



planting, seeding and turfing) shall be implemented prior to the occupation of the development hereby approved and thereafter retained.

To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality in accordance with Policy EN1 and EN5 of the Sevenoaks Allocations and Development Management Plan and the NPPF.

- 5) No development, including any works of demolition or preparation works prior to building operations shall take place on site until a Construction Transport Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period and shall include details of:
- (a) a photographic survey of Badgers Road from the junction with Highland Road and the entrance to the site;
  - (b) the types of vehicles, their size, load size and purpose within the construction process;
  - (c) parking for vehicles of site personnel, operatives and visitors;
  - (d) loading and unloading of plant and materials;
  - (e) storage of plant and materials used in constructing the development;
  - (f) programme of works, including details of gabion cage construction and measures for traffic management;
  - (g) provision of boundary security hoarding behind any visibility zones;
  - (h) wheel washing facilities;
  - (i) measures to control the emissions of dust and dirt during construction;
  - (j) a scheme for the recycling/disposing of waste resulting from demolition and construction works; and (k) hours of operation.

To mitigate the impact during construction relating to the safety and free flow of the Public Right of Way byway and neighbouring amenities, in accordance with policies EN1 and EN2 of the Sevenoaks Allocations and Development Management Plan and the NPPF.

- 6) If damage occurs to the Public Right of Way byway it will be made good and reinstated back to that shown within the photographic survey approved under Condition 5 above prior to the first occupation of the new dwelling hereby permitted.

To mitigate the impact during construction relating to the safety and free flow of the Public Right of Way byway and neighbouring amenities, in accordance with policies EN1 and EN2 of the Sevenoaks Allocations and Development Management Plan and the NPPF.

- 7) No development shall take place until full details of the proposed foul and surface water drainage systems have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed in accordance with the approved details and be operative prior to the occupation of the development.

To ensure that suitable foul and surface water drainage is incorporated into the development and to reduce the impact of flooding in accordance with Policy EN1 of the Sevenoaks Allocations and Development Management Plan.

8) No development shall be carried out on the land until full details of ecological enhancements, including their location within the site, have been submitted to and approved in writing by the Local Planning Authority. The enhancements shall be carried out prior to the first occupation of the development hereby approved and retained thereafter.

To ensure the biodiversity of the area is maintained, in accordance with Policy SP1 of the Core Strategy and the NPPF.

9) No development shall be carried out on the land until details of the provision of an electrical vehicle charging point, including its specification and location within the site, is submitted to and approved in writing by the Local Planning Authority. The charging point shall be made available prior to the first occupation of the new dwelling and retained as such thereafter.

In the interests of sustainable transport and climate change in accordance with Policy SP2 of the Sevenoaks Core Strategy, Policy T3 of the Sevenoaks Allocations and Development Management Plan and the NPPF.

10) 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, B, C, D or E of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be carried out to the site or made to the dwelling without the grant of a further planning permission by the local planning authority.

To safeguard the character and appearance of the Kent Downs AONB landscape and to prevent inappropriate development in the Green Belt in accordance with Policy EN5 and GB1 of the Sevenoaks Allocations and Development Management Plan, the Sevenoaks Development in the Green Belt Supplementary Planning Document and the NPPF.

11) 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 of Part 2 of Schedule 2 of the 2015 Order (as amended), shall be carried out to the site or made to the dwelling without the grant of a further planning permission by the local planning authority.

To safeguard the visual amenities of the area and to ensure safe access off the Public Right of Way byway in accordance with Policy EN1 and EN5 of the Sevenoaks Allocations and Development Management Plan, the Sevenoaks Development in the Green Belt Supplementary Planning Document and the NPPF.

12) The development hereby permitted shall be carried out in accordance with the following approved plans: 3087-18-PL101 Rev P3 and 3087-18-PL103 Rev P3.

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

13) The development hereby permitted shall not be used or occupied until the pedestrian visibility splays of 2m by 2m have been provided and anything which obstructs visibility at any height greater than 0.9 metres above the surface of the adjoining carriageway has been removed. Thereafter the visibility splays shall be

maintained free from obstruction at all times.

In the interest of highway safety.

### **Informatives**

1) It is an offence under the Countryside and Wildlife Act 1989 (as amended) to disturb nesting birds amongst other regulations. The bird nesting season is considered to be March - October inclusive. Any clearance works should therefore ideally be undertaken outside of these months, unless advice is sought by a suitably competent person.

2) The proposed development has been assessed and it is the Council's view that the CIL is payable. Full details will be set out in the CIL Liability Notice which will be issued with this decision or as soon as possible after the decision.

### **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.

### **Description of proposal**

- 1 The application proposes constructing a single storey 3-bed dwelling within the eastern part of the overall site, but on the western side of the subdivided plot. This sub-divided plot where the new dwelling would be located is referred to as 'the site' through the remainder of this report.
- 2 The dwelling would have a contemporary design and would be set down into the site through an approx. 3.4m excavation (at the most) to create a levelled plot. The materials would comprise timber cladding, with rock panel fascias and a sedum roof.
- 3 Also proposed are an associated bin store, cycle store, landscaping and vehicle parking.

### **Description of site**

- 4 The site comprises The Cottage and its rear garden, located on the northern side of Badgers Road, a Public Right of Way. The majority of the site is located within the built confines of Badgers Mount, with the eastern part of the rear garden within the Green Belt.
- 5 The site slopes downwards from the west towards the east, following the slope of the road. The site has terraced steps set into the slope and some vegetation clearance has occurred towards the east. There is a summerhouse located in the north-eastern corner of the site.

## Constraints

- 6 Area of Outstanding Natural Beauty (AONB) - Kent Downs
- 7 Area of Special Control of Advertisements
- 8 Biodiversity Opportunity Area
- 9 Metropolitan Green Belt - eastern half of site
- 10 Public Right of Way - SR7
- 11 Tree Preservation Order - within the garden of Charis House and Bowens Folly to the north-west and north.

## Policies

- 12 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.

- 13 Core Strategy (CS)

- LO1 Distribution of Development
- LO7 Development in Rural Settlements
- SP1 Design of New Development and Conservation
- SP2 Sustainable Development
- SP5 Housing Size and Type
- SP7 Density of Housing Development
- SP11 Biodiversity

- 14 Allocations and Development Management (ADMP)

- SC1 Presumption in Favour of Sustainable Development
- EN1 Design Principles

- EN2 Amenity Protection
- EN5 Landscape
- GB3 Residential Outbuildings within the Green Belt
- T2 Vehicle Parking
- T3 Provision of Electrical Vehicle Charging Points

15 Other

- Sevenoaks Development in the Green Belt Supplementary Planning Document (SPD)

**Relevant Planning history**

- 16 04/00138/FUL - Erection of a detached three bedroom house with attached garage - Refused and Appeal Withdrawn.

**Consultations**

*First consultation:*

Badgers Mount Parish Council

18 Objection for the following reasons:

- The proposed dwelling is out of character with all other dwellings in Badgers Mount, most of which have large gardens with the dwelling only occupying a small proportion of the plot. The site is small and screened by extensive trees and hedges on adjacent land which will significantly reduce light levels.
- Badgers Road is a narrow byway/public right of way and the proposed access is poor and will not allow lorries to enter the site. The width of the road is only just enough to accommodate a lorry which will inevitably mean that the road will frequently be obstructed during construction, blocking the only access to the 4 houses beyond the site, and preventing pedestrians, horse riders etc from passing.
- The section drawing of the west Gabion wall shows that at least half is built within the adjacent part of the original curtilage from which this site is to be separated. There is no section of the north or south walls, but the plan is the same for all. If built to the same detail, the north wall will intrude into Charis House land, and the south wall will take most of the bank / verge of Badgers Road, and both will be partly outside the “red line” site boundary. The construction of Gabion walls on the boundary line would be likely to dry out the adjacent land and probably cause subsidence, affecting the neighbouring garden amenity to the north and west.
- While the dwelling itself appears to be just outside the Green Belt boundary, the patio, parking area, cycle store etc are not. There will be some impact on the Green Belt. We would ask how accurately the Green Belt boundary is defined and confirmation that the line on the drawing is correct.
- Rooflights will cause significant light pollution.

- There are a number of factual errors on the application form:
  - Q8 - First item, the existing gate can hardly be considered to be an “existing vehicular access”, it is more a gate in the fence behind the raised verge. Therefore the answer should be “yes” as a new or altered access will be required.
  - Q9 - There are no existing parking spaces.
  - Q10 - States that there are no trees and hedges on the site, but drawing 3087-18-PL102 shows a number of existing trees and a hedge along the north boundary.
  - Q13 - States that foul sewage will be disposed of to “Mains Sewer”. The nearest main sewer is in Highland Road, well above the level of the site. If a pumped sewage pipe is installed in the road, installation will completely block the road.

### Tree and Landscape Officer

19 No objection:

- There are no trees of great importance located within the plot of land shown to be developed.
- There is a mature tree located within the rear garden of The Cottage but this appears to be a sufficient distance away from the nearest excavation proposals.
- Mature trees are located across the drive to the south but again these are a sufficient distance away.
- Suggest that a landscaping condition be attached to any consent given.

### Kent County Council (KCC) Highways

20 Comments:

- I refer to comments made by my colleagues in Public Rights of Way. While the proposal is considered a non-protocol matter for KCC Highways, it is considered appropriate to highlight Badgers Road is a Restricted Byway SR7A and Byway open to all traffic SR7.
- Kent County Council has no obligation to maintain a byway to a standard capable of supporting modern motor vehicles. Badgers Road is narrow and may not be able to support large construction vehicles.
- While I do not object to the proposal, I feel it necessary to highlight that any damage incurred to the PRow and byway would have to be made good at the applicant’s expense.

### KCC Public Rights of Way

21 Holding objection:

- The only route to this property is either along the Public Right of Way Restricted Byway SR7A then Public Right of Way Byway SR7 which is

known as Badgers Road or along the Public Right of Way Footpath SR8 then Highland Road and Public Right of Way Byway SR7.

- I anticipate that there will be an adverse impact on these rights of way due to the increase in traffic particularly heavy, large vehicles during the excavation works and delivery of materials. The byway is narrow.
- A byway is the lowest status of highway to carry public motorised vehicular access rights. Whilst motor vehicle use is lawful the County Council has no obligation to maintain a byway to a standard capable of supporting modern motor vehicles. The use of large, heavy vehicles that the byway may not be able to support or accommodate may further damage the surface and edges of the byway and other rights of way.
- Therefore request a condition limiting the size and loaded weight of vehicles to be used to 10 tonnes.
- Any further damage caused to the Public Rights of Way would have to be made good at the developer's expense.
- The application gives no details of the engineering solution that would be used to ensure that the byway is stabilised and does not fall into the site when the considerable excavation of soil is made - therefore put in a holding objection until such time as details are forthcoming.

#### Thames Water

22 No response received.

*Second consultation (for info only) - following amended plans removing reference to front gates:*

#### Badgers Mount Parish Council

23 The revision to omit the gates onto Badgers Road does not alter our previous objections to this application.

#### Tree and Landscape Officer

24 No further comments received.

#### Kent County Council (KCC) Highways

25 No further comments to make.

#### KCC Public Rights of Way

26 No further written comments received. However, the application was discussed verbally with the Rights of Way officer as follows:

- We discussed the comments she made and whether conditions may be able to deal with her concerns.
- We discussed that a Construction Management Plan could provide an acceptable way of ensuring the stability of the bank is carefully

considered and that this would have to take place within the site itself.

- Concern was still raised regarding how control could be had over the type of vehicles accessing the road as previously there have been issues with telecoms companies
- It was confirmed that we would expect as part of any Construction Management Plan (CMP) details of all machinery and vehicles that would need to access the site and that any grant of such a Plan would mean the applicant would need to adhere to this at all times, with no larger vehicles accessing the site.
- PROW officer was satisfied with the proposed solution through a CMP.

### Thames Water

27 No response received.

### **Representations**

28 We received 2 letters of objection and 1 letter not specifically stating objection, but with several concerns. Following the information only amendment we then received 1 further letter of objection. These objections and concerns relate to the following:

- 2 houses on one plot sets a precedent.
- Neighbouring plot divided from one to two dwellings and The Cottage has doubled in size.
- Many other new buildings in the area built on previous footprints but this one is not.
- Overdevelopment
- Natural essence of Badgers Mount and AONB are at threat of being eroded.
- Footprint larger than most, on a plot half the size, with virtually no garden - would not conserve the character and appearance of Badgers Mount
- Removal of protected trees
- No information of materials and roof in the dry season may rarely be green (i.e. Riverhead Infants School).
- No detail given about visual impact from perspective looking south
- The land is Green Belt - would open the door for more development.
- Driveway and parking is not out of the Green Belt boundary.
- There is no main drainage - sewer is 4m higher - would this require noisy pumping?
- Not convinced the gabion cages would be substantial enough before they fail due to corrosion or ground heave.
- Access is limited and natural banking would need to be destroyed to allow vehicle entrance.
- Construction noise would be unbearable for a long time.
- Where would construction vehicles park?
- Removal of considerable amounts of soil would require large lorries which will not be able to have direct access to the site.

- Access is narrow and suspect not wide enough to allow adequate turning circle into the property.
- Residents have to pay for the upkeep of the road and over the years the building firms have not paid for the damage to the roads.
- The amendment to remove the gates makes no difference to objection.

29 We also received 2 letters from the Badgers Mount Resident's Association (one from the first consultation then one following the information only amendment), with the following comments:

- Badgers Mount Estate has an accepted historic 'building line' of just over 8m which over the years SDC have enforced.
- The proposal is 2.4m away from the boundary, at its closest 2m - contrary to planning requirements.
- The section of Badgers Road is very narrow single track Byway with no pavements and steep grass bank verges - no areas for visitor parking or delivery vehicles - construction would block the road and make inaccessible for residents.
- No safe refuge areas for pedestrians or horses, or any turning areas
- Parts of the application form are inaccurate (Q8, 9, 11 and 13).
- Laying of the drainage would require total closure of the road
- Concerns regarding structural stability of the road and verge alongside the site
- Concern regarding how the excavation and groundworks can be undertaken - inevitable that the road will be blocked - no emergency access etc.
- Would create an urban environment streetscene which is unacceptable and out of place within an AONB
- Totally out of keeping with the established character of Badgers Mount, the AONB and Green Belt.
- The amendment makes no change to our opinion as stated in our letter to your council of 15th January 2019.

30 We also received a statement from the agent with the following points:

- I can confirm that the applicant would accept a Construction management plan condition incorporating the requirement for a photograph survey to be taken of the Public Right of Way prior to any work commencing on site in order to ensure that any damage caused to the public right of way would be made good at the developer's expense. Such a Construction Management Plan condition would be standard in these situations.
- I appreciate the concerns that have been expressed regarding an engineering solution that would be used to ensure the byway is stabilised and would suggest this would be able to be dealt with via the Construction Management Plan condition in order to address this point and I'll be happy for this to also be included within the wording of such a condition in order to address the issue.

- Although there is a holding objection on this point, I see no reason why a suitably worded planning condition could not adequately secure KCC's interests.

## Chief Planning Officer's appraisal

### Principal issues

- Principle of development
- Impact on the Green Belt
- Design and impact on the AONB and character of the streetscene
- Impact on neighbouring amenity
- Access, parking and highways impact
- Trees, landscaping and biodiversity
- Other considerations

### Principle of development

- 31 Whilst the NPPF places an emphasis on development on previously developed land, it does not preclude other land, including garden land, from being developed for residential use, provided such development is in suitable locations and relates well to its surroundings. Residential gardens outside built up areas' can be previously developed land. Land in built up areas such as private residential gardens is excluded from the definition of previously developed land (Annex 2 NPPF).
- 32 Paragraph 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.
- 33 The site lies partly within the built confines of Badgers Mount, with the eastern part within the Green Belt. It is noted that the development proposes a shed and parking area within the Green Belt eastern portion of the site, however, the proposed new dwelling itself would be located on the western part of the site which lies outside the Green Belt and within the built confines. The new dwelling would be consistent with Policy LO1 of the Core Strategy which states that development should be focused within existing settlements. Therefore, while it does not necessarily meet the definition of previously developed land, there is a presumption in favour of sustainable development on land which is within the built confines of a settlement under Policy LO1, providing the development does not harm the character of the area and is consistent with Policy LO7 of the Core Strategy which permits small scale infilling in smaller villages and hamlets, such as Badgers Mount.
- 34 It is therefore considered that the principle of development could be accepted, subject to the impact on the character of the area, and other material planning considerations as assessed below.

## Impact on the Green Belt

- 35 As set out in paragraph 145 of the NPPF, new buildings in the Green Belt are inappropriate development. There are some exceptions to this, such as the replacement of a building provided that it does not result in disproportionate additions over and above the size of the original building.
- 36 Paragraph 143 states that where a proposal is inappropriate development in the Green Belt, it is by definition harmful and should not be approved except in very special circumstances.
- 37 Paragraph 144 of the NPPF advises we should give substantial weight to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Therefore, the harm in principal to the Green Belt remains even if there is no further harm to openness because of the development.
- 38 Openness is an essential characteristic of the Green Belt and is about a freedom from built form. Even if there is absence of harm to openness, there can be harm in principal to the Green Belt from inappropriate development.
- 39 At a local level, Policy GB3 of the ADMP states that outbuildings located more than 5m from the existing dwelling will be permitted where the building, including the cumulative impact of other outbuildings and extension within the curtilage of the dwelling, would be ancillary to the main dwelling in terms of function and design and would not materially harm the openness of the Green Belt through excessive bulk or visual intrusion.

### Assessment against policy and impact on openness

- 40 The proposed dwelling would not be located within the Green Belt itself, although part of the roof would overhang the Green Belt boundary. This overhang equates to 11.04sqm. The proposal would result in the replacement of an existing summer house with a new bicycle storage shed. This shed would be in the same use as the summerhouse (ancillary residential) and when combined with the roof overhang would result in 15.45sqm within the Green Belt.
- 41 This floorspace would be less than the existing floorspace of the summerhouse to be demolished which equates to 16.8sqm. The proposed three dimensional built form within the Green Belt would therefore be less than the existing. This is particularly as the new shed would have a very modest and ancillary function and design which would not have excessive bulk within the Green Belt, complying with Policy GB3 of the ADMP.
- 42 It is acknowledged that the proposed parking area would be located within the Green Belt. However, the land levels would not be increasing in this area, in fact they would decrease, and the surfacing of this area would not add three-dimensional bulk. The proposal would increase the use of the eastern part of the site but this is already used as part of the previous

residential garden use associated with The Cottage. It is therefore considered that there would not be a material change of use of the land and the continued residential use would not materially harm the openness of the Green Belt.

- 43 Due to this, the impact to the openness of the Green Belt as a result of the proposal overall would not be disproportionate nor harmful and as such, would comply with the NPPF. Any grant of permission would remove permitted development rights to ensure that no further outbuildings could be built or any extensions to the dwelling without further careful consideration under the planning permission process.

#### **Design and Impact on the Area of Outstanding Natural Beauty (AONB) and Character of the Streetscene**

- 44 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. There are two considerations directly related to a site's AONB status when determining a planning application. Firstly, does the application conserve the AONB and secondly, if it does conserve the AONB does it result in an enhancement.
- 45 The NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, with the conservation and enhancement of wildlife and cultural heritage also important considerations (paragraph 172).
- 46 Policy EN5 of the ADMP states that the Kent Downs and High Weald Areas of Outstanding Natural Beauty and their settings will be given the highest status of protection in relation to landscape and scenic beauty. 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.
- 47 More generally, Policy SP1 of the Core Strategy and Policy EN1 of the ADMP state 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.
- 48 The general Badgers Mount area is characterised by a collection of approximately 125 dwellings located to the east of the Orpington by-pass road. It has an increasingly enclosed and rural character to the road as travelling eastwards towards the site along Badgers Road. The dwellings are generally set back from the road with parking and soft landscaping to the frontages with the majority on relatively modest plots. There are only a handful of properties that are located on sizeable plots, most of which are located to the south-east of this area, but also directly east of the site (Parish Field, Selworthy and Haresfield). This pattern of development results in an overall density of approx. 7.7dph. The addition of the new dwelling would result in a density of 7.8dph. This is a very minor increase which would not harmfully affect the overall density of built form in the area, particularly considering the design of the dwelling.

- 49 It is acknowledged that permission for a new dwelling on the site was refused permission in 2004. Since this time planning policy has changed in regards to making effective use of land, but also the overall design and placement of the proposal on the site has changed significantly.
- 50 The character of the site would change as it would no longer form a grassed rear garden. However, change is not necessarily harmful and the impact of the new dwelling needs to be carefully considered. The proposed dwelling would have a single storey contemporary design which would have modest eaves and overall ridge height of 4.8m. While it would extend across almost the width of the site and appears bulky when looking at the roof plan provided, this is deceptive as when considered in elevation form it would have a modest design and character which would not harmfully overwhelm the site.
- 51 Concern has been raised from the Residents' Association that the new dwelling would be sited less than the 'historic building' line of 8m to the road. The new dwelling would be sited closer to the boundary than this, at its closest 2m away. However, it would be orientated at 90 degree angle to the road so its flank elevation would face the road instead of its front elevation. This would be closer than the building line of The Cottage, however, The Cottage itself sits closer than 8m to the boundary of the road. Even if this were not the case, it is considered that the single storey contemporary design of the dwelling and its orientation means that even when sited 2m from the boundary, it would not have a dominant impact on the character of the streetscene. There may be other restrictions in place such as covenants on the land which may indicate where new dwellings can be built and their distances away from a boundary, however, the planning process cannot take this into account as part of the decision making process as we can only consider the impact to the character of the area and other designations such as the AONB. Any grant of planning permission does not necessarily mean that a permission can be lawfully built out, thus if there are covenants in place then the onus is on the applicant to address these under different legislation.
- 52 The use of the green sedum roof is welcome in creating the visual effect of soft landscaping when viewed from the top of the road as it slopes downwards towards the site. The use of this material as well as the timber cladding would respond well to the increasingly vegetated and rural character of Badgers Road when travelling eastwards and it is considered that this design and materials would respond well to the character of the AONB landscape, conserving this character. It is noted that the management of such sedum roofs can be challenging, however, any grant of permission would include a condition ensuring that further details of the type of sedum and its ongoing maintenance is submitted to ensure it continues to contribute to the design of the dwelling and enhances the appearance of the development within the immediate AONB landscape. All proposed materials would also be conditioned upon any grant of permission to ensure the timber cladding responds to the type of timber in the area.
- 53 The proposed rooflights would not be excessive in number or size, and it is not considered that they would harmfully impact on the dark skies character of the AONB landscape, particularly when considering that the new dwelling would be located between two existing properties, rather than in an

isolated location. In addition, the rooflights would be set into the roof, rather than protruding and the sunken nature of the property would ensure that any light spillage would not be as excessive as if a two storey dwelling were proposed in the same location.

- 54 The layout of the site would provide a sufficiently sized grassed area which would form the amenity space of the dwelling. The hard surfacing for the parking area would be conditioned as part of any grant of permission to ensure that the materials are permeable and appropriate for the semi-rural character of the area.
- 55 Due to the above, it is therefore considered that the subdivision of the site and addition of the new dwelling with its contemporary design would not detrimentally harm the overall character of the streetscene and would result in a dwelling which would enhance the immediate AONB landscape through appropriate design and conserve the wider setting and experience of the landscape consistent with Policy SP1 of the Core Strategy, Policy EN1 and EN4 of the ADMP and the NPPF.

### **Neighbouring Amenity**

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

#### Impact on neighbours

- 57 The nearest neighbours to the site are The Cottage, which would be located 16m away to the west, Charis House located 14-15m away to the north-west and Parish Field located 16-17m away to the east. The Cottage and Charis House sit notably elevated when compared with the site, with Parish Field set at a lower level, but screened from view by a substantial 5m evergreen hedge.
- 58 The new dwelling would be single storey in nature, set within the site so that from The Cottage and Charis House all that would be seen is the top of the sedum roof, rather than any direct close view of the elevations and windows. Due to the site level changes there would be no windows from the new dwelling that would harmfully overlook the gardens or habitable rooms of these two dwellings. This is also considered the case for Parish Field as although this sits at a lower level, the hedge between the boundary acts as a natural screen which would ensure there is no harmful overlooking between the two dwellings.
- 59 The distances between the properties would ensure there would not be a harmful loss of light as a result of the development.
- 60 It is noted that concern has been raised regarding the impact from vehicle noise and general construction noise on the amenity of neighbouring properties. In regards to the proposed parking area of the new dwelling this would be located close to the access, and not directly adjacent to any private rear amenity area of the neighbouring dwellings. As such, it is not considered that it would give rise to unacceptable levels of vehicular noise, particularly considering that the development is for a single dwelling. In regards to construction noise, there would be some level of disruption as part of the development. However, this is controlled by separate Environmental Health legislation and the applicant would be required to

adhere to this throughout the construction phase. There would also be standard hours of working that would need to be adhered to as part of a Construction Management Plan and this would ensure that there is no working on Saturday afternoons, Sundays or Public Holidays, in line with Environmental Health legislation.

- 61 Due to the above, the proposal is not considered to have a detrimentally harmful impact on the amenity of neighbouring properties in accordance with Policy EN2 of the ADMP and the NPPF.

#### Amenity of future occupiers

- 62 The proposed garden area of the new dwelling itself would be located over 15m away from the rear of Charis House and The Cottage so this proposed private amenity area would not be harmfully overlooked.
- 63 The sunken nature of the property would lead to less light than normal within the dwelling. However, all habitable rooms would have windows and the rooflights would ensure that suitable light levels are experienced throughout the dwelling and circulation spaces.
- 64 The amenity of future occupiers is therefore considered to be acceptable under Policy EN2 of the ADMP and the NPPF.

#### **Parking, Access and Highways Impact**

- 65 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 3 or more bedrooms require 2 independently accessible parking spaces.
- 66 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.
- 67 Badgers Road forms a Public Right of Way Byway. The proposed parking layout would provide 2 vehicle spaces with room to manoeuvre around the site to allow a vehicle to exit in a forward gear. The access is existing, although may require some alteration to the small bank in front of the site which forms part of the byway, although it is noted that the site levels would be lowered which may assist in this access. The agent has checked the ownership and confirms it is within the control of the application or has been dealt with by serving notice on owners of The Cottage. Any works to this access would therefore be possible to allow vehicular access.
- 68 The gates have been removed from the plans so that vehicles would be able to enter and exit the site freely without blocking up the byway. While the road is narrow, the access into the site itself has a width of 3.4m which is 1m more than the KCC minimum requirements, thus allowing more manoeuvrability out of the site. It is therefore considered that the access would be suitable particularly considering this access would not be dissimilar to properties added to Badgers Road over the years, such as Charis House which required a new access out onto Badgers Road.
- 69 The Aco drain located at the access would lead to a soakaway within the garden area. This would ensure sufficient drainage at the access point, avoiding excessive water running out into the byway.

- 70 It is acknowledged that there is concern from local residents regarding the upkeep of the byway as this is contributed to by those living with Badgers Road. Unfortunately the planning process cannot safeguard any financial implications a development may have, as this would be a civil matter between those involved.
- 71 However, the impact of the development on the byway is a material planning consideration in regards to highway and pedestrian safety. The Public Rights of Way Officer originally submitted a holding objection in relation to the impact of the development on the byway. This is in relation to the impact on the stability of the banks of the byway as a result of the excavation within the site and also the increase in traffic during the construction phases as heavy large vehicles may damage the banks and condition of the byway. This is material consideration in regards to ensuring the development does not harmfully restrict the use of the byway.
- 72 Discussions were had with the Public Rights of Way officer in regards to the effectiveness of a Construction Management Plan upon any grant of permission in restricting the size of vehicles that would access the site, the timing of deliveries, details of the excavation and ensuring that the bank would remain stabilised. The Public Rights of Way officer was satisfied that providing the Construction Management Plan is specifically tailored to the site in ensuring that control can be exercised over the type and weight of vehicles using Badgers Road as part of the construction along with a photographic survey of the bank along the byway then this would overcome their concern in regards to heavy machinery. This is providing any grant of permission is also conditioned to ensure that the byway is made good if any damage were to occur once development is completed.
- 73 It is acknowledged that the extent of excavation within the site would be notable and would extend across the width of the site which may impact on the boundaries. However, having discussed the site and the proposal with the Building Control department they confirmed that the use of gabion cages are an effective and suitable way of ensuring land remains stabilised. They indicated that the gabion cages would ensure that there would not be land slippage into the byway if appropriately installed. This would be dealt with outside the planning process, under Building Regulations. It is the responsibility of the applicant to ensure that other consents such as Building Regulations are sought and Paragraph 179 of NPPF is clear that securing safe development rests with the developer and/or landowner. Any changes to the layout, size or positioning of the gabion walls may require further planning permission at a later date.
- 74 The concerns from the Parish regarding the siting of the gabion cages are acknowledged. The plans indicate that the gabion cages would be set into the land owned by The Cottage, however, the applicant has served notice on this property and would need all other land owner's permission (such as that from Charis House) if any walls were to be located outside their land ownership boundary. Planning permission does not mean that a development can be lawfully carried out as the applicant would need to ensure that any other consents are in place, including consent from affected land owners before any granted works can commence. Therefore, if the gabion walls were to fall outside the land owned by the applicant and consent was not

given from the relevant land owners to construct the walls then then further planning permission may be required if a different scheme is proposed.

- 75 It is acknowledged that there would be a noticeable increase in traffic as part of the construction process, this is the same for all development and is a short term impact when compared to the built out development. It is considered that in this instance a very specific Construction Management Plan for the development would alleviate the concerns from the Public Rights of Way team in regards to the impact to the byway. Such a condition upon any grant of permission would provide them with the ability to further comment on the measures proposed and types of vehicles that would be used in the construction phase, thus ensuring that the development minimises the impact to users of the byway as much as possible.
- 76 In regards to the impact to the byway from one additional dwelling once built, it is considered that this would not result in a material increase in vehicle movements along this part of Badgers Road to warrant refusal of an application on highway and pedestrian safety grounds.
- 77 Due to the above careful consideration, the proposal would provide sufficient means of access and parking for the development in line with Policy EN1 and T2 of the ADMP and, subject to a site specific Construction Management Plan, would ensure that the construction phase of the development does not adversely affect the byway and those who use it.

#### **Trees, Landscaping and Biodiversity**

- 78 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.
- 79 The site mainly comprises grass, although there would be the loss of trees as part of the proposal, some within the retained garden of The Cottage and some where the new dwelling would be sited. These trees are not protected by a Tree Preservation Order as these trees are located further to the north and north-west within the garden of Charis House and Bowens Folly. There has also been some clearance of vegetation within the site, but this was also not protected. The Tree and Landscape Officer is satisfied that there are no substantial trees located within the plot which would be harmfully affected by the development and associated excavation. They have suggested that a landscaping condition is attached to any grant of permission. This is considered reasonable and necessary to ensure that the development sensitively responds to the character of the area through additional planting and soft landscaping.
- 80 The site currently comprises short grass thus is not likely to form a suitable habitat for any protected species such as reptiles. Although the applicant would need to ensure that any further vegetation or tree removal should be undertaken outside the nesting bird season to ensure that any works are carried out in accordance with the Wildlife and Countryside Act 1989 (as amended). The development would provide the opportunity to introduce ecological enhancements into the scheme which would contribute to the biodiversity of the area. Any grant of permission would ensure a condition is attached to this effect to ensure compliance with Policy SP11 of the Core Strategy, particularly taking into account the AONB location of which biodiversity is promoted through the NPPF.

## Other Matters

### Drainage

- 81 Notwithstanding the indication that a soakaway and aco drain could be accommodated on the site, it is considered appropriate that any grant of permission would also contain a condition in relation to full details of foul and surface water drainage to ensure the development can secure sufficient drainage.

### **Community Infrastructure Levy (CIL)**

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

### **Conclusion**

- 83 The proposed new dwelling would not be located within the Green Belt. The proposed shed and parking area are within the Green Belt but would not result in harm to the openness of the Green Belt, thus would be appropriate development.
- 84 The proposed design, siting and overall form of the new dwelling would have an acceptable impact on the character of the streetscene and wider AONB landscape.
- 85 The addition of a new dwelling to Badgers Road would not prejudice highway safety. After careful consideration, the imposition of a Construction Management Plan upon any grant of permission would ensure that appropriate measures are put in place to reduce the impact to the byway so the development does not harm highways or pedestrian safety.

### **Background papers**

Site and block plan.

Contact Officer: Aaron Hill Extension: 7494

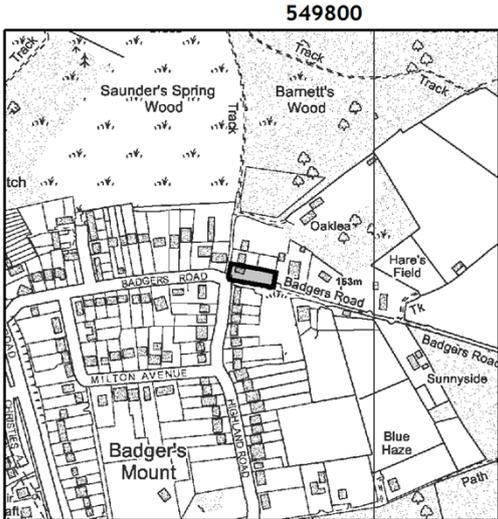
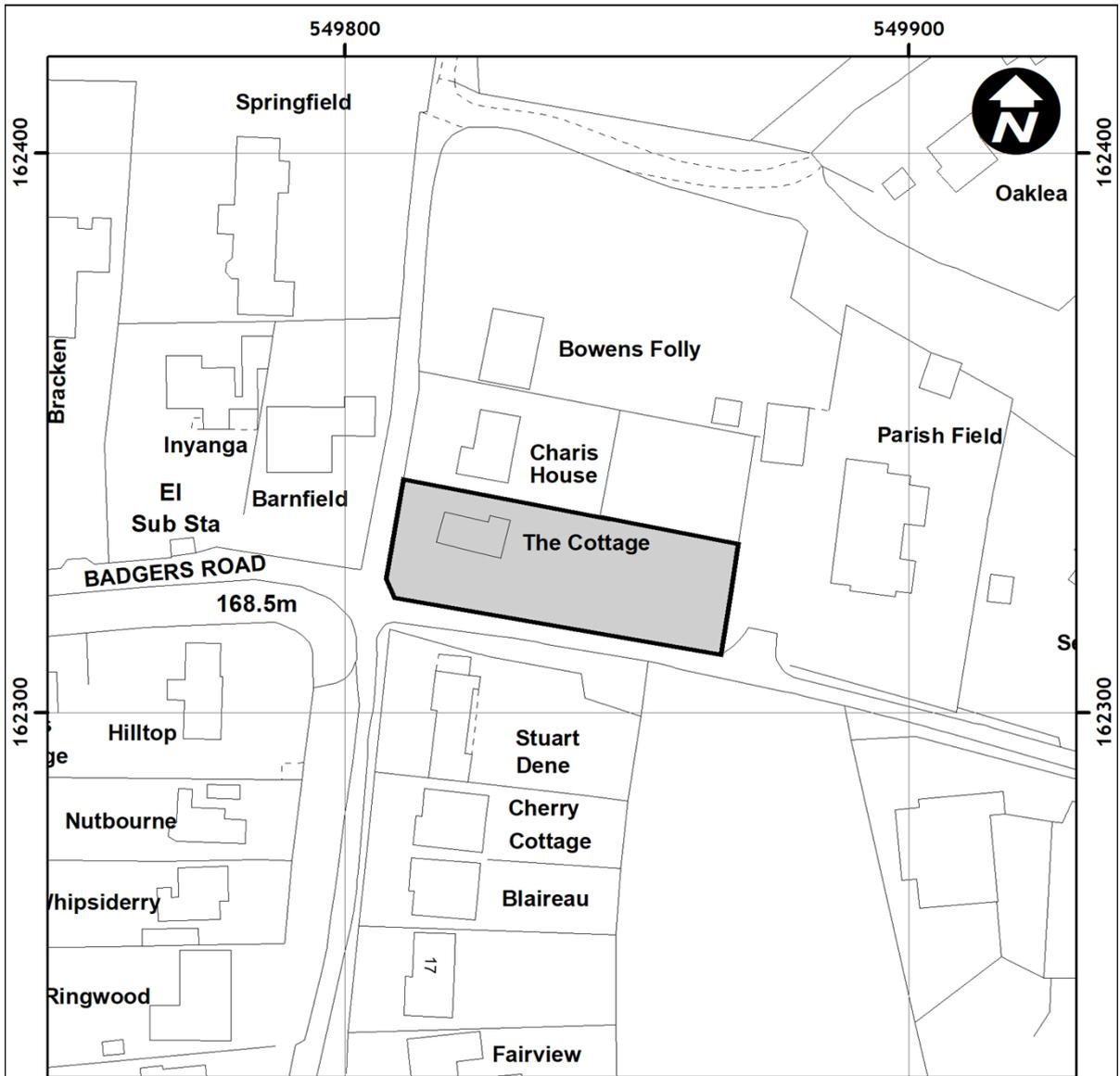
**Richard Morris**  
**Chief Planning Officer**

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PI70NHBKHH200>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=PI70NHBKHH200>



<h1>Site Plan</h1>	
Scale	1:1,250
Date	08/03/2019
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