

4.1 - SE/15/03115/FUL Revised expiry date 15 January 2016

PROPOSAL: Demolition of existing house and construction of new two storey replacement dwelling with rooms in the roof and dormer window to rear.

LOCATION: Fairlight , Badgers Road, Badgers Mount TN14 7AZ

WARD(S): Halstead, Knockholt & Badgers Mount

ITEM FOR DECISION

The application has been referred to Development Control Committee at the request of Councillor Grint on the basis due to its overall scale and bulk the proposed development:

- would be out of keeping in the street scene and harmful to the character and appearance of the Area of Outstanding Natural Beauty; and
- would harm the amenity of neighbouring residents including adversely impacting upon their privacy.

RECOMMENDATION: That planning permission be GRANTED 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.

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: 5244-PD-001, 5244-PD-002, 52-PD-03 Rev B and 5244-PD-004 Rev A.

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

3) No development shall be carried out on the land until samples of the materials to be used in the construction of the external surfaces of the hereby permitted have been submitted to and approved in writing by the Council. The development shall be carried out using the approved materials. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

To ensure that the appearance of the development enhances the character and appearance of the area as supported by Policy EN1 and EN5 of the Sevenoaks Allocations and Development Management Plan.

4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 as amended (or any Order revoking or re-enacting those Orders) no development falling within Classes A, B and C of

Part 1 of Schedule 2 to the said Order shall be carried out.

To safeguard the appearance of the area and the amenities of neighbouring residents as supported by policies EN1, EN2 and EN5 of the Sevenoaks Allocations and Development Plan.

5) No development shall be carried out on the land until details of a balustrade to the first floor window in the rear elevation serving bedroom 1 has been submitted to and approved in writing by the Local Planning Authority. The balustrade shall be provided prior to the first occupation of the dwelling in strict accordance with the approved details and maintained and retained as such thereafter. The flat roof of the single storey rear extension shall only be accessed in case of emergency.

To safeguard the privacy and residential amenities of adjoining residents as supported by policy EN2 of the Sevenoaks Allocations and Development Plan.

6) A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority prior to any superstructure works commencing on site. The landscaping scheme shall include the following details:

- a) soft plantings, including trees, grass and turf areas, shrub and herbaceous areas; their location, species (use of native species where possible) and size;
- b) enclosures: including types, dimensions and treatments of walls, fences, pedestrian and vehicular gates, screen walls, barriers, rails, retaining walls and location, species and size of hedges;
- c) hard landscaping: including ground surfaces, kerbs, edges, ridge and flexible pavings, unit paving, steps and if applicable synthetic surfaces; and
- d) any other landscaping feature(s) forming part of the scheme.

All landscaping in accordance with the approved scheme shall be completed / planted during the first planting season following practical completion of the development hereby approved. The landscaping and tree planting shall have a two year maintenance / watering provision following planting and any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of completion of the development shall be replaced with the same species or an approved alternative to the satisfaction of the Local Planning Authority within the next planting season. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter.

To preserve and enhance the visual appearance of the area as supported by policies EN1 and EN5 of the Sevenoaks Allocations and Development Management Plan.

7) At the time of development, the first floor windows in the side east elevation shown as serving the dressing room and en-suite to bedroom 1 and en-suite to bedroom 2 and the first floor window in the rear south elevation shown as serving the shower room to bedroom 5 shall be fitted with obscured glass of a type that is impenetrable to sight and shall be non opening up to a minimum of 1.7 metres above the internal finished floor level and shall be so retained at all times.

To safeguard the privacy of neighbouring residents as supported by Policy EN2 of

the Allocations and Development Management Plan.

8) At the time of development the roof lights in the east, south and west facing roof slopes shall be fitted so that the Cill height is set at a minimum of 1.7 metres above the internal finished floor level and shall be so retained at all times.

To safeguard the privacy of neighbouring residents as supported by Policy EN2 of the Allocations and Development Management Plan.

9) The garaging shown on the approved plan shall be kept available for domestic parking purposes in connection with the approved dwelling at all times.

To ensure the permanent retention of sufficient parking in accordance with policy T2 of the Allocations and Development Management Plan.

10) No development shall take place until full details of a scheme of biodiversity enhancement have been submitted to and approved by the local planning authority. These details shall cover as appropriate: Proposed locations and types of enhancement to be implemented. The approved details shall be implemented in full prior to the first occupation of the dwelling hereby approved and maintained thereafter. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

To ensure that the proposed development will not have a harmful impact on protected species and habitats, and wider biodiversity, in accordance with Policy SP11 of the Core Strategy and guidance in National Planning Policy Framework. The Local Planning Authority is satisfied that it is fundamental to the development permitted to address this issue before development commences and that without this safeguard planning permission should not be granted.

11) The details submitted in accordance with condition 6 above shall include:

A) A plan showing the location of, all existing trees on the land which have a stem with a diameter exceeding 75mm when measured over the bark at a point 1.5m above ground level. The plan shall identify those trees which are to be retained and the crown spread of each retained tree. In paragraphs 'b' to 'e' below references to a "retained tree" mean an existing tree which is to be retained in accordance with this plan.

B) Details of the species, diameter (measured in accordance with paragraph A) above), the approximate height, and an assessment of the general state of health and stability of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (C) and (D) below apply.

C) Details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site.

D) Details of any proposed alterations in existing ground levels and of the position of any proposed excavations or other engineering operations. These details shall be illustrated by a series of cross-sections showing existing and proposed levels.

E) Details of the specification and position of fencing or other measures to create a 'retained tree protected area' for the protection of any retained tree from damage before or during the course of development.

F) Details of the location and extent of any area on the land to be used during the construction period for storage (including materials, plant and machinery) and/or

for siting any temporary ancillary structures, such as a site office.

To prevent damage to the existing trees on and/or immediately adjacent to the site during the construction period; as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

12) Prior to the commencement of development, details shall be submitted of the existing and proposed finished ground floor level and existing and proposed external ground levels.

To ensure a satisfactory appearance upon completion and to safeguard the amenity of neighbouring residents in accordance with the provisions of policy EN1 and EN2 of the Sevenoaks Allocations and Development Management Plan.

Informatives

1) The applicant's attention is drawn to the comments received by West Kent Public Right of Way relating to works within the public right of way.

2) Please note that in accordance with the information on your Self Build Exemption Claim Form Part 1 and the requirements of The Community Infrastructure Levy Regulations 2010 (as amended) you **MUST** submit a **COMMENCEMENT NOTICE** to the Council **BEFORE** starting work on site. Failure to do so will result in the CIL charge becoming payable in full.

3) Please note that within six months of completing the home, the applicant must submit additional supporting evidence to confirm that the project is self build, being:

* A Self Build Exemption Claim Form - Part 2 (available on the Planning Portal website);

* The supporting evidence as set out in the form, to confirm that the levy exemption should be upheld.

If the evidence is not submitted to the Council within the 6 month time period, the full levy charge becomes payable.

Note to Applicant

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

- Offering a duty officer service to provide initial planning advice,
- Providing a pre-application advice service,
- When appropriate, updating applicants/agents of any small scale issues that may arise in the processing of their application,
- Where possible and appropriate suggesting solutions to secure a successful outcome,

- Allowing applicants to keep up to date with their application and viewing all consultees comments on line (www.sevenoaks.gov.uk/environment/planning/planning_services_online/654.asp),
- By providing a regular forum for planning agents,
- Working in line with the NPPF to encourage developments that improve the economic, social and environmental conditions of the area,
- Providing easy on line access to planning policies and guidance, and
- Encouraging them to seek professional advice whenever appropriate.

In this instance the applicant/agent:

- 1) Was updated on the progress of the planning application.
- 2) The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the committee and promote the application.

Description of Proposal

- 1 The application seeks permission for the demolition of the existing bungalow and attached garage and replacement with a two storey dwelling with accommodation in the roof. It is proposed to install a dormer window in the rear facing roof slope.
- 2 It is proposed to provide garaging and off street parking. The existing access off of Badgers Road will be utilised.

Description of Site

- 3 The application site is located on the South side of Badgers Road and is approximately 0.092 hectares in area. The site comprises a single storey bungalow with an attached garage. The property benefits from a large mature landscaped garden. The existing house is finished in white painted render and the roof finished in plain tiles. The site currently has a vehicular access point off Badgers Road.
- 4 The site shares boundaries with a number of properties; these include Cotswolds to the West of the site and Rozel to the East of the site (both either substantial developed or replacement dwellings). As well as backing onto Merrowlea to the South of the site. The site itself is largely bordered with mature trees and hedging.
- 5 The site is located within an Area of Outstanding Natural Beauty (AONB) within the built confines of Sevenoaks.
- 6 The dwellings in the immediate vicinity are of varying age, style and density. Materials in the immediate vicinity differ but include red face

brickwork tile hanging, render and tudor board/rendered finishes to first floors.

Constraints

7 Area of Outstanding Natural Beauty (AONB)

Policies

Core Strategy

8 Policies - SP1, SP7, SP11, LO8

Allocations and Development Management Plan (ADMP)

9 Policies - EN1, EN2, EN5, T2

Other

10 *National Planning Policy Framework (NPPF)*

11 *NPPG*

Relevant Planning History

12 SE/15/02625/FUL Demolition of existing house and erection of a new two storey dwelling with rooms in the roof and dormer windows to rear. Withdrawn - 02.10.2015.

Consultations

Parish Council

13 Badgers Mount Parish Council objects to this application as the proposed development is a three storey building, not two storeys as described and the architect's 3D impression is misleading. It was the opinion of the Parish Council that the footprint is much too large and the building much too high in comparison to the original structure. Neighbouring properties on all elevations would be greatly impacted by the loss of light, loss of privacy and overshadowing and the residents of these neighbouring properties have objected accordingly. The possible use of the flat roof as a terrace will further impact the privacy of these properties. It was agreed that the proposed development would not be in keeping with the street scene and, its overall height being somewhat greater than the adjacent properties, would fail to conserve and enhance the AONB in which it is situated. Parking provision for such a large property also seems inadequate and the materials used in the cross over area on the grass verge, which forms part of the 40 foot roadway, should be different to those used on the driveway. This area does not belong to the property and a more obvious demarcation is necessary.

SDC Tree Officer

14 No Objection

West Kent Public Rights of Way

- 15 Public Rights of Way Restricted Byway SR7A runs along Badgers Road, which is a privately maintainable highway. I do not anticipate that it will be directly affected by any building on the site. However, there may be an impact in terms of demolition and construction traffic. I enclose a copy of the Public Rights of Way network map showing the line of this path for your information.
- 16 The County Council has a controlling interest in ensuring that Restricted Byways are maintained to a level suitable for use by pedestrians, horse riders and horse drawn vehicles. Any maintenance to the higher level required for vehicular access would be the responsibility of the landowner/ and or the Badgers Mount Road Maintenance Fund and any damage caused by motor vehicles would need to be repaired by them.
- 17 I would also point out that Title Deed K859571 shows the land ownership to only extend to the brick wall to the north of the property. The area between the wall and the tarmac road is part of the public right of way and as such cannot be altered or developed without prior referral to this office. There must be no change of level in this area that could constitute a trip hazard to members of the public using the verge. Although this has been clearly shown on the plans, the aerial photograph in the Design and Access Statement has a red line which extends up to the metalled edge of the restricted byway, incorrectly.
- 18 The granting of planning permission confers no other permission or consent on the applicant. It is therefore important to advise the applicant that no works can be undertaken on a Public Right of Way without the express consent of the Highways Authority. In cases of doubt the applicant should be advised to contact this office before commencing any works that may affect the Public Right of Way.
- 19 This means that the Public Right of Way must not be stopped up, diverted, obstructed (this includes any vehicles, building materials or waste generated during the demolition or construction phases) or the surface disturbed. There must be no encroachment on the current width, at any time now or in future and no furniture or fixtures may be erected on or across Public Rights of Way without consent.

Representations

- 20 12 Representations have been received and 1 petition with 11 signatures objecting to the application on the following grounds:
 - Loss of light
 - Overshadowing
 - Overlooking/loss of privacy
 - Visual amenity
 - Detrimental impact on AONB
 - Unacceptable, layout, scale, density and bulk
 - Insufficient parking
 - Effect on Conservation Area

- The aerial site plan within the Design and Access Statement and the 3D visual are misleading.
- Loss of an affordable starter home.

Chief Planning Officer's Appraisal

21 The principal issues to consider in the determination of this application in this instance are:

- The principle of development
- Visual Impact and impact on the character and appearance of the AONB
- The impact on the neighbouring properties
- Ecological impacts
- Landscaping
- Highways issues
- Community Infrastructure Levy

Principle of development

22 Amongst other things, policy SP7 of the Core Strategy requires land to be developed at a density that is consistent with achieving good design. In the case of this application the proposal is for one new dwelling and so the density of development would not alter.

23 The NPPF encourages the delivery of homes of a high quality design and a good standard of amenity for all, whilst "encouraging the effective use of land by reusing land which has been previously developed (brownfield land) provided it is not of high environmental value". Annex 2 of the guidance defines 'Previously Developed Land' as that 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'.

24 The proposed dwelling would largely be located on the footprint of the existing dwelling and the area currently occupied by a patio. It is therefore my view that when assessed against the wording of the NPPF the site would be considered as previously developed land.

25 Policy LO1 of the Sevenoaks Core Strategy states that "*development will be focussed within the built confines of existing settlements*". The site the subject of this application is located within the built confines of an existing settlement. Therefore, it is my view that the redevelopment of the site is acceptable subject to preserving the character of the area.

- 26 Upon considering the above, in my view the principle of a replacement dwelling on the site is acceptable subject to no adverse impact on the character of the area, the amenities of neighbouring occupiers, impact on highway conditions and an acceptable design, and any other material planning considerations. An assessment of these issues is discussed below.

Visual Impact and impact on the character and appearance of the AONB

- 27 The NPPF regards good design as indivisible from good planning. The planning system should seek to ensure that new development is of high quality responding to the local character and reflecting the identity of local surroundings and materials.
- 28 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.
- 29 Policy EN1 (Design Principles) of the ADMP requires high quality design and lists a number of criteria against which proposed development will be considered, including requiring the form of development to respond to the scale, height, materials and site coverage of the area. It also requires the layout of proposed development to respect the topography and character of the site and the surrounding area as well as requiring landscaping and good levels of accessibility.
- 30 Policy L08 of the Council's Core Strategy also applies and states that the countryside will be conserved and the distinctive features that contribute to the special character of its landscape and its biodiversity will be protected and enhanced where possible. Development should cause no adverse impact on the character of the countryside.
- 31 Policy EN5 of the ADMP is relevant and states that proposals will be permitted where the form, scale, materials and design would conserve and enhance the character of the landscape.
- 32 The proposed layout of the new dwelling would respect the existing pattern of development in the locality as the dwelling would be located on the footprint of the existing dwelling and would not extend forward of the generally established building line.
- 33 In terms of the design of the dwelling, it would incorporate a number of locally common themes. In particular the eaves and ridge height would be consistent with the neighbour at Cotswolds. The ridge height would also be consistent with the neighbour Rozel. Although the eaves height to the new dwelling would not be consistent with Rozel as it would be positioned above the eaves to Rozel, a similar relationship exists between Rozel and Branblings and so within its immediate context, this relationship would not appear significantly out of character. The incorporation of a two storey projecting gable is also not uncommon and would reflect the forms of surrounding buildings such as Rozel, Cotswolds and Barmouth. As such, the dwelling would be sympathetic to the immediate and wider street scene.
- 34 Following on from the above in more detail, the dwelling includes a sloping roof to part of the front elevation to the side of the forward projecting

gable. This sloping roof has a lowered eaves which, as indicated on the plan of the street scene provided on drawing number 5244-PD-004 Rev A, would drop down to a height similar to that at the Cotswolds. The accommodation within the sloping roof would be served by roof lights and a modest dormer window proportionate to the roof slope in which it is located. This design feature is also present on the Cotswolds and similarly at Rozel.

- 35 In response to officers concerns, during the processing of the withdrawn scheme (reference SE/15/02625/FUL) the height of the dwelling was reduced so that as stated above, the roof and the chimney would not exceed the height of the roofs of neighbouring properties. This amendment remains under the current scheme. Since withdrawing the previous scheme and in response to comments made by the local Parish Council, the applicant has also removed the window in the front facing gable which served the accommodation in the roof. This is so that when the property is viewed within the street scene it appears to be two storey with just ground and first floor accommodation.
- 36 Although it is proposed to install a flat roof dormer window in the rear facing roof slope, views of this would be private views and whilst you may be able to glimpse its side profile from the street, these views would not be so prominent or obvious so as to cause visual harm to the character and appearance of the street scene or AONB. Furthermore, second storey accommodation in the roof is provided in properties elsewhere albeit that in the example I saw at Cotswolds this accommodation is served by roof lights.
- 37 It is my view that the combination of all of the above assists in the assimilation of the scheme into its current setting. The design ensures that the dwelling would remain legible and would integrate into the street scene but in a way which maintains some individuality and variety in order to reinforce local distinctiveness.
- 38 Another feature of the design is the introduction of the flat (table top) roof. This form of roof contrasts with the form and proportions of roof forms to the immediate neighbours whose roofs are traditional hipped roofs. However, a similar roof form exists nearby at Ringwood and Whipsiderry who were granted permission in recent years and are located within the wider context of the application site.
- 39 A further feature of the design is the forward facing gable which also extends out to the rear and extends off of the principal part of the roof at the same ridge height. This results in an elongated flank elevation to the east side in contrast to the west side which benefits from more variation in form to create a less monolithic elevation. The 3D image submitted with the application shows that this would be visible in the street scene. However, a similar arrangement exists next door at Rozel. Whilst the gable at Rozel does not project to the rear, it does project forward off of the roof at the same ridge height creating a longer elevation which is visible within the street scene. As indicated above, the eaves to the gable at Rozel would also be located above the eaves to its neighbour Barmouth. Consequently, these design features are not entirely unique to the application proposal and whilst they may not be overly common, they do already form a feature in the street scene read within the immediate context of the application site. In

addition, the insertion of windows in this elevation and a chimney stack will help to reduce the impact of the east elevation and detract from its overall scale.

- 40 Therefore, for the reasons set out above, it is officer's view that the roof profile and east elevation to the proposed dwelling would not form an intrusive or alien feature which would be harmful within the street scene and the scheme is considered to be acceptable within the context of its wider and immediate setting as similarly designed properties have been allowed and built around the corner from the application site.
- 41 A satisfactory distance is maintained between the proposed and existing dwellings which will ensure the established pattern of gaps between properties is maintained.
- 42 The replacement building would occupy a larger footprint than the existing building and its neighbours and would project beyond the existing rear building lines of both neighbouring properties. However, the extended property will retain a large amount of garden space and its footprint will not be too dissimilar to that of surrounding buildings. Consequently, I have no concerns relating to density in terms of overdevelopment of the site or to site coverage.
- 43 It is important that the palettes of materials to be used in the construction of the development are suited to the local vernacular. Materials in the immediate vicinity differ. The proposed materials are not uncommon and would respond to existing materials used elsewhere within the locality.
- 44 Subject to a condition to remove permitted development rights that would allow for further rear extensions to be erected, in my view the new dwelling would be of an appropriate scale and not be detrimental to the existing streetscene and would comply with relevant policy EN1 of the Local Plan, policies SP1 and L08 of the Core Strategy.
- 45 The site is located within the Kent Downs Area of Outstanding Natural Beauty. The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development.
- 46 By reason of the site being located within the confines of Badgers Mount and within an established street scene of similar scale residential development, the proposals would have no adverse impact. It is officer's view that the building to be demolished is of no particular architectural merit which would justify its retention. For the reasons set out above, officer's consider that the proposed building would assimilate into its setting as it is appropriate in scale form bulk and layout, is well articulated and is proposed to be constructed using traditional materials of a good quality which can be secured by condition. It is therefore considered that the proposed dwelling would preserve and enhance the character and appearance of the AONB in accordance with policy EN5 of the ADMP and L08 of the Core Strategy.

The impact on the neighbouring properties

- 47 The NPPF is clear at para 17 that new development should seek to ensure a high quality design and good standard of amenity for all existing and future occupants.
- 48 Policy EN2 of the ADMP states that proposals will be permitted where they provide adequate residential amenities existing and future occupiers of the property. This will include a consideration of noise, vibration, odour, air pollution, activity of vehicle movements, overlooking, visual intrusion or unacceptable loss of light or privacy. The Supplementary Planning Document for Householder Extensions (SPD) offers further guidance.
- 49 The Councils Residential Extensions Supplementary Planning Document (RESPD) contains guidance relating to amenity considerations. Whilst the application does not relate to a householder extension, this provides useful guidance by which to assess whether the proposed development would have an acceptable impact upon neighbours amenity.
- 50 The properties most immediately affected by this proposal are Rozel and Cotswolds.
- 51 It should be noted that Rozel is located on ground which is higher than the application site. Cotswold is located on ground which is slightly lower. The street scene view which the applicant has provided suggests that the new dwelling will be built from the same or a very similar ground level as Cotswolds. The applicant states that their intention is to lower the land levels similar to Cotswold to reduce the impact. Based on this information, a standard levels condition is recommended to ensure the satisfactory finish of the completed development and in the interest of neighbouring amenities.

Outlook and overshadowing and loss of light

- 52 Having regard to outlook, the District Council is primarily concerned with the immediate outlook from neighbours windows and whether the proposal significantly changes the nature of the normal outlook. Parts 1 and 2 of the 45 degree test set out in the RESPD seek to safeguard against loss of light and overshadowing. The test requires the following:
1. *From the elevation of the wall in which the neighbour's window is placed, draw diagonally down at an angle of 45° away from the near top corner of the extension wall;*
 2. *Take the plan and draw diagonally back at an angle of 45° towards the window wall from the end of the extension;*
 3. *If the centre of a window to a habitable room of the next door property lies on or within these 45° lines, then the extension may well cause a significant reduction in the light received to the room*
- 53 I note that there are windows in the side elevations of both Rozel and Cotswolds whose outlook will undoubtedly be affected by the proposal and

will experience some difference in overshadowing and the amount of light received as they will now be faced by taller flank elevations.

- 54 In the case of the impact on Rozel, the affected rooms are the ground floor dining room and a first floor bedroom.
- 55 The dining room has a window in the side elevation which is obscure glazed and must remain as such in compliance with condition 3 of planning permission 04/02016/FUL. Furthermore, the dining room is dual aspect and also served by glazing in the south elevation which due to its orientation will ensure that the proposed development would not reduce the amount of daylight to this room to a degree which would justify refusing planning permission. In addition, as the side window is obscurely glazed the rear window provides the primary outlook and immediate outlook from this window would not be significantly affected by the proposal. Although the proposed dwelling would project beyond the rear elevation of Rozel, for the most part this relates to the single storey addition at the rear and this would comply with parts 1 and 2 of the 45 degree test referred to above.
- 56 In the case of the bedroom served by the side facing dormer window, the plan of the street scene on drawing number 5244-PD-004 Rev A indicates that for the most part the window will be located above the eaves after which the roof slopes away from the window in question allowing light through and allowing a satisfactory outlook. Furthermore, the Building Research Establishment (BRE) test for daylight can be used as a guide in these instances and this involves drawing a line out at 25 degrees from the middle of a window facing the development. In instances where the 25 degree line is intersected by a proposed development this shows that the proposal may result in a material loss of daylight. The street plan indicates that in the case of the impact on the side bedroom window to Rozel, the proposed development would comply with BRE guidance and therefore the impact here is considered to be acceptable.
- 57 Although the new dwelling would continue to project forward from Rozel as is the case with the existing dwelling the presence of an integral garage at Rozel means that windows in the front facing elevation of Rozel are located at a distance which would ensure that light entering them and outlook from them is not significantly affected.
- 58 For the above reasons I find that the proposal would have an acceptable impact and would not result in any significant harm in respect of loss of light or outlook to Rozel and would not have a harmful overbearing presence.
- 59 In the case of Cotswolds, there is a modest difference in land levels between Cotswolds and the application site and Cotswolds is lower. However, as indicated above, this is set to disappear as the land is proposed to be lowered and levelled to build the proposed development off of a land level similar to Cotswolds.
- 60 There are windows in the ground and first floor of Cotswolds which will be faced directly by a new flank elevation and in this instance the proposal would fail BRE guidance. However, the windows in this elevation facing the

development are small secondary windows. In every case each room is served by a larger primary window positioned in the front or rear elevation of the dwelling and these windows provide the primary outlook. In the case of the ground floor windows, which serve a lounge and dining room, these windows already face the fence and the flank elevation of the attached garage at closer quarters than the new dwelling would be constructed and so outlook and light to these windows is already restricted. Therefore, whilst there would be an impact, it is my view that the affected rooms would continue to receive light from their larger primary windows and the principal outlook from these rooms would not be significantly affected. Consequently, I do not consider that impact to light or outlook from these rooms would be affected to a degree which would be so harmful as to justify refusing planning permission.

61 As stated above, the purpose of the 45 degree test is to safeguard against loss of light and overshadowing. Two metres would be retained between the rear addition and Cotswolds and the rear of these dwellings are south facing. Therefore, the rear windows and private amenity area would continue to receive a high proportion of daylight throughout the course of the day. The new dwelling would project beyond the rear elevation of Cotswolds. The single storey rear addition is the element which projects beyond Cotswolds the most. The single storey addition would also project above the fence line as the fence stands to a height of approximately 2 metres. The single storey addition would pass part 1 but fail part 2 of the 45 degree test. In respect of the failure of part 2 the window contravened by the 45 degree test is only partially affected and not the entire window falls within the line drawn diagonally back at an angle of 45° towards the window wall from the end of the extension. For the reasons set out above, I consider that the orientation of the properties relative to the path of the sun, compliance with part 1 and only partial contravention of part 2 of the 45 degree test demonstrates in my view that there is insufficient harm arising from the proposal to justify its refusal.

62 For these reasons I do not consider that the impact of the proposed development would be so significant as to result in harm by virtue of loss of light and overshadowing or be so overbearing as to justify refusing planning permission.

Privacy

63 The Councils Residential Extensions Supplementary Planning Document (RESPD) advises that the overlooking of windows of habitable rooms in any adjoining property at a close distance and which would result in an unreasonable loss of privacy is unacceptable. For similar reasons, a window overlooking the private amenity area immediately adjacent to the rear of an adjoining dwelling is also inappropriate. The District Council will normally calculate the private amenity area as a depth of 5 metres from the back of the property.

64 I shall start with the windows in the side elevations. Overlooking from windows in the ground floor will be prevented by the 2 metre high closed boarded fencing on the common boundaries with the neighbouring properties. In the case of the study and utility windows facing Rozel, it

should also be noted that Rozel is built off of land higher than the application site and the only ground floor window in its side elevation facing the proposed new property is a dining room window which is obscurely glazed and required to be maintained as such by condition 3 of planning permission 04/02016/FUL. There are no windows proposed in the first floor to the west elevation. Windows to the first floor east elevation all serve non habitable rooms and so a condition is recommended to obscurely glaze these and require them to be fixed shut up to 1.7 metres above the internal finished floor level to prevent overlooking into the first floor bedroom window in the side roof slope of Rozel. Roof lights are proposed in the east and west facing roof slope and a condition can be imposed requiring the cill to these to be located 1.7 metres above the internal finished floor level to prevent any overlooking.

- 65 The front facing windows look out onto the street and towards the properties opposite. Some of the properties opposite have raised concerns regarding a loss of their privacy, however, as they are located some 60-70 metres away, it is my view that there would not be any demonstrable harm to these properties from loss of privacy. It would not be possible to view the private rear amenity space to the properties opposite from the forward facing windows and again even if it were this would be at some considerable distance and not at close quarters.
- 66 With regards to windows in the rear facing elevation, I have no concerns relating to the ground floor windows which would look out over the garden of the application site and not into neighbouring properties due to the boundary treatments. The windows at first floor serve bedrooms and bathrooms the bathroom windows can be conditioned to be obscurely glazed and fixed shut up to 1.7 metres above the internal finished floor level. There is the potential for some overlooking from the new bedrooms windows/French doors and this would be from an aspect which does not exist at present. However, in my view this would not be any more harmful or intrusive than the level of overlooking which currently exists from the first floor windows of the neighbouring properties into the application site and would not give rise to a level of overlooking which I consider would justify refusing planning permission. Concerns have been raised regarding loss of privacy to properties who front Milton Avenue, however, similarly to the situation above, overlooking towards windows and the private rear amenity areas of these properties would be at some considerable distance and not at a distance which in my view would result in demonstrable harm. The dormer window in the roof would serve a bathroom and again can be conditioned to be obscurely glazed and fixed shut up to 1.7 metres above the internal finished floor level.
- 67 Concern has been raised regarding the use of the flat roof of the rear addition as a terrace. These concerns are justified and the use of the roof in this manner would in my view have an unacceptable impact on privacy. A condition preventing this is recommended.
- 68 In conclusion, whilst the proposed development would have an impact upon the neighbours on balance, for the reasons set out above I find that the proposal would be acceptable in respect on amenity in accordance with the relevant policy criteria.

Ecological Impacts

- 69 Having assessed the proposal against Natural England's standing advice in my view there is no specific criterion applying to the present condition of the site which indicates to me that any protected species/habitat would be affected by the proposal.
- 70 The National Planning Policy Framework states at paragraph 118 that:
*"When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
.....opportunities to incorporate biodiversity in and around developments should be encouraged"*
- 71 Policy SP11 of the Sevenoaks Core Strategy states that *"the biodiversity of the District will be conserved and opportunities sought for enhancement to ensure no net loss of biodiversity"*.
- 72 Therefore, I consider it reasonable in accordance with Planning Practice Guidance 'Use of Conditions' to impose a condition requiring biodiversity enhancements.

Landscaping

- 73 Policy EN1 of the ADMP indicates amongst other things that *"the layout of the proposed development would respect the topography and character of the site and the surrounding area and sensitively incorporate natural features such as trees, hedges and ponds within the site"*. Together with the Countryside and Rights of Way Act 2000 policy EN5 of the ADMP seeks to ensure that development would conserve and enhance the landscape.
- 74 The proposed development would result in the loss of several shrubs and self-sown trees situated within the rear garden. SDC Tree Officer is of the view that these are all of low amenity value. The remainder of the vegetation within the garden should be unaffected and is indicated on the proposed site plan as retained.
- 75 Providing retained trees are sufficiently protected, I have no objection to the proposal. A soft landscaping condition is proposed as the opportunity exists for additional planting within the site to further ensure that the development would conserve and enhance the character and appearance of the AONB. Conditions are also proposed requiring details of protective measures for retained trees.

Highways issues

- 76 This application is not a category of development which requires consultation with Kent County Council Highways.
- 77 It is proposed to utilise an existing access.

- 78 Kent County Council Residential Parking standards require two parking spaces to be provided for a dwelling of the size proposed. The proposed integral garage complies with the preferred garage size for a single car set by Kent County Council. The space on the frontage is sufficient to provide at least one other parking space if not more.
- 79 Consequently, the proposal would comply with KCC standards and policy T2 of the ADMP and I do not consider that the proposed development would be of detriment to vehicular or pedestrian safety.
- 80 I note that it is proposed to widen the tarmac drive way. This land is located outside of the application site as identified by the official red line boundary shown on drawing number 5244-PD-001 and 5244-PD-003 Rev B. I believe that this land may form part of the public right of way and is not within the applicant's ownership. This is an issue which West Kent Public Rights of Way and Badgers Mount Residents Association have also noted as the aerial photograph contained within the Design and Access Statement indicates that the red line extends right up to the roadway. My view is that aerial plan is for illustrative purposes, it is not to scale and forms part of documentation submitted in support of the application. The red line indicated on scale drawing number 5244-PD-001 and 5244-PD-003 Rev B is the correct site area and is the plan which officers have referred to for the purpose of determining the application. For clarity, an amended Design and Access Statement has been provided and letters have been set out for information in this respect.
- 81 Officers wish to make it clear that a grant of planning permission does not convey approval for works outside of the application site such as the widening of the tarmac driveway for which separate consent may be required from Kent County Council Highways and/or West Kent Public Rights of Way. An informative is recommended to this effect.

Community Infrastructure Levy

- 82 The proposal is CIL liable and an exemption is sought. An assessment of that exemption is carried out below.
- 83 A self build exemption is available to anyone who builds or commissions their own home for their own occupation providing the relevant criteria are met as set out in Sections 54A, 54B, 54C and 54D of The Community Infrastructure Levy Regulations 2010 (as amended).
- 84 The applicant has submitted an assumption of liability notice and is claiming self build exemption.
- 85 The applicant has submitted a Self Build Claim Form and has confirmed all the declarations required.
- 86 At the date of writing the report work on site has not yet commenced.
- 87 The applicant is claiming exemption for a self build dwelling within the definition in Regulation 54A. A person is eligible for an exemption from liability to pay CIL in respect of a chargeable development, or part of a

chargeable development, if it comprises self-build housing (or self-build communal development.)

88	Additional criteria for exemption (to clarify information on form)	Yes / No
	Has the development commenced? <i>If the development has commenced, they cannot claim an exemption. Check building regulations records and CIL Events to confirm if any Commencement Notice received.</i>	NO
	Has the claimant for exemption assumed liability to pay CIL for the dwelling subject of the claim for exemption, with the submission of an Assumption of Liability form? <i>If there is no Assumption of Liability Form, they cannot claim an exemption. Seek submission of one and if not received, refuse exemption.</i> <i>If the person assuming liability is not the same as the person making the exemption, refuse exemption.</i>	YES
	Is more than one person assuming liability to pay CIL? <i>Make it clear whether the claim for exemption covers everybody who has assumed liability. Where more than one person has assumed liability to pay CIL in respect of the chargeable development, the person claiming an exemption must clearly identify the part of the development that the claim relates to.</i>	NO

- 89 The applicant has completed all the declarations on the exemption claim form and has assumed liability for CIL. The development has not commenced on site. I am therefore satisfied that Mr Gunn is exempt from CIL for planning application SE/15/03115/FUL.

Other Issues

- 90 One objection received relates to the impact of the proposal on the character and appearance of the Conservation Area. For clarification, the application site is not located within a Conservation Area.
- 91 West Kent Public Rights of Way and Badgers Mount Residents Association have commented on the red line boundary identified on aerial photography within the Design and Access Statement. This matter is addressed under the Highways heading.
- 92 Comments have also been made regarding the accuracy of the 3D drawing. The following statement is submitted by the applicant in respect of the 3D drawing.
- The proposed building is accurate as it was drawn using REVIT which produces the 3d model from the plans and sections. The site & neighbouring buildings are taken from topographical data and then modelled in 3d. So the footprint, floor levels, eaves and ridge levels are*

all accurate. The only part that may not be 100% accurate would be the dormer windows.

- 93 It should be noted that the dormers windows are scaled correctly on the remaining drawings.

Conclusion

- 94 By reason of the site being located within the confines of Badgers Mount and within an established street scene of similar scale residential development, the proposals would have no adverse impact. It is officer's view that the building to be demolished is of no particular architectural merit which would justify its retention. For the reasons set out above, officer's consider that the proposed building would assimilate into its setting as it is appropriate in scale form bulk and layout, is well articulated and is proposed to be constructed using traditional materials of a good quality.
- 95 Whilst the proposed development would have an impact upon the neighbours on balance, for the reasons set out above I find that the proposal would be acceptable in respect on amenity and would not result in demonstrable harm to neighbours by reason of loss of light, loss of outlook, overshadowing, loss of privacy or be overbearing to a degree which would justify refusing planning permission.
- 96 Through the imposition of conditions the proposed development provides opportunities to conserve and enhance the character and appearance of the AONB through additional landscaping and provide biodiversity enhancements.
- 97 The proposal provides adequate facilities for off street parking and would not have any adverse highway impact.
- 98 For the reasons contained in the preceding paragraphs it is recommended that this application should be approved as it conforms to the relevant Development Plan policies and there are no overriding material considerations to suggest otherwise.

Background Papers

Site and Block Plan

Contact Officer(s): Claire Marchant Extension: 7367

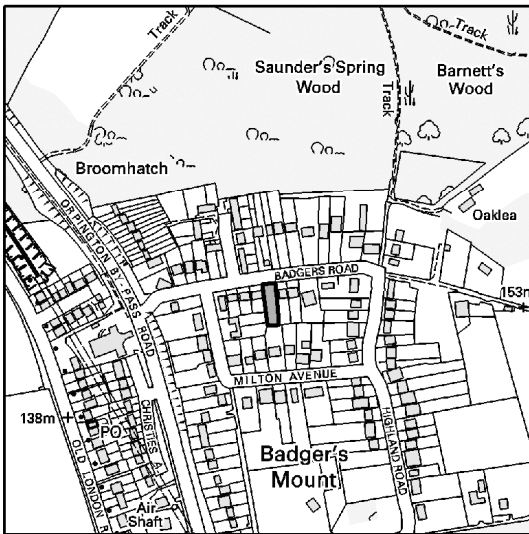
Richard Morris
Chief Planning Officer

Link to application details:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NVLOJ9BKIZA00>

Link to associated documents:

<http://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NVLOJ9BKIZA00>



Site Plan

Scale 1:1,250

Date 13/01/2016



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BLOCK PLAN

