in the Green Belt remains unacceptable and contrary to planning policy and guidance. The application also fails to adequately address the immediate and wider ecological implications of the development. There are no other issues that could not be satisfactorily addressed by appropriate planning conditions.

**Recommendation: Refuse**

Contact Officer(s): Matthew Durling Extension: 7448

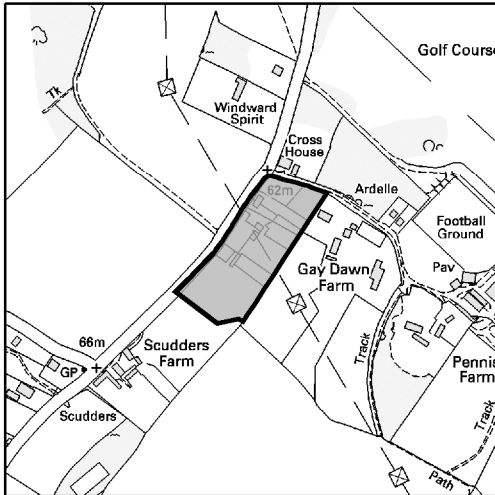
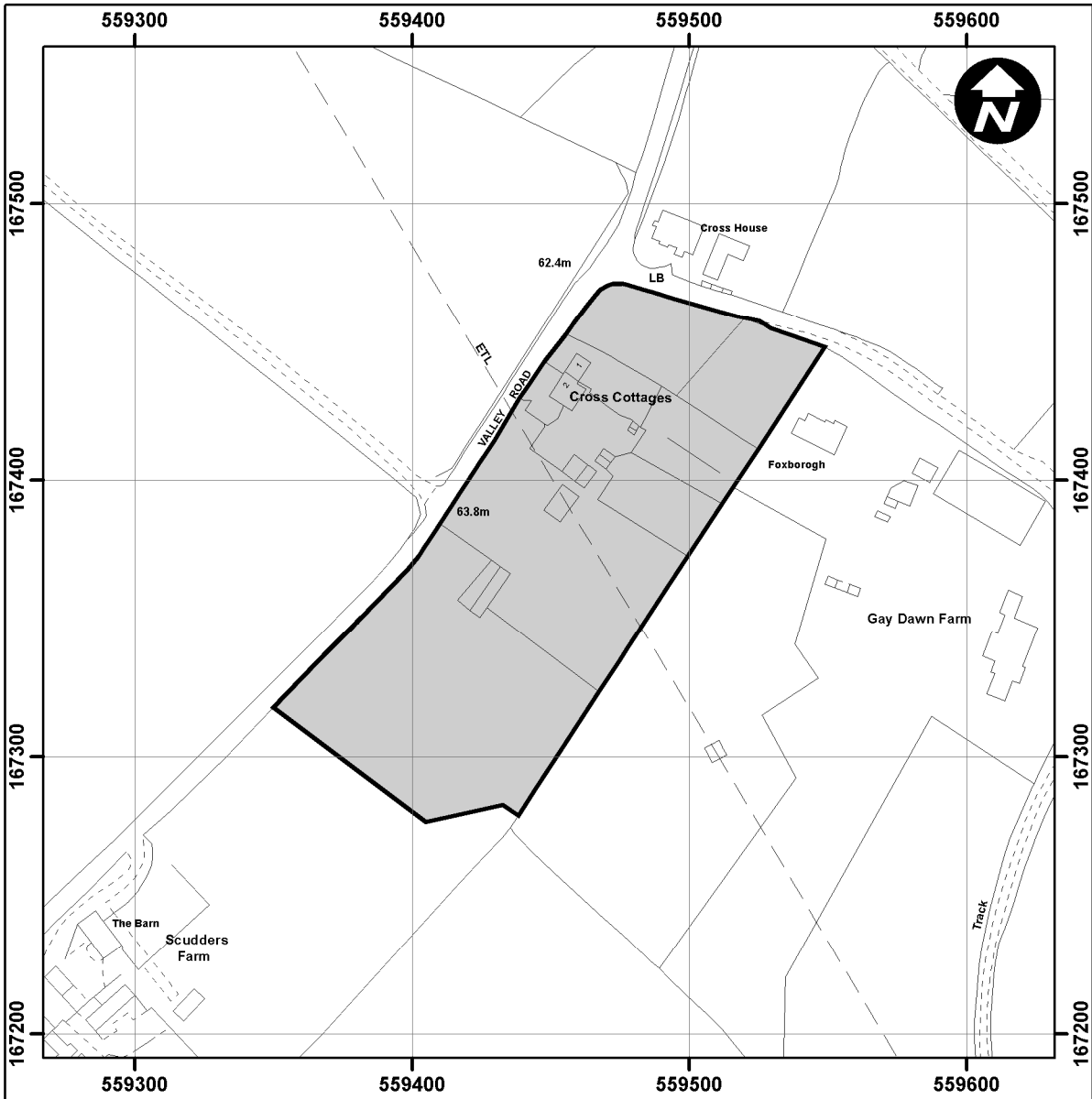
**Richard Morris**  
**Chief Planning Officer**

Link to application details

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NA8WECBKOL000>

Link to associated documents

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NA8WECBK0L000>



# Site Plan

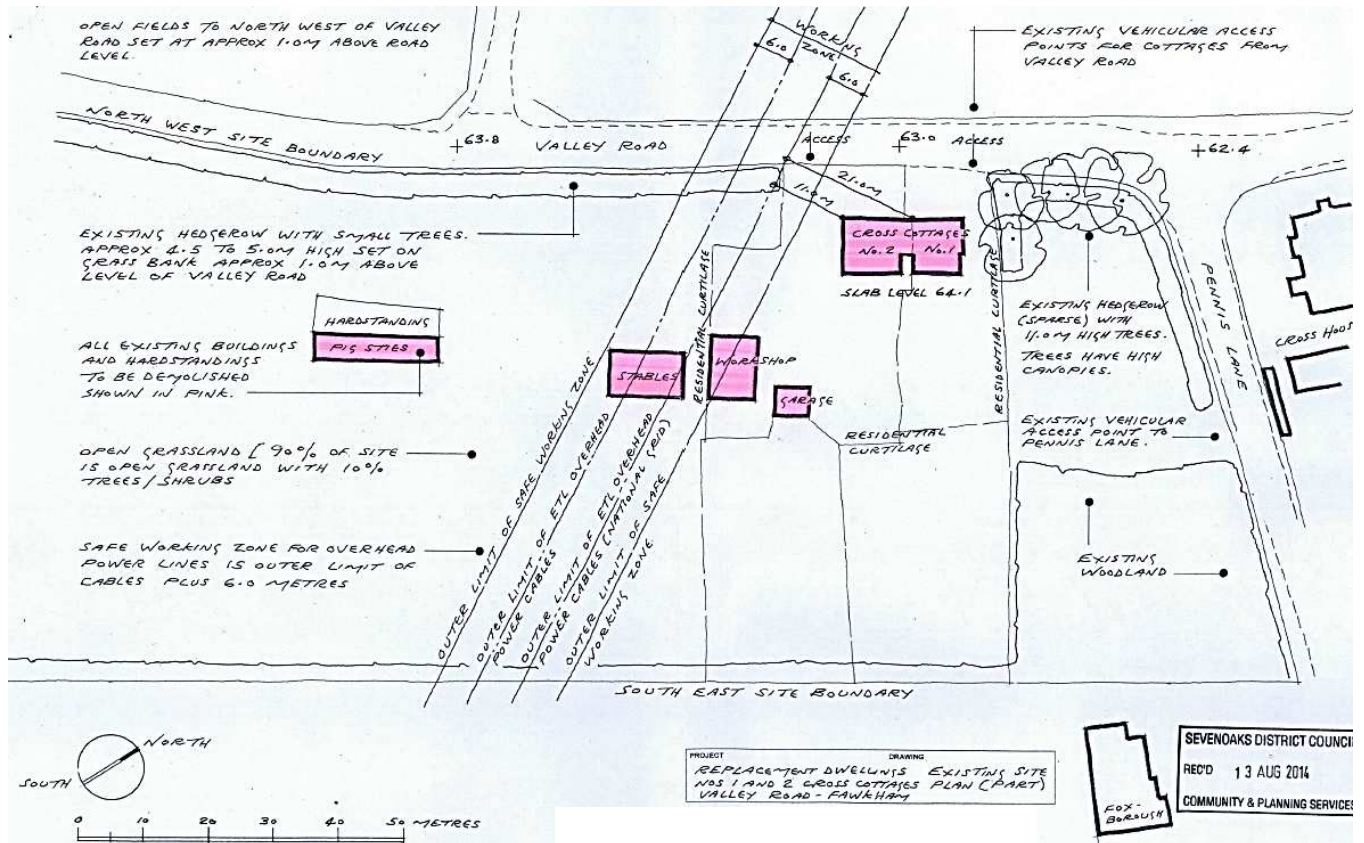
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Date 01/12/2014



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## Block Plan - Existing



## Block plan - Proposed

