

4.3 - 23/02976/MMA

Revised expiry date 12 January 2024

Proposal:

Amendment to 22/01496/HOUSE

Location:

Lulworth, School Lane, Seal Kent TN15 0BQ

Ward(s):

Seal & Weald

Item for decision

This application has been called to Committee by Councillor Thornton due to concerns over the impact of the proposed development on the National Landscape (AONB)

RECOMMENDATION: That planning permission be GRANTED subject to the following conditions:

1) The development hereby permitted shall be carried out in accordance with the following approved plans and details: Proposed Plans (RA1558/REV F/02).

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

2) Within three months from the date of this decision, details of material samples and specifications of the external materials including bricks, roof tiles, windows and railings for the balcony, shall be submitted to and approved in writing to the Local Planning Authority. The works shall be carried out in accordance with the approved details.

To ensure the development is in keeping with the character and appearance of the street scene and the Conservation Area, in accordance with policies EN1 and EN4 of the ADMP and policy SP1 of the Core Strategy.

3) Prior to the first occupation of the development hereby approved, details of the hard and soft landscaping and boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and all planting, seeding or turfing approved shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or diseased in the opinion of the local planning authority, shall be replaced in the next available planting season with others of similar size, species and number, unless otherwise agreed in writing by the local planning authority.

To ensure the development is in keeping with the character and appearance of the street scene and the Conservation Area, in accordance with policies EN1 and EN4 of the ADMP and policy SP1 of the Core Strategy.

4) Works related to the construction of the development hereby permitted, including works of demolition or preparation prior to building operations shall not take place other than between the hours of 08.00 to 18.00 hours Mondays to Fridays; 08.00 to 13.00 hours Saturdays; with no work on Saturday afternoons (after 13.00 hours), Sundays, Bank Holidays or Public Holidays.

In order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy EN2 of the Sevenoaks Allocations and Development Management Plan

Informatives

1) 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 site

- 1 The application site comprises a relatively large, detached dwellinghouse which is contained within a modest plot. Additionally, the site is situated within the village confines of Seal, the designated Seal Conservation Area and Kent Downs National Landscape (AONB).

Description of proposal

- 2 This application seeks to amend the approved plans associated with 22/01496/HOUSE. The amendment includes a 60cm increase in ridge height, and enlargement of the balcony.

Relevant planning history

- 3 22/01496/HOUSE – Part single, part double storey rear extension, single storey side extension and first floor side / rear extension over garage – GRANTE
- 4 22/03000/NMA - Non-material amendment to 22/01496/HOUSE – AMENDMENT NON-MATERIAL

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:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- Footnote 7 relates to a variety of designations, including SSSIs, Green Belt, AONBs, designated heritage assets and locations at risk of flooding.

6 Core Strategy (CS)

- SP1 – Design of New Development and Conservation
- LO7 – Development in Rural Settlements Allocations and Development Management Plan (ADMP)
- EN1 – Design Principles
- EN2 – Amenity Protection
- EN4 – Heritage Assets
- EN5 – Landscape

7 Other:

- Residential Extensions Supplementary Planning Document (SPD)
- Kent Downs AONB Management Plan
- Seal Village Design Statement

Constraints

8 The following constraints apply:

- Seal Conservation Area
- Kent Downs National Landscape (Area of Outstanding Natural Beauty)

Consultations

9 Seal Parish Council – Object got the following reason:

‘There are concerns about the overall impact this increase in height could make a significant difference to the impact which the new building will make.

In particular we reference Key Contextual View 10 from the Conservation Area Appraisal 2019 which will be altered considerably by an increase in mass and height of the building. The resulting building will be out of keeping and character with the rest of the street’.

10 Conservation Officer – The Conservation Officer submitted representations which state that ‘the proposed changes to the approved design are not considered to preserve the character or appearance of the conservation area and are not supported in conservation terms’.

Representations

11 Ten (10) letters of objection have been received relating to the following issues:

- Loss of light to the allotments.
- Loss of light to neighbouring properties.

- Prominent appearance of the property.
- Dominating appearance of the property when compared with its neighbours.
- Impact on contextual views within the conservation area.
- Impact on the privacy enjoyed by occupants of neighbouring properties.
- Obstruction of views to the North Downs.
- Height of the property as proposed.
- Noise Levels.
- Principle of an application being retrospective and not complying with the previously approved plans.
- Impact on listed buildings
- Mass and scale of the dwelling as proposed.
- Potential for a third floor to be provided at a later date.
- Impact in views from existing properties along Jubilee Rise.
- Restrictions previously applied to existing properties.
- Visual domination of the village.
- Dwelling being built larger than approved.
- Whether the fenestrations are appropriate within this setting.
- Site notice not displayed.

Chief Planning Officer's appraisal

The main planning considerations are:

- 12 Consideration of this application falls within the provision of Section 73 of the Town and Country Planning Act 1990 as amended. Section 73 gives an express power to apply for planning permission for the development without complying conditions attached to an earlier permission. The effect of a successful application under Section 73 is to produce fresh planning permission but limitations on the use of the Section 73. With regard to this application Section 73(2) states that the decision maker considers only the question of the conditions subject to which planning permission should be granted. In this case the application seeks to vary condition 2 of the 2022 permission.
- 13 Upon considering the above, the basis of this application is to vary condition 2 of planning permission 22/01496/HOUSE which relates to approved plans. The purpose for varying the condition is to substitute the approved plan(s) with amended scheme showing the change in roof ridge height by 60cm and the enlargement of the rear balcony.
- 14 The development which this application seeks to amend has by definition been judged to be acceptable in principle. Paragraph 031 (Reference ID: 21a-031-20180615) of the NPPG states that 'In deciding an application under Section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.' On this basis an assessment under Section 73 should be focused on the changes sought.
- 15 As highlighted above, the principle of the proposed works has already been established under the previous application to which this amendment relates. As noted, there have been changes in national policy since the last decision, however it is considered that the minor changes policy has not materially changed in the consideration of this proposal.

- 16 The main planning considerations are:
- Impact on the character of the area.
 - Impact on the conservation area.
 - Impact on the National Landscape (AONB).
 - Impact on neighbouring amenity.

Impact on the character of the area

- 17 Firstly, it is important to note that the subject property appears in views from public vantage points within Jubilee Rise, School Lane, and Childsbridge Lane. Furthermore, it is also important to note that the property sits taller than any of its neighbours when viewed comparatively. However, due to the topography of the site, the property as proposed does not extend above the ridgeline of its most immediate neighbours at Jubilee Rise to an extent that would visually dominate these dwellings. As such, it is not considered that the proposed development would cause significant additional harm when viewed in comparison with the previously approved scheme.
- 18 Given that the allotments occupy a modest sized parcel of land, and that the site is located within the village confines, near to significant existing built form, it is not considered that the proposed development results in demonstrable visual harm to the contribution that the allotments make to the area. As such, the allotments would be maintained as an appreciable community feature which contributes to the area as is supported within the Seal Village Design Statement.
- 19 Similarly, when viewed comparatively with the original scheme, it is not considered that the proposal would represent any significant harm to the village as a whole, especially given that the site is within the village confines of Seal.
- 20 Overall, for the reasons stated above, it is not considered that the proposed development to result in significant harm either the character or appearance of the wider streetscape.
- 21 In terms of the overall design of the property as amended, it is not considered that the amended scheme would cause the host property to appear visually unbalanced to a degree that would represent demonstrable harm. Similarly, the amendments to the height of the dwelling and the scale of the balcony would not represent significant harm to the character of the main dwellinghouse. As such, the proposal is considered to be acceptable from this perspective.

Impact on the Conservation Area

- 22 The subject property appears within contextual view 10 as shown within the Seal Conservation Area Appraisal Supplementary Planning Document (SPD). Contextual view 10 is shown to be looking in a northerly direction towards the property known as "Little Grove" and the application property from within Jubilee Rise, this view comprises some built form in the foreground with the North Downs landscape appearing in the distance.
- 23 Bearing the above in mind and having extensively compared the previously approved plans with those as proposed, the difference in the amount of landscape that would be appreciable from within viewpoint 10 would be negligible. As such, the perceived demonstrable harm to the conservation area the views in or out of it cannot be identified. The Conservation Officer's has been noted with regards to the impact on

the important viewpoints, however it is not considered that the proposed amendment would result in demonstrable harm to the conservation area.

- 24 Similarly, whilst the conservation officer states that the increase in massing and height would dominate views within and into the conservation area, it is important to differentiate between “impact” and actual harm. Whilst it is accepted that there is some impact to the conservation area by virtue of the amendment being visible from vantage points, it is not considered this impact equates to actual identifiable harm that justifies a reason to object on the grounds of impact to the views within the conservation area.
- 25 Additionally, the Conservation Officer states that top of first floor windows meeting the eaves is an identifiable characteristic of the conservation area, and that this feature would be lost as a result of the proposed amendment. However, there are examples of windows within the conservation area that do not follow this feature. Furthermore, this architectural feature was not deemed to be so important to the character of the conservation area as to include reference to it within the Seal conservation area appraisal. As such, the provision of a gap between the top of the window frame and the eaves would not result in harm to the important features of the conservation area as identified within the conservation area appraisal.
- 26 With regards to the enlargement of the balcony, the provision of brick pier would assist with the articulation of the façade to which is supported by the Conservation Officer. Overall, the proposed enlargement of the balcony to have a natural impact on the conservation area when compared with the previously approved scheme.
- 27 Overall, it is considered that the proposed amendments would neither harm nor unduly encroach into the views of the North Downs when standing at the location identified within the Seal Conservation Area appraisal as “contextual viewpoint 10”. Additionally, the proposed development would not detract from any important architectural features identified within the relevant Conservation Area appraisal. Therefore, the proposed amendments would successfully conserve the character and appearance of the conservation area in accordance with policy EN4 of the ADMP.

Impact on the National Landscape

- 28 The application site is situated within the Kent Downs National Landscape (AONB). As such, policy EN5 of the ADMP is relevant to the consideration of this application.
- 29 Policy EN5 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 would conserve and enhance the character of the landscape’.
- 30 In this case, it is pertinent to note that the application site is also situated within the village confines of Seal. As such, any views towards the village from public vantage points already comprises a significant level of built form, meaning that the village itself does not particularly contribute towards the scenic beauty of the National Landscape.
- 31 Upon considering the above, the modest increase in height of the dwelling would not harm the scenic beauty of the wider landscape when specially looking towards the village.

- 32 In terms of when looking out of the village and into the landscape beyond, the impact of the development upon these views is negligible. The site is situated on a lower land level than that of its neighbours within Jubilee Rise. Therefore, it is not considered that the proposed increase in either ridge height or scale of the balcony would unduly impact upon views looking out of the village towards the landscapes beyond.
- 33 Overall, the proposed development conserves the character and scenic beauty of the National Landscape and therefore accords with policy EN5 of the ADMP.

Impact on neighbouring amenity

- 34 The adopted Residential Extensions SPD sets out two tests in relation to overshadowing. These comprise a review of whether the proposal would result in the loss of direct sunlight for a significant part of the day, and whether the proposed development would cause a significant loss of ambient daylight.
- 35 In terms of direct sunlight, the proposed development is sited north of its immediate neighbours, meaning that the north facing fenestration of the closest properties already receives a reduced level of sunlight as the sun travels from east to west. As such, it is not considered that the proposed increase in height of 60cm would result in any significant additional harm when compared with the original proposals.
- 36 In terms of ambient daylight, the residential extensions SPD puts forward a 45° test to ascertain the level of overshadowing experienced by any neighbour. In this case, the proposed development would pass this test on elevation when assessed against the rear facing fenestrations and amenity area of the nearest properties. Therefore, the proposed development is considered to have an acceptable impact in this regard.
- 37 In relation to outlook, the planning system cannot protect private views from other properties. However, it can look at whether a proposed development would significantly alter the nature of the outlook from neighbouring properties. In this case, if the scheme had been built as originally approved, the outlook from neighbouring properties when looking towards the application site would have comprised built form with views to the landscape beyond. Therefore, given the modest nature of the proposed amendments, it is not considered that that the proposal would significantly alter the nature of this outlook.
- 38 Additionally, given that a balcony has already been approved in its location, the enlargement of this structure would not result in an unacceptable loss of privacy when viewed comparatively with the approved scheme.
- 39 Whilst it is generally expected that there will be a degree of noise and disruption during the construction phase of a development, A condition shall be secured which specifies the appropriate hours of works to minimise any impact in this regard. Any breach of these hours should be reported so that the council can explore whether enforcement action can be taken.

Other issues

Impact on listed buildings:

- 40 Concerns in relation to the impact of the proposed amendment on the surrounding listed buildings has been raised, and the conservation officer has suggested that there is a risk that the proposal could have a domineering impact on the nearby listed buildings at 4 and 5 School Lane.
- 41 However, it is considered that the relatively modest nature of the amendments would not impact either the significance of the heritage assets or their settings. Additionally, the road known as "School Lane", the boundary treatments, and the spacing between the site and these listed buildings combine to provide a clear level of separation between the assets and the application site. As such, these factors ensure that the development does not impact their significance, their setting, and not lessen the contribution that they make to the wider area.

Third Party Comments:

- 42 The issues raised by third parties' in relation to the impact on visual amenity, wider views, designated heritage assets, national landscapes, residential amenity have already been addressed within the relevant sections of this report.
- 43 The objections raised on the basis of the application being retrospective are not material to this application. Whilst submitting an application retrospectively can put the applicant at increased risk, there is no legislation or guidance that prevents applications being submitted retrospectively. As such, it would be highly erroneous to refuse an application that is otherwise acceptable on the sole basis that it is retrospective.
- 44 Whilst a comment has been submitted which pointed out that a site notice had not been displayed, it can be confirmed that a notice was subsequently displayed on 15 December 2023.
- 45 Concerns relating to the potential for a third floor to be provided within the dwellinghouse are not material to this application. This application does not specifically propose a third floor and cannot, therefore, be refused on a hypothetical situation. Furthermore, any loft conversion would either need to conform with the regulations as set out within the General Permitted Development Order 2015 (as amended), or be formally approved by the Council should the works require planning permission.
- 46 A neighbour has raised concerns in relation to the dwelling being larger than that permitted by the previous scheme, citing the distance between the north elevation and the northern boundary as being the reason for their concern. However, having compared the plans with our GIS maps, the width measurement of the dwelling is in accordance with the originally approved plans.
- 47 The applied conditions as attached to previous planning permission have been re-assigned to this where appropriate, amended or removed if no-longer appropriate/reasonable.

Community Infrastructure Levy (CIL)

48 The proposed amendment would not increase the amount of internal area when viewed comparatively with the originally approved scheme. As such, the proposed development would not be CIL liable.

Conclusion

49 It is considered that the variation to the condition proposed is acceptable and in accordance with the Development Plan and there are no overriding material considerations to indicate otherwise.

Recommendation

50 It is therefore recommended that permission is granted.

Background papers

Proposed Plans (RA1558/REV F/02)

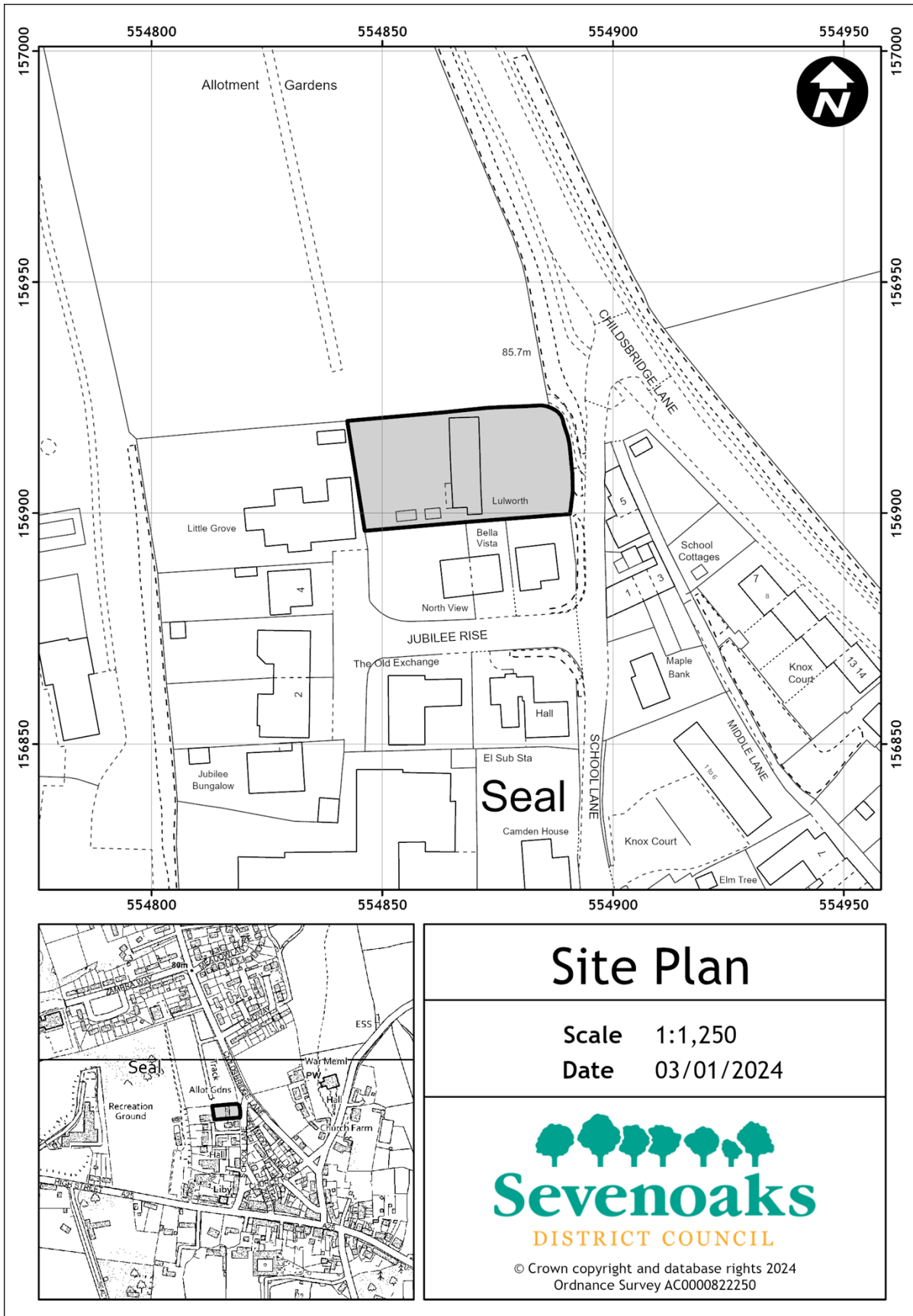
Contact Officer(s):

Christopher Park 01732 227000

Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



Site Plan

Scale 1:1,250

Date 03/01/2024



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Ordnance Survey AC0000822250

SITE PLAN

