

4.1 18/00928/FUL Date expired 28 January 2019

Proposal: Proposed erection of one 1 bedroom bungalow, parking and garden space.

Location: Land South Of Trotts Cottage, Trotts Lane, Westerham Kent TN16 1SD

Ward(s): Westerham & Crockham Hill

Background:

- 1 The application was appealed on the grounds of non-determination. The application was referred to Development Control Committee and was heard on the 17/01.2019. Planning Committee resolved that the Planning Inspectorate be informed Committee would have approved the application had they determined the application.
- 2 Since this date, the applicant has withdrawn the appeal for non-determination. Therefore, the Committee can now determine the application. The original report is reproduced below.

Land Dispute:

- 3 The site has been subject to boundary disputes. Neighbours have provided surveys and land registry plans to us as part of the objections submitted. The agent has confirmed that all of the land within the red line boundary is within the applicant's ownership. The application has been amended. It is not within our power to determine land ownership or boundary dispute matters. These are civil matters and are not material planning considerations.
- 4 The red line of the application site has been amended over the course of the application.

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Item for decision

Councillors Maskell and Esler have referred the application to Development Control Committee due to the impact to the character of the area in accordance with policy EN1 of the Sevenoaks District Council's Allocation and Development Management Plan and the National Planning Policy Framework.

RECOMMENDATION: That the Planning Inspectorate be advised that Members of the Development Control Committee would have resolved 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 and details: S18/6535/01, 17815PL101 C, 17815PL102 B.

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

3) No development shall be carried out above damp proof course level of the hereby approved dwelling until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out using the approved materials.

To ensure that the appearance of the development is in harmony with the existing character of the area as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

4) Prior to the occupation of the dwelling full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Those details shall include:-planting plans (identifying existing planting and trees, plants and trees to be retained and new planting and trees), - written specifications (including cultivation and other operations associated with tree, plant and grass establishment), -schedules of new plants and trees (noting species, size of stock at time of planting and proposed number/densities where appropriate), - Details of any means of enclosure, and -a programme of implementation. If any part of the approved landscaping scheme is removed, dies, becomes 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 works shall be carried out in accordance with the approved details.

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

5) Prior to any works commencing on site (including vegetation clearance) a precautionary ecological method statement and ecological enhancement strategy produce by an experienced ecologist is submitted for written approval by the local planning authority. The works must be implemented as detailed within the approved strategy.

To ensure the protection of any protected species and reptiles in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

6) Prior to the occupation of the approved dwelling details of ecological enhancements across the site shall be submitted to and approved in writing by the local planning authority. The proposed works shall be carried out in accordance with the approved details.

To enhance the ecology of the local area, protected species and reptiles in accordance with policy SP11 of the Sevenoaks District Council Core Strategy.

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting that Order) no enlargement, improvement or other alteration permitted by Class A, D or E of Part 1 of Schedule 2 or Class A of part 2 of Schedule 2 of the 2015 Order (as amended), shall be carried out or made to the dwelling without the grant of a further planning permission by the local planning authority.

To safeguard the amenities of neighbouring occupiers as supported by Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

8) Development shall not begin until details of surface water drainage works have been submitted to and approved in writing by the local planning authority. The dwelling shall not be occupied until the approved works for the disposal of surface water have been provided on the site in accordance with details to be submitted to and approved in writing by the local planning authority.

In the interest of preventing surface water run off in accordance with policy EN1 of the Sevenoaks District Council Allocation and Development Management Plan.

9) The development hereby permitted shall be carried out in accordance with tree protection guidance BS5837:2012 and construction shall follow the following guidance: (a) All trees to be preserved shall be marked on site and protected during any operation on site by temporary fencing in accordance with BS 5837:2012 or otherwise to the satisfaction of the Local Planning Authority. The means of tree protection shall be maintained until all equipment, machinery and surplus materials have been removed from the land; (b) No fires shall be lit within the spread of branches of the trees and other vegetation; (c) No materials or equipment shall be stored within the spread of the branches of the trees and other vegetation; (d) No buildings, roads or other engineering operations shall be constructed or carried out

within the spread of the branches of the trees and other vegetation; (e) No pruning of the existing trees or the spread of the branches shall take place, except as may be otherwise agreed in writing by the Local Planning Authority.

To protect the existing trees and the visual amenity of the area in accordance with policy EN1 of the Sevenoaks District Council Allocation and Development Management Plan.

10) Prior to the occupation of the dwelling a scheme to show the provision of electric vehicle charging point, including the proposed location, type and specifications shall be submitted to and approved by the Local Planning Authority. The charging point shall be installed in accordance with the approved details prior to first occupation of the development.

To ensure the sustainability of the site in accordance with policy T3 of the Allocations and Development Management Plan. 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.

Informatives

1) The granting of any planning application does not override current wildlife legislation.

National Planning Policy Framework

In dealing with this application we have implemented the requirements in the National Planning Policy Framework to work with the applicant/agent in a positive, proactive and creative way by offering a pre-application advice service; as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible and if applicable suggesting solutions to secure a successful outcome. We have considered the application in light of our statutory policies in our development plan as set out in the officer's report.

Background:

1 The application has been appealed on the grounds of non-determination. Development Control Committee is therefore unable to determine the application but can advise how they would have determined the application if it was not for the appeal.

Description of Proposal

2 Proposed erection of a single storey one bedroom bungalow, parking and garden space.

Description of Site

3 The application site is located at the end of Trotts Lane in Westerham. The site relates to a parcel of land opposite Trotts Cottage and Far End. A small building/garage used to occupy the site. Some close-boarded fencing runs to

the south of the land and an informal access runs to the north of the site from west to east. The levels of the land also slope away towards the east and north. The site is located in an Area of Outstanding Natural Beauty.

Constraints

4 Area of Outstanding Natural Beauty - (AONB)

Policies

5 National Planning Policy Framework (NPPF)

Para 11 of the NPPF confirms that there is a presumption in favour of sustainable development, and that development proposals that accord with an up-to-date development plan should be approved without delay.

Para 11 of the NPPF also states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (footnote 6); or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- Footnote 6 relates to a variety of designations, including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

6 Core Strategy (CS)

- LO1 Distribution of Development
- LO7 Development in Rural Settlements
- SP1 Design of New Development and Conservation
- SP3 Provision of Affordable Housing
- SP5 Housing Size and Type
- SP7 Density of Housing Development
- SP11 Biodiversity

7 Allocations and Development Management (ADMP)

- SC1 Presumption in Favour of Sustainable Development
- EN1 Design Principles
- EN2 Amenity Protection
- EN5 Landscape
- T2 Vehicle Parking
- T3 Provision of Electrical Vehicle Charging Points

8 Other

- Kent Downs Area of Outstanding Natural Beauty Management Plan 2014 - 2019
- Sevenoaks Countryside Assessment SPD 2011
- Westerham and Crockham Hill Village Design Statement 2000.
- Draft Westerham Village Design Statement (has not been formally adopted and is still in the consultation phase).

Relevant Planning History

- 9 SW/5/73/521 - 'Erection of a dwelling in the garden' - Refused.
SE/89/1500 - 'Single storey detached bungalow with integral garage. Amended by plans received 20th of Feb 90' - Refused.
SE/94/1539 - 'Single storey detached bungalow with integral garage' - Refused - Appeal Dismissed.
17/03749/FUL - Proposed erection of one bedroom bungalow, parking and garden space - Withdrawn.

Trotts Cottage:

- 10 03/00664/FUL - Proposed two storey front extension - GRANTED.

Consultations

Westerham Town Council:

- 11 - Objects.

'WTC objects to this application, it is disappointed in the lack of accuracy and incorrect information contained in this further application. It would appear that the plot boundaries have been moved from the previous application and they seem to have again included land not directly owned to improve their density calculations and site lay out.

There are once again many comprehensive objections lodged by neighbors who have spent considerable time and money responding to this and previous applications.

The principal objections to the application last month remain and despite changes made there is no material difference in the development now proposed which is still inappropriate for this site. Despite claiming that there was only one prior refusal we know that there is a history of refused applications together with withdrawn and amended plans, all of which failed a number of past and current Local Plan and NPPF policies, in particular EN1 and EN2.

WTC would wish to make it very clear to the applicant that under current planning policies new housing on this site would not be permitted due to constraints in the AONB and restricted nature of the plot'.

2nd Consultation Westerham Town Council

12 Objection.

‘WTC maintains its existing objection to this application that remains substantially the same as that already proposed.

The fundamental issue is that this site is within the AONB. As a result the only way a new building can be permitted is through the acceptance of exceptional circumstances. It has already been established through the emerging SDC Local Plan that housing need in itself is not sufficient to overcome the restrictions inherent in the AONB. That is the only argument proposed by the applicant and the application must therefore fail.

We would add that the applicant has continued to provide erroneous evidence of the plot size in the calculations of site coverage as well as the bulk of the new building in its setting. The site is not in the Town Centre as claimed and we would argue that there is insufficient space to turn a single vehicle on the site to allow safe access.

Due regard should also be taken of the emerging Westerham Design Statement, which had been accepted by SDC planning officers and will shortly be recommended to the DCC for public examination. This development fails policies LS2 and LS5 of this Statement’.

Kent County Council Ecology

- 13 No surveys require prior to determination. No objection subject to condition relating to precautionary ecological method statement and ecological enhancement strategy.

Thames Water

- 14 No response.

Kent County Council Highways

- 15 No comment.

Kent Fire and Rescue Services

- 16 No response.

Representations

- 17 We received 24 letters of objection, including a report and property deeds. While some residents have commented more than once the application the number of objections is counted as one per resident, all correspondence and objections have however been read. The objections relate to the following issues:

Plans:

- In accurate red line which includes land outside of the applicants ownership,
- Inaccurate plans,
- Land not a vacant plot was actually garden land previously owned by Trotts Cottage,

- AA- line on drawing shows incorrect depth,
- Inaccuracies in the Design and Access Statement,
- Llonsson Ltd report states land within red line belongs to other dwellings

Character of the area:

- Unacceptable density - density should not be calculated including the access,
- Plot size is too small and would cover too large a degree of the plot,
- Would fail to conserve and enhance the AONB,
- Would fail to comply with the Westerham and Crockham Village Design Statement including 5/1, 5/2, 5/6, LS2 and LS7,
- Property would not be in keeping with family homes set in spacious plots,
- Limited landscaping,
- Trotts Lane has a semi-rural feel which would be obscured by dwelling,
- Garden space is limited and not accurate.

Amenity:

- Proposed garden gate would result in loss of privacy.
- Permitted Development Rights should be removed should the application be granted,
- Loss of amenity including light, outlook and privacy,
- Loss of amenity specifically in relation to Trotts Cottage land gradient would result in loss of light and privacy,
- The proposed dwelling would have limited amenity as it would be overlooked and feel confined,
- Environment of existing property would be harmed,
- Overbearing to Trotts Cottage,
- Proposal would interfere with rights under the Human Rights Act Protocol 1, Articles 1 and 8,

Parking and access:

- Location of dwelling would prevent access for emergency vehicles including ambulances and the fire service,
- Fence would impede access to Far End,
- Insufficient parking and no parking for visitors,
- Increased pressure on parking along narrow un-adopted lane,

Biodiversity:

- Loss of wildlife through existing site clearance - in breach of wildlife legislation,
- Impact on local wildlife including loss of bats and slow worms,

Other

- Would fail to comply with policy EN1, EN2, EN5, SP5, SP4 should not be considered as part of the application,
- Enforcement order should be issued on the site i.e. un-tidy site,
- Dwelling could not provide accommodation for the elderly due to land levels, steps internally and externally and level changes,

- Surface water run off would increase.

Re-Consultation:

- 16 responses received all previous objects remain the same,
- Boundary may have been altered, but remains inaccurate.

Chief Planning Officer's Appraisal

18 The main planning considerations are:

- Principle of development,
- Impact to the AONB,
- Design and impact on the character of the area,
- Impact on neighbouring amenity,
- Impact on parking and highways,
- Ecology,
- Trees and landscaping,
- Other.

Principle of development:

- 19 Para 122 of the NPPF (in part) states that planning policies and decisions should support development that makes efficient use of land, taking into account the desirability of maintaining an areas prevailing character and setting (including residential gardens) or of promoting regeneration and change.
- 20 Policy LO1 seeks to focus development within the built confines of existing settlements and lists the main urban areas. The smaller service villages are listed in Policy LO7, Westerham falls into this category.
- 21 Policy LO7 states that within the settlement confines of Westerham development on a modest scale will be permitted where it can take place in an acceptable manner consistent with local character.
- 22 Whilst the National Planning Policy Framework (NPPF) places an emphasis on development on previously developed land, it does not preclude other land, from being developed for residential use, provided such development is in suitable locations and relates well to its surroundings.
- 23 The site is located within the existing built confines of Westerham and development plan policies seek to optimise the potential of such sites in accordance with the NPPF. This is especially important within Sevenoaks District where the majority of the District falls within the Green Belt.
- 24 The density of development would broadly reflect that of the local area. In addition to this, the proposal would provide additional housing for the district in a sustainable location, which supports the aspirations of the NPPF.
- 25 Policy SP5 of the Core Strategy seeks new housing development to contribute to a mix of different housing types in residential areas, taking

into account the existing pattern of housing in the area, evidence of local need and site-specific factors.

- 26 Policy SP5 explicitly seeks the inclusion of small units (less than 3 bedrooms) in new development schemes in suitable locations to increase the proportion of smaller units in the District housing stock. The provision of a 1-bedroom bungalow would be consistent with the aspirations of policy SP5.
- 27 The proposed occupancy of a dwelling with a single bedroom is not for the authority to determine. A single bedroom dwelling can provide accommodation for varied members of a community and is not restricted to one element of the community.
- 28 Taking the above into account of, the principle of development is accepted subject to other considerations.
- 29 It should be noted that in dismissing the appeal in 1994, the Inspector considered that that building on this open site would harm the character of the area due to the loss of openness. Since this decision local and national policy planning policy places a greater emphasis on making the best use of land with a presumption in favour of sustainable development. Consequently, this historic appeal decision is a material consideration but could be given very limited weight. This proposal needs to be considered on the basis of current local and national planning policy.

Impact to the AONB:

- 30 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.
- 31 Paragraph 172 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty.
- 32 Policy EN5 of the ADMP states that proposals within the AONB will be permitted where the form, scale, materials and design will conserve and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance.
- 33 The site is located in Westerham which is an existing settlement that is located in within the Kent Downs Area of Outstanding Natural Beauty (AONB).
- 34 Policy SD9 of The Kent Downs AONB Management Plan seeks to ensure:

‘The particular historic and locally distinctive character of rural settlements and buildings of the Kent Downs AONB will be maintained and strengthened. The use of locally-derived materials for restoration and conversion work will be encouraged’.

- 35 The built form and development associated with Westerham forms part of the character of the AONB landscape. Residential dwellings are an expected feature and are an existing part of the views experienced from the wider landscape.
- 36 The site is surrounded by residential properties to the north, east, south and west. The dwellings in the area vary in scale, density and design. The proposed bungalow would set within existing residential development and partially screened by these existing dwellings from the wider landscape. As result of its location, the proposed dwelling would be seen in the context and backdrop of a residential area. The proposal would not be a prominent addition to the landscape and would conserve the character of the area from a wider landscape perspective.
- 37 The proposed dwelling would have a pitched roof and would have a modest scale. The use of brickwork and plain tiles would match those used in the local area. As such, the design and use of materials would conserve and strengthen the character of the local area in accordance with the Kent Downs AONB Management Plan.
- 38 As the proposed dwelling would be within the confines of an existing settlement and so dwellings are an expected feature from the wider landscape and scenic beauty of the AONB. The use of materials in keeping with the area would strengthen the character of the AONB in this location. This in conjunction with landscaping and ecological enhancements which could be secured by condition would also work to enhance the AONB.
- 39 The Design and Access indicates the protection of an existing Holly tree. To ensure the protection of the trees surrounding the plot it would be reasonable to condition any grant of permission to require tree protection measures. In addition, landscaping conditions would aid in adding vegetation across the site.
- 40 Overall, it is considered that the proposed development would conserve the character of the AONB in this location and would comply with policy EN5 of the ADMP.

Design and impact on the character of the area:

- 41 Policy SP1 of the Core Strategy and Policy EN1 of the ADMP states that all new development should be designed to a high quality and should respond to and respect the character of the area in which it is situated.
- 42 The density of development would broadly reflect that of the local area, as it is a detached dwelling with small area for amenity.
- 43 The third party comments have indicated that the density should not include the access. If the access is excluded from the density calculation the dwellings per hectare (dph) would equate to around 47.6(dph), if included the density would be 41.7(dph). This density is considered acceptable given the NPPF emphasis on the optimisation of such sites.

- 44 Policy SP7 does recommend that in this location new developments would be expected to achieve a density of around 30dph. This policy is however flexible to taking account of the character of the area and is also pre both the 2012 and 2018 version of the NPPF. In addition to this, the proposal would provide additional housing for the district in a sustainable location, which supports the aspirations of the NPPF. The density of development varies on Trotts Lane, Squerryes Mede and Black Eagle Close.
- 45 Trotts Lane is a narrow lane to the west of Westerham centre. The dwellings along Trotts Lane vary in scale and architectural style. The lane is fronted by residential dwellings to the west and east. Trotts Lane terminates to the south and a single dwelling, Moreton Lodge, is located at this terminus. A few dwellings can be accessed to the west of Moreton Lodge some of which are bungalows. As the area is characterised by residential properties the addition of a dwelling would not be out of character with the general pattern of development.
- 46 Due to the variance in land levels, the dwellings to the west are sited upon higher land levels than those located to the east. At the end of Trotts Lane, there is no uniformity to the orientation, layout or design of the dwellings.
- 47 The proposed bungalow would sit adjacent to Moreton Lodge at an angle and front the highway. Given that a number of residential dwellings are visible to the south of the site and the proposed dwelling would be single storey in height, it would be set against the backdrop of this existing built form.
- 48 A gap in excess of 5m would lie between the proposed dwelling and Moreton Lodge. Although the bungalow would sit within 1m of the side boundary, due to the land level changes, orientation of the proposed dwelling and the distance between the proposed bungalow and the distance between dwellings, no visual terracing would occur.
- 49 The proposed dwelling would be slightly set back from the front boundary and would have space surrounding the dwelling. The overall proportions of the dwelling would be modest and would not overwhelm the scale of the site.
- 50 The bungalow would have a pitched roof, which would be in keeping with the variety of pitched roofs along Trotts Lane. The 'L' shaped footprint of the bungalow would break up the massing of the development. The proposed windows and openings would be proportionate to the dwelling. The use of tiles to the roof and brickwork would mirror the varied use of brick, render and tile hanging found along Trotts Lane.
- 51 The Westerham and Crockham Hill Village Design Statement is used as informal planning guidance and carries less weight than Design Statements adopted as SPDs. The Westerham and Crockham Hill Village Design Statement was created prior to the introduction of the NPPF as it was created in the year 2000.
- 52 The guidance within the Village Design statement seeks to make greater uses of hedges and boundaries treatments for future development, use of

Kentish ragstone and flint in appropriate areas should be encouraged and features such as coloured bricks included with generous parking provided.

- 53 Features such as hedging and soft landscaping could be achieved through condition. The use of ragstone is only required where appropriate, given the predominate use of brick and tile hanging in the area the use of this materials would be inappropriate. However, bricks are proposed for this dwelling which would follow the guidance of the Westerham and Crockham Hill Village Design Statement. Issues regarding parking will be addressed below, parking standards have changed since the creation of the Westerham and Crockham Hill Village Design Statement was created.
- 54 Soft landscaping has been proposed which would soften the development and reflect the verdant nature of the street scene. The proposed 1.8m fencing would be higher than the typical enclosure treatments along the street scene. However, the dwelling and fencing would be located slightly to the east of Trotts Lane and would be partially obscured from view by Trotts Cottage, so the boundary treatments would not be prominent features in the street.
- 55 Overall, the scale, massing and design would be in keeping with the residential and varied character of Trotts Lane and would comply with policy EN1 of the ADMP.

Neighbouring Amenity:

- 56 Policy EN2 of the ADMP requires proposals to provide adequate residential amenities for existing and future occupiers of the development.

Moreton Lodge:

- 57 Moreton Lodge is located to the west of the site and is located at a higher level to that of the proposed bungalow. The proposed dwelling would have 1 side window facing towards Moreton Lodge. This window would be a secondary source of outlook, set back from the western boundary. This together with the changes in ground levels would not result in a significant loss of privacy.
- 58 Moreton Lodge has two side windows in its eastern elevation facing towards the site. Moreton Lodge benefits from windows to the front and rear of the dwelling, which provide outlook to the dwelling as a whole. The proposed bungalow would be located at a lower level and would lie in excess of 5m from the side elevation of Moreton Lodge. Given the land level changes, distance, and the existing outbuildings associated with Moreton Lodge it is not considered that outlook of Moreton Lodge would be detrimentally affected.
- 59 Loss of light analysis has been undertaken and shows that Moreton Lodge would not be significantly affected by loss of light or overshadowing issues.

Trotts Cottage:

- 60 Trotts Cottage is located to the north of the site and is a semi-detached two-storey dwelling. Trotts Cottage is sited in a depression of the ground

levels and has windows facing to its south, west and north elevations. The entrance to Trotts Cottage is located along the west elevation.

- 61 The proposed bungalow would be located at an angle to Trotts Cottage and would not directly align with Trotts Cottage's southern elevation. A single window is proposed to the northern elevation of the proposed bungalow, facing towards Trotts Cottage. The window would be located to the western side of the dwelling and would be set back from the road. As a result, it would not result in a significant loss of privacy to Trotts Cottage.
- 62 The proposed garden area of the proposed bungalow would sit opposite to Trotts Cottage. The garden amenity area would be located behind 1.8m fencing which would screen views to Trotts Cottage. The proposed gate opening to the northern boundary of the garden would not provide significant views across the amenity space of Trotts Cottage.
- 63 An approximate distance of 11.2m would extend between the proposed dwelling and Trotts Cottage. The proposed bungalow would be located at an elevated level to that of Trotts Cottage and Far End but would be single storey in height.
- 64 Trotts Cottage has a number of openings across its elevations. A window in the south facing elevation of Trotts Cottage serves a kitchen, which has another window to the west elevation that provides an alternative outlook to the west.
- 65 Given the distance that would separate Trotts Cottage from the proposed dwelling, the height of the proposed bungalow and the other openings on Trotts Cottage there would be no harm to the amenity of this property as a result of this proposal.
- 66 Trotts Cottages amenity space wraps around the dwelling from the west to the south. Low fencing encloses this area, although vegetation is present along its boundaries to provide some screening.
- 67 The southern elevation of Trotts Cottage would face towards the site. This elevation benefits from direct sunlight. The southern elevation of Trotts Cottage contains two windows at ground floor, a conservatory side extension, and a single window at first floor. The ground floor windows serve a kitchen, and a window serving a living room. The living room also receives light from other windows and the conservatory.
- 68 Given the distance between the dwellings, the openings along Trotts Cottage elevation and the sun's trajectory, some over shadowing may occur to the garden space but not to an extent that it would be harmful. Overall Trotts Cottage would not suffer a loss of amenity that would be harmful.

Far End:

- 69 Far End is a two storey semi-detached dwelling located to the east of the site, on the opposite side of the access.
- 70 The proposed bungalow would have openings facing east to serve a kitchen and living room. As Far End is located on the opposite side of the access,

the proposed windows would not have a direct view of Far End. Some vegetation exists along the eastern boundary, which provides some additional screening. As such no significant loss of privacy would occur.

- 71 The proposed bungalow would be sited further to the west of Far End and would not be directly aligned. An approximate distance of 13m would separate Far End and the proposed bungalow. As a result of the siting and the distance separating the dwellings its not considered that the outlook and light enjoyed by this property would be harmed.

11 Squerryes Mede:

- 72 11 Squerryes Mede is located to the south east of the site. The rear garden of the proposed bungalow would sit adjacent to the rear garden of 11 Squerryes Mede.
- 73 Due to the orientation and siting of the proposed dwelling a significant loss of light and visual intrusion to neighbouring outlook would not occur. The windows along the east elevation of the proposed dwelling would directly face 11 Squerryes Mede. The single storey nature of the proposed dwelling in combination with its orientation to 11 Squerryes Mede would mean a harmful loss of privacy would not occur.

50 Black Eagle Close:

- 74 50 Black Eagle Close is located to the south of the site, with its rear garden backing onto the sites southern boundary. A separation distance of 16.8m would extend between the dwelling and the rear elevation of 50 Black Eagle Close. As a result of this distance and the single storey nature of the bungalow the existing residential amenities of this property would not be harmed.

Proposed bungalow:

- 75 The proposed one bedroom bungalow would have a small amenity area for the occupant/s. The property would benefit from openings which would allow natural light to filter in and would provide an outlook to the north and east.
- 76 Given the confines of the site it would be reasonable to remove permitted development rights for classes A, D and E to ensure that further development would not harm the amenity of local residents. It would not be reasonable to remove class B as the site is within the AONB and therefore class B cannot be utilised.
- 77 Other dwellings are located at a sufficient distance and orientation that they would not be subjected to a significant loss of amenity as a result of the proposed development. Taking the above into consideration, the proposal would comply with policy EN2 of the ADMP.

Parking and Highways Impact:

- 78 Policy EN1 states that all new development should provide satisfactory means of access for vehicles and pedestrians and provide adequate parking.

Policy T2 of the ADMP states that dwellings in this location with 1 bedroom require 1.5 parking spaces.

- 79 KCC Highways have not commented as the application is for a single dwelling only.
- 80 The proposed dwelling would have provision to accommodate a standard parking space size of 2.5x5m. Trotts Lane is a private road and therefore does not have parking restrictions although it is narrow in nature. Given the dwelling would have 1 bedroom the parking provision offered is considered acceptable.
- 81 Trotts Lane has a number of residential accesses. Given the residential nature of the area and the narrow nature of the road vehicle movements and speeds, reflect the context of the area. The creation of a new access in this location enables a vehicle to manoeuvre in and out of the access.
- 82 The granting of any application does not overrule the Highway Code or allow any vehicle to block an existing access.
- 83 Fencing has been proposed along the northern boundary adjacent to the informal access to Far End. The fencing at its closest point to the access would allow a gap of approx.3.1m, which would still allow access to Far End.
- 84 Policy T3 of the ADMP states that electrical vehicle charging points should be provided within new residential developments to promote sustainability and mitigate climate change. A vehicle charging point can be securely conditioned.
- 85 The proposed scheme is considered to comply with parking and highway policy subject to condition.

Biodiversity:

- 86 Policy SP11 of the Core Strategy states that the biodiversity of the District will be conserved and opportunities sought for enhancements to ensure no net loss of biodiversity.
- 87 The site was previously occupied by a garage that has been demolished. The site currently is undeveloped. Third parties have raised concerns with regard to the wildlife on site and the loss of habitat. The siting of bats and reptile have been previously recorded by local residents.
- 88 KCC Ecology have accepted that due to site clearance works and the scale of the site, there is no requirement for an ecological survey to be submitted prior to the determination of the application. However, it has been noted that some habitat would still be present that could be utilised by reptiles. On this basis, a condition could be attached to any granted application requiring a precautionary mitigation strategy and ecological enactments on site.

- 89 It should be noted that a granted planning application does not override other wildlife legislation. An informative can be placed upon any granted application to this effect.

Other issues:

View:

- 90 Planning legislation and policy cannot protect views from properties. The potential impact on amenity is referred to above.

Fire and Rescue:

- 91 Kent Fire and Rescue did not respond to this application, but did respond to application 17/03749/FUL. As part of the response it was concluded that the access provided would be satisfactory. In addition, it was commented that: 'The proposed dwelling will not detrimentally affect the access and therefore will not make the emergency access situation worse'.

Protocol 1, Article 1 and 8 of the Human Rights Act:

- 92 The Human Rights Act 1998, incorporated provisions of the European Convention on Human Rights (ECHR) into UK law. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. Article 8 refers to (Right to respect for private and family life, home and correspondence), and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).
- 93 An assessment of the impact of the proposal on various issues, including on to the amenity of neighbouring dwellings has been undertaken. In weighing, the rights against the planning merits it is not considered on balance that the proposed dwelling would interfere with these rights. The proposal is for an additional dwelling for the benefit of others.

Deeds and inaccurate plans:

- 94 Neighbours have raised concerns over land ownership. Deeds and title plans have been submitted. The information provided is however unclear and the applicant has amended the red line boundary.
- 95 A number of third party comments and reports have been received regarding the accuracy of the plans and land ownership. The agent has confirmed that the land is all under one ownership. Planning legislation cannot determine land ownership, which is a private civil matter.
- 96 With regard to the third parties concerns regarding the AA line (levels) inaccuracies, consideration of amenity has been undertaken with regard to a site visit, the trajectory of the sun and BRE light guidance. As such, the AA line has not formed a substantive part of the consideration of amenity. Plans submitted to the local authority are accepted in good faith that they accurately depict the site.

Surface water run off:

- 97 Matters relating to surface water drainage could be addressed by a condition requiring details of surface water drainage.

Policy SP4:

- 98 Neighbouring comments have highlighted that policy SP4 should not be considered as the dwelling could not accommodate a person with disabilities. Policy SP4 relates to affordable housing. As the development is for a single dwelling affordable housing would not be required and therefore policy SP4 has not been addressed within the report. Policy SP4 is for exceptions housing and relates to rural needs. Westerham is a town so policy SP3 applies.
- 99 In relation to affordable housing, on 28 November 2014 the Government issued a Written Ministerial Statement that amended National Planning Practice Guidance (PPG) to restrict the circumstances where contributions for affordable housing should be sought.
- 100 Under that guidance, other than in designated rural areas, contributions should not be sought from developments of 10 units or less, and which have a maximum combined gross floor-space of no more than 1000sqm. In Areas of Outstanding Natural Beauty, contributions should not be sought from developments of 5 units or less.
- 101 This is a material consideration that should be taken into account when determining planning applications and must be weighed against Policy SP3 of the Core Strategy. It is noteworthy that the material consideration post dates the Core Strategy and was confirmed by the Court of Appeal in 2015 and thus afforded weight.
- 102 Since the development size is below the threshold introduced in the Written Ministerial Statement a strict adherence to the edicts of Policy SP3 is unlikely to be substantiated at appeal as such a contribution to affordable housing would not therefore be sought on a development of this size.

Emerging Westerham Design Statement:

- 103 The emerging Westerham Design Statement has limited weight as it has not yet been adopted.

CIL

- 104 This proposal is CIL liable and there is no application for an exemption.

Conclusion:

- 105 The proposed development is considered to conserve and enhance the character of the AONB landscape, be in keeping with the character of the street scene and would not result in a harmful loss of amenity.

- 106 Given the passage of time and emphasis on providing new housing in sustainable locations the development is considered to have overcome the previous historic reasons for refusal and the dismissed appeal.
- 107 The proposal is considered to provide acceptable levels of parking and access. The development complies with local and national planning policy, there are no other material considerations to indicate otherwise.

Recommendation

It is therefore recommended that this application is granted subject to condition.

Background Papers

Site and Block Plan

Contact Officer: Emma Gore Extension: 7206

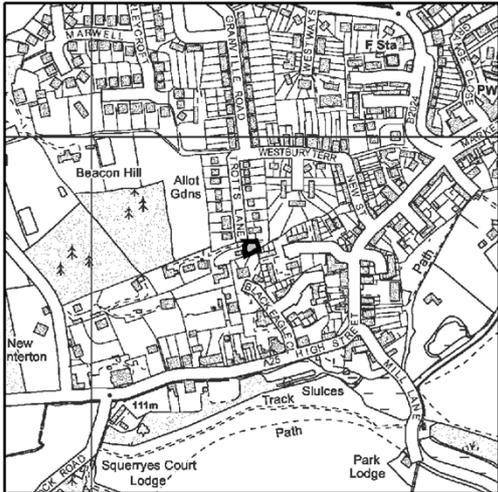
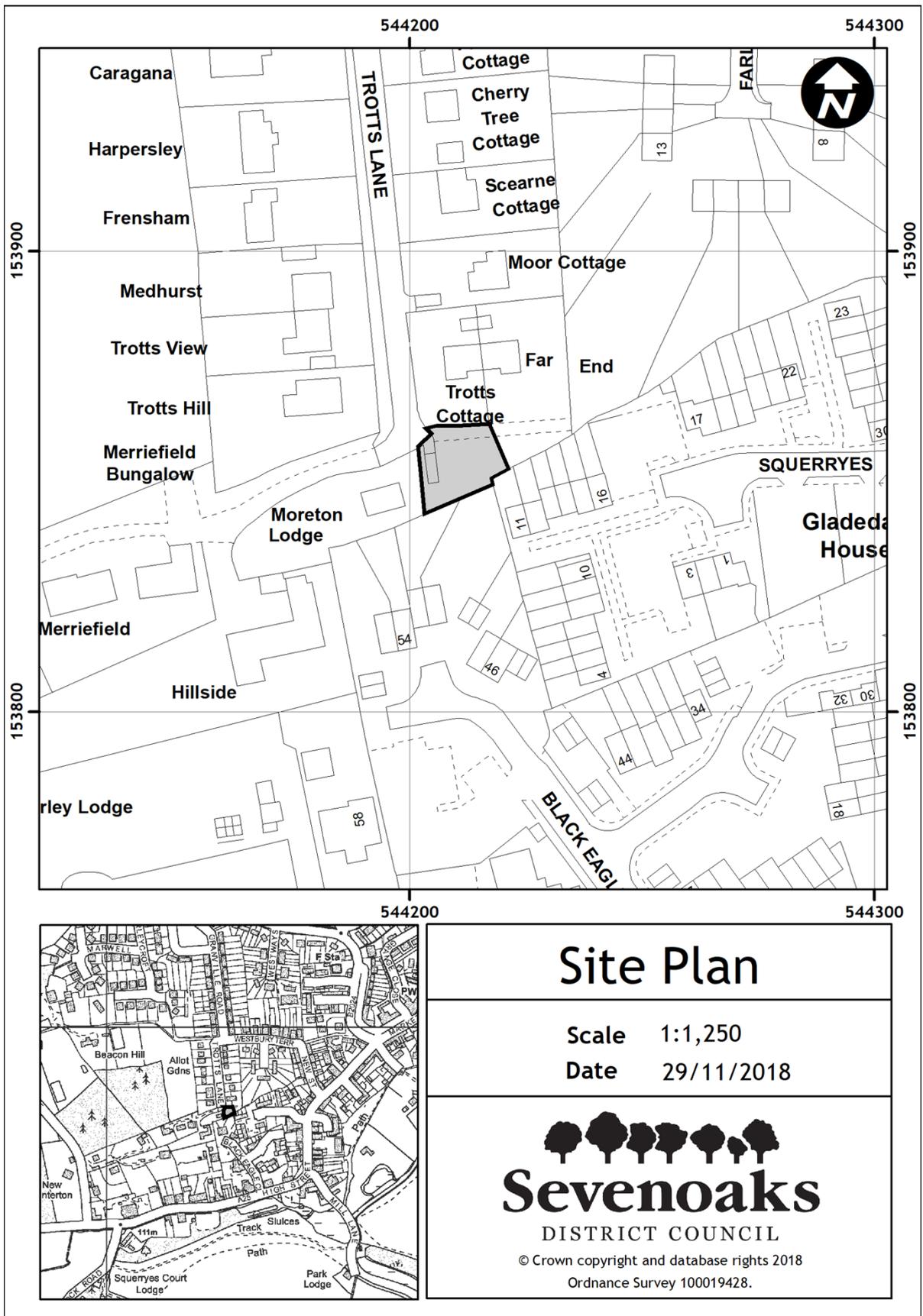
Richard Morris
Chief Planning Officer

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=P5WFCXBKI0300>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P5WFCXBKI0300>



Site Plan

Scale 1:1,250

Date 29/11/2018


Sevenoaks
 DISTRICT COUNCIL

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 Ordnance Survey 100019428.

Block Plan

