

8th July 2020

REPORT TO PLANNING COMMITTEE

13 JULY 2020

Arrangements During COVID 19

Sevenoaks Town Council is endeavouring where possible to continue with its day-to-day activities, including providing recommendations on planning applications. Unfortunately, face-to-face meetings are suspended until June and decisions and planning recommendations are delegated to ward members, committee chairs and the Chief Executive.

Details of planning applications being considered will be published in the normal manner and timescale - Comments on planning applications are welcome by email. Please submit your comments **by 12noon on 13th July 2020** to: planning@sevenoakstown.gov.uk

It is hoped in the near future that we will be able to hold virtual meetings and details will be published.

Cllr K Bonin	Cllr N Busvine OBE (Mayor)
Cllr S Camp (Chairman)	Cllr Dr M Canet
Cllr A Clayton	Cllr A Eyre
Cllr V Granville-Baxter	Cllr R Hogarth
Cllr L Michaelides	Cllr T Morris Brown
Cllr Mrs R Parry	Cllr R Parry
Cllr R Piper (Vice Chairman)	Cllr S Raikes
Cllr C Shea	Cllr E Waite

1. DECLARATIONS OF INTEREST

To receive any disclosures of interest from Members in respect of items of business included in this report.

2. NOTES ON PLANNING REPORT

To receive and agree the Notes on the Planning Report of 29th June 2020.

3. COVID-19: PLANNING COMMITTEE ARRANGEMENTS

a) To note that face-to-face Planning Committee meetings at the Town Council Offices will continue to be suspended while Social Distancing measures remain in place.

b) To note that all arrangements are subject to review.

Town Council Offices
Bradbourne Vale Road
Sevenoaks Kent TN13 3QG

tel: 01732 459 953 fax: 01732 742 577
email: council@sevenoakstown.gov.uk
web: sevenoakstown.gov.uk

4. PLANNING SYSTEM REFORMS

a) To note that the Government has introduced multiple reforms of the planning system, which would extend permitted development.

b) To note that the SLCC update regarding the changes can be found at the below link:

<https://www.slcc.co.uk/expansion-in-the-types-of-development-which-can-take-place-without-the-need-for-a-planning-application/>

c) To receive a copy of the Explanatory Memorandum to the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

5. PLANNING APPEALS

To receive and note the following appeal and cost decisions:

i. W / 4000666: 19/02971– Summerhill, Seal Hollow Road (APPEAL ALLOWED)

ii. W / 4000666: 19/02971– Summerhill, Seal Hollow Road (APPLICATION FOR AN AWARD OF COSTS ALLOWED)

6. PLANNING APPLICATIONS

To consider planning applications received during the two weeks ending 7th July 2020, for which the comments will be forwarded to the District Council as a Ward Councillor, Chairman of Planning Committee and Town Clerk delegated decision.

7. PRESS RELEASES

To consider any item in this report that would be appropriate for a press release.

Sevenoaks Town Council

NOTES ON REPORT TO PLANNING COMMITTEE

MONDAY 29th June 2020

Cllr Keith Bonin	Cllr Nicholas Busvine OBE, Mayor
Cllr Sue Camp (Chairman)	Cllr Dr Marilyn Canet
Cllr Tony Clayton	Cllr Andrew Eyre
Cllr Victoria Granville-Baxter	Cllr Roderick Hogarth
Cllr Lise Michaelides	Cllr Tom Morris Brown
Cllr Mrs Rachel Parry	Cllr Richard Parry
Cllr Robert Piper (Vice-Chairman)	Cllr Simon Raikes
Cllr Claire Shea	Cllr Edward Waite

The Councillors listed above were consulted electronically, facilitated by the Town Clerk/Chief Executive and Planning Committee Clerk.

Representation was received from a member of the public in relation to [plan no. 15] 100 Weald Road and circulated to all Town Councillors

72 APOLOGIES FOR ABSENCE

Cllr Piper was noted as absent.

73 DECLARATIONS OF INTEREST

Cllr Raikes declared a non-pecuniary interest in the following application:

[Plan no. 5] 63 Dartford Road

74 DECLARATIONS OF LOBBYING

Cllr Bonin declared he had been lobbied on the following application:

[Plan no.15] 100 Weald Road

75 NOTES ON PLANNING REPORT

Councillors received and agreed the Notes on the Report To Planning Committee of 15th June 2020.

76 COVID-19: PLANNING COMMITTEE ARRANGEMENTS

a) It was noted that face-to-face Planning Committee meetings at the Town Council Offices would continue to be suspended while Social Distancing measures remained in place.

b) It was noted that all arrangements were subject to review.

77 PLANNING APPEALS

The committee noted that the inspector has dismissed the following appeal:

- 19/03354/HOUSE – 6a St Botolphs Road

78 PLANNING APPLICATIONS

Councillors considered planning applications received during the two weeks ending 23rd June 2020. It was agreed that the attached comments would be forwarded to the District Council, as a Ward Councillor, Chairman of Planning Committee and Town Clerk delegated decision.

79 PRESS RELEASES

None.

Council Meeting 23rd March 2020 Minute 567 ii)

RESOLVED: To agree emergency measures that if it was not possible to convene a meeting of the Council or Committee in reasonable time or where restrictions are in place, the Town Clerk (and Deputy Town Clerk) shall have delegated authority under s.101 of the Local Government Act 1972 to make decisions on behalf of the Council where such decision cannot be reasonably deferred and must be made in order to comply with a commercial or statutory deadline. This will be carried out where possible by consultation with members by electronic means or telephone. The Town Clerk will further consult with the Mayor for guidance as necessary. The delegation does not extend to matters expressly reserved to the council in legislation or in its Standing Orders or Financial Regulations. Any decision made under this delegation must be recorded in writing and must be published in accordance with the relevant regulations.

Planning Applications Considered

Applications considered on 29-6-20

1	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/00172/FUL	Mark Mirams 03-07-20	Cllr Eyre	Ninethirty Limited
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
J & M Lewer			95 Weald Road	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				12/06/20

Demolition of existing house and construction of 2no. self contained dwellings with associated access and landscaping.

Amended Plan (for information only) received from SDC on 10-02-2020:

Amended plans to demonstrate retention of raised bank and relocation of parking spaces.

20/00172/FUL - Amended Plan:

Revised Daylight and Sunlight Study document detailing the relationship between the proposed development and 93 Weald Road.

Comment

Sevenoaks Town Council recommended approval provided officers do not feel the amenities of neighbours (on three sides) are affected.

2	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/00862/HOUSE	S Simmons 13-07-2020	Cllr Parry	Carmen Austin Architectur
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr Buxton & Mrs Carda		Wood Dene	17 Oakhill Road	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				22/06/20

Demolition of the existing garage, construction of a new garage with art studio in a roof development above with dormer windows.

20/00862/HOUSE - Amended Plan:

Plans have been amended to reduce the scale of the proposed extension.

Comment

Sevenoaks Town Council recommended approval.

Planning Applications Considered

Applications considered on 29-6-20

3	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/00905/FUL	Emma Gore 02-07-2020	Cllr Michaelides	TP Bennett 02072082410
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Martins Properties			16 South Park	Town
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				11/06/20
<p>Raising the roof to facilitate the extension of the office by adding one new storey of floorspace. Proposed new additional mezzanine parking level, creating 7 new car parking spaces at lower ground level. Removal of rooftop telephone antennae and provision of roof top plant.</p> <p>Amended Plan - 20/00905/FUL:</p> <p>Revised parking and comments on TRICs data.</p>				

Comment

Sevenoaks Town Council recommended approval.

4	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01169/HOUSE	S Simmons 10-07-2020	Cllr Clayton	Sevenoaks Plans Ltd
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr & Mrs Van Der Velde			18 Wildernesse Mount	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				19/06/20
<p>Proposed ground, first and second floor rear extension; proposed dormer at sides, Juliette balcony, balcony, rooflights and alterations to fenestration.</p> <p>20/01169/HOUSE - Amended Plan:</p> <p>Plans have been amended to remove the balcony at second floor level and to replace this with a standard window. Applicant has also agreed for side-facing dormer windows to be obscure glaze.</p>				

Comment

Sevenoaks Town Council recommended approval provided the planning officer is satisfied that there is no overlooking of neighbouring gardens, and that obscure glazing can be conditioned for the south facing roof dormer of the extension.

5	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01284/HOUSE	Alexis Stanyer 13-07-2020	Cllr Raikes	Mr S Hardwick
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr I McLauchlan			63 Dartford Road	St Johns
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				22/06/20
<p>Conversion of existing integral ground floor store room into a habitable room, proposed single storey front and rear extensions to converted store room with rooflights.</p>				

Comment

Sevenoaks Town Council recommended approval.

Planning Applications Considered

Applications considered on 29-6-20

6	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01286/HOUSE	Ronald Tong 08-07-2020	Cllr Michaelides	MW Designs 0790396247
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr Beane			17 Gordon Road	Town
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				17/06/20
Demolition of existing extension, rear infill extension, conversion of attic with L shape rear dormer.				

Comment

Sevenoaks Town Council recommended approval subject to the conservation officer being satisfied that the proposed application preserves and enhances the street scene.

7	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01383/HOUSE	Ronald Tong 09-07-2020	Cllr Granville-Baxter	Offset Architects
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mrs N Conway			10 Broomfield Road	Northern
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				18/06/20

Double storey rear extension.

20/01383/HOUSE - Amended Plan

**Amended Plan received with regard to the application, the Applicant/agent states that the change would comprise the following
Revised specifications on the proposed first floor side extension
The first floor side extension now set away further from the side boundary.**

Comment

Sevenoaks Town Council recommended refusal on the grounds of overdevelopment, and overshadowing of the adjacent house at number 12.

8	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01431/HOUSE	S Simmons 08-07-2020	Cllr Shea	N/A
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
O'Halloran			13 Bosville Road	Northern
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				17/06/20
Single storey side and rear extension.				

Comment

Sevenoaks Town Council recommended approval.

Planning Applications Considered

Applications considered on 29-6-20

9	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01487/FUL	Alexis Stanyer 10-07-2020	Cllr Michaelides	N/A
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Ms M Grace			59A London Road	Town
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				19/06/20
Conversion of existing dwelling into 1 no. 2 bed flats plus external staircase to first floor entrance.				

Comment

Sevenoaks Town Council recommended approval subject to the conservation officer being satisfied that the proposal will both improve and enhance the character of this important part of town.

10	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01534/CONVAR	Alexis Stanyer 08-07-2020	Cllr Mrs Parry	Mrs A Bakunowicz
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr & Mrs P Bakunowicz		Tanglewood	Parkfield	Wilderness
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				17/06/20
Removal of condition 7 (hard and soft landscaping) of 19/02137/FUL to replace dwelling.				

Comment

Sevenoaks Town Council recommended approval.

11	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01549/HOUSE	Ronald Tong 07-07-2020	Cllr Eyre	MCIAT 07973 262855
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr & Mrs S King			9 Shenden Way	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				16/06/20
Demolition of existing conservatory. Erection of single storey rear extension. New porch lobby. Alterations to vehicular access and fenestration.				

Comment

Sevenoaks Town council recommended approval.

12	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01569/HOUSE	S Simmons 01-07-2020	Cllr Mrs Parry (OOW Adjoining	Willow Planning Ltd
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr & Mrs Jones		Melsetter	Woodland Rise	Seal (Adjoining Parish)
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				10/06/20
Demolition of side extensions and detached double garage, erection of part two storey/part single storey side extensions, part two storey/part single storey rear extension, link detached garage, alterations to the roof, enlarged porch and external alterations.				

Comment

CHAIRMAN'S ACTION:

Sevenoaks Town Council recommended approval.

Planning Applications Considered

Applications considered on 29-6-20

13	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01580/FUL	Emma Gore 03-07-2020	Cllr Morris Brown	VLH Associates
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Dr J Douglas		Rear of	119 Wickenden Road	Eastern
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				12/06/20
Demolition of garages. Erection of a detached building for use as Consulting Rooms (Class D1) with parking.				

Comment

Sevenoaks Town Council recommended approval.

14	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01582/HOUSE	Ronald Tong 03-07-2020	Cllr Eyre	N/A
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mrs C Noble		Hilbre Cottage	21 Croft Way	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				12/06/20
Replace garage door with brickwork and window, to match the existing brickwork and windows of the property.				

Comment

Sevenoaks Town Council recommended approval.

15	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01600/HOUSE	S Simmons 02-07-2020	Cllr Parry	JAT-Surv 07540 651867
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Seager			100 Weald Road	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				11/06/20
Demolition of single storey rear extension and erection of single storey side and rear extension.				

Comment

Sevenoaks Town Council recommended refusal on the grounds that the proposed development is not sympathetic to the dwelling because of the dwelling's inclusion in the local list.

16	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01602/HOUSE	Alexis Stanyer 09-07-2020	Cllr Parry	N/A
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Sevenoaks Plans			12 Redlands Road	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				18/06/20
Demolish existing shed, new garden room with rooflights, extended vehicular access at front and landscaping.				

Comment

Sevenoaks Town Council recommended approval.

Planning Applications Considered

Applications considered on 29-6-20

17	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01612/HOUSE	S Simmons 08-07-2020	Cllr Bonin	N/A
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr J Horgan			7 Granville Road	Town
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				17/06/20
Adding a sloping roof over an existing courtyard for the creation of a studio.				

Comment

Sevenoaks Town Council recommended approval subject to the Conservation Officer being satisfied with the plans and materials and the Planning Officer being satisfied with the proposed roof overhanging the boundary.

18	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01613/LBCALT	S Simmons 08-07-2020	Cllr Bonin	N/A
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr J Horgan			7 Granville Road	Town
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				17/06/20
Adding a sloping roof over an existing courtyard for the creation of a studio.				

Comment

Sevenoaks Town Council recommended approval subject to the Conservation Officer being satisfied with the plans and materials and the Planning Officer being satisfied with the proposed roof overhanging the boundary.

19	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01628/FUL	Alexis Stanyer 07-07-2020	Cllr Bonin	DHA Planning
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr D Sims			5 The Shambles	Town
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				16/06/20
Change of use to a Tattoo Studio (Sui Generis - to re- home Family Life Tattoo currently operating from no. 4 The Shambles).				

Comment

Sevenoaks Town Council recommended approval.

20	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01631/FUL	Sean Mitchell 06-07-2020	Cllr Eyre	Offset Architects
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
CAP 3D		Crofters	67 Oakhill Road	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				15/06/20
Demolition of existing dwelling and construction of a new detached dwelling and separate garage block.				

Comment

Sevenoaks Town Council recommended approval.

Planning Applications Considered

Applications considered on 29-6-20

21	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01638/HOUSE	S Simmons 06-07-2020	Cllr Parry	Open Architecture
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Ms Lee		Tylers Cottage	50 Oakhill Road	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				15/06/20
Demolition of existing rear extension and link building; construction of new rear extension with glazed link.				

Comment

Sevenoaks Town Council recommended approval.

22	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01639/LBCALT	S Simmons 06-07-2020	Cllr Parry	Open Architecture
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Ms Lee		Tylers Cottage	50 Oakhill Road	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				15/06/20
Demolition of existing rear extension and link building; construction of new rear extension with glazed link.				

Comment

Sevenoaks Town Council recommended approval.

23	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01643/HOUSE	Holly Pockett 07-07-2020	Cllr Waite	N/A
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr M Utevski			67 Kennedy Gardens	Eastern
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				16/06/20
Erection of a wooden shed to the side of the existing house.				

Comment

Sevenoaks Town Council recommended approval.

24	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01654/CONVAR	Sean Mitchell 09-07-2020	Cllr Dr Canet	Sevenoaks Plans Ltd
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Camp			6A Crawshay Close	Northern
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				18/06/20
Removal of condition 9 (hardsurfacing details) of 17/01356/FUL to demolition of existing garage, shed and rear extension to existing property and the erection of a detached dwelling to the land rear of the existing house, with garage and parking area and erection of a new rear extension with lantern rooflight to existing house, new porch and parking area.				

Comment

Sevenoaks Town Council recommended approval.

Planning Applications Considered

Applications considered on 29-6-20

25	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01703/HOUSE	Ronald Tong 14-07-2020	Cllr Dr Canet	N/A
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr T Friend			16 Lambarde Road	Northern
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				23/06/20
To raise the roof in order to add first floor by loft conversion with extensions. Addition of dormers and alterations to fenestration.				

Comment

Sevenoaks Town Council recommended approval.

26	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01714/HOUSE	Ronald Tong 14-07-2020	Cllr Eyre	Kent Building Control Ltd
<i>Applicant</i>		<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr & Mrs Healey		Daytor	87 Kippington Road	Kippington
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				23/06/20
Detached garage.				

Comment

Sevenoaks Town Council noted that the application was withdrawn.

EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (PERMITTED DEVELOPMENT AND MISCELLANEOUS AMENDMENTS) (ENGLAND) (CORONAVIRUS) REGULATIONS 2020

2020 No. 632

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These Regulations amend the Town and Country Planning (General Permitted Development) (England) Order 2015 (S.I. 2015/596) (“the General Permitted Development Order”) to allow development to assist in supporting the Government’s economic renewal package following the coronavirus outbreak. They provide an additional allowance for the temporary use of land from 1st July 2020 to 31st December 2020. They also introduce a new permitted development right to allow a local authority to hold a market for an unlimited number of days without the requirement to submit an application for planning permission beginning with 25th June 2020 and ending with 23rd March 2021.
- 2.2 The Regulations also introduce a permanent permitted development right to allow additional storeys to be constructed on existing purpose-built blocks of flats to create new homes. This means that a full application for planning permission is not required for this development, while at the same time allowing for local consideration of key planning matters.
- 2.3 In addition, these Regulations amend existing permitted development rights to ensure that new homes developed through permitted development rights provide adequate natural light for the occupants. In addition, they make minor technical amendments to the General Permitted Development Order and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2007/783) (“the Advertisement Regulations”).
- 2.4 The Regulations also amend the Town and Country Planning (Compensation) (England) Regulations 2015 (S.I. 2015/598) (“the Compensation Regulations”) to limit the compensation liability where a local planning authority withdraws the new permitted development right to extend upwards existing purpose-built blocks of flats to create additional homes by making a direction under article 4 of the General Permitted Development Order.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The instrument includes urgent time-limited measures to support businesses as coronavirus restrictions are lifted. Regulations 20 and 21 will come into force on the day after the day on which the instrument is laid, in breach of the rule requiring instruments to be laid at least 21 days before they come into effect. These measures will support businesses to re-open swiftly following the relaxation of the coronavirus restrictions. The remainder of the provisions in the instrument will come into force on 1 August 2020.
- 3.2 It also amends the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (S.I. 2007/783) (“the Advertisement Regulations”) to correct an error in the Town and Country Planning Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 identified by the J.C.S.I.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.3 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.
- 3.4 The instrument does not have any minor or consequential effects outside England.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

- 6.1 Under Part 3 of the Town and Country Planning Act 1990 (“the 1990 Act”) planning permission is required for the development of land. Planning permission may be granted on application to a local planning authority or by a development order made under the 1990 Act.
- 6.2 The Amendment Regulations amend the General Permitted Development Order which grants planning permission for a range of specific classes of development, subject to certain limitations and conditions. Planning permission granted under the General Permitted Development Order is known as a “permitted development right”. The effect is that an application for planning permission does not need to be made to the local planning authority, although in some cases permitted development rights require the local planning authority to approve certain key planning matters before development can proceed. This is known as “prior approval”.
- 6.3 The Compensation Regulations can limit or exclude, in specified circumstances, the liability of local planning authorities to pay compensation on withdrawal of a permitted development right contained within the General Permitted Development Order.

- 6.4 Under Part 8 of the 1990 Act, regulations may make provisions for restricting or regulating the display of advertisements. The Advertisement Regulations set out procedures relating to the display of advertisement and grant consent for the display of certain classes of advertisement.

7. Policy background

What is being done and why?

- 7.1 Permitted development rights have an important role to play in the planning system. They provide a more streamlined planning process with greater planning certainty, while at the same time allowing for local consideration of key planning matters through a light-touch prior approval process. Permitted development rights can incentivise certain forms of development by providing developers with a greater level of certainty, within specific planning controls and limitations. Individual rights provide for a wide range of development and include measures to incentivise and speed up housing delivery.
- 7.2 The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 (“the Amendment Regulations”) amend Schedule 2 to the General Permitted Development Order as follows:

Permitted development right to hold a market and temporary use of land

- 7.3 To assist the recovery of businesses, following the relaxation of closures introduced to limit the spread of coronavirus, the Amendment Regulations introduce a new right providing an additional number of days which land can be used temporarily for any purpose from 1st July 2020 to 31st December 2020. They also introduce a new permitted development right to allow a market to be held by or on behalf of a local authority. These measures will enable the provision of additional space for markets for the sale of food, drink and other goods and holding outdoor events, helping businesses to operate safely. They will come into force on 25th June 2020 to support businesses to re-open swiftly following the relaxation of the coronavirus restrictions.
- 7.4 Regulation 20 amends Schedule 2 to the General Permitted Development Order by inserting a new Class BA in Part 4 – additional temporary use of land from 1st July 2020 to 31st December 2020. The new right allows the temporary use of land, including land within the curtilage of a building that is not a listed building during this period. Land can be used temporarily for no more than 28 days within that period, of which no more than 14 days can be for holding a market or for motor car and motorcycle racing. The right also allows the erection of moveable structures such as stalls or a marquee on that land. It is available in addition to the existing permitted development right for the temporary use of land in Class B of Part 4 of Schedule 2 of the General Permitted Development Order. The right is time-limited and will cease to have effect from 1 January 2021.
- 7.5 Regulation 21 amends Schedule 2 of the General Permitted Development Order by inserting a new Class BA in Part 12 - holding of a market by or on behalf of a local authority. The new right allows a market to be held, by or on behalf of local authority on an unlimited number of days. It also allows the erection of moveable structures, such as stalls or awnings. The right is time-limited and will cease to have effect from 23rd March 2021.

- 7.6 Under existing rights, developers can use their allowance of up to 28 days for any purpose, of which up to 14 days can be to hold a market or for motor car and motorcycle racing, under Class B of Part 4 of Schedule 2 of the General Permitted Development Order. Separately the new right in Class BA of Part 4 provides an additional allowance of 28 days for any purpose, of which up to 14 days can be to hold a market or for motor car and motorcycle racing, from 1st July 2020 to 31st December 2020. This effectively allows land to be used for any purpose without an application for planning permission for 56 days, of which 28 days can be to hold a market or for motorsports, until 31 December 2020, If the developer is also a local authority, then in addition to using their allowance under Class B and Class BA of Part 4 to use land any purpose, they can also use Class BA of Part 12 of Schedule 2 to hold a market for any number of days until 23rd March 2021.

Permitted development right for the construction of new homes on detached blocks of flats

- 7.7 Following the consultation, *Planning Reform: Supporting the high street and increasing the delivery of new homes* (October 2018), which closed in January 2019, legislative changes are being made to introduce a new permitted development right to allow existing purpose-built, detached blocks of flats to extend upwards to provide additional homes. This measure is necessary to support key Government priorities and national policy to boost housing delivery and increase densities by making effective use of existing buildings and avoiding the need to develop greenfield sites. The permitted development right to extend existing purpose-built blocks of flats upwards forms part of the Government's Covid-19 economic renewal package by enabling new homes to be delivered more easily. As set out in the policy paper *Planning for the Future*, Government also intends to introduce further permitted development rights for building upwards, including for new and bigger homes
- 7.8 Regulation 22 amends Schedule 2 of the General Permitted Development Order by inserting a new Part 20, Class A - New dwellinghouses on detached blocks of flats. This allows existing purpose-built detached blocks of flats, of 3 storeys or more, to extend upwards to create new self-contained homes.
- 7.9 National policy, as set out in the revised National Planning Policy Framework¹ (paragraph 118), supports extending commercial and residential buildings upwards to provide new homes including where development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, and can maintain safe access and egress for occupiers. The right delivers an element of the type of development supported by the broader policy.
- 7.10 The right allows the construction of 2 additional storeys of new homes on the topmost residential storey of existing, detached, purpose-built blocks of flats of 3 storeys or more above ground level, together with engineering operations, replacement or installation of additional plant, construction of safe access and egress and construction of ancillary facilities, if necessary. The right does not allow for these additional works to be undertaken without the construction of the new storeys and homes.
- 7.11 The right applies to blocks built since 1st July 1948 (being those granted planning title under the current planning system) and 5th March 2018 when the intention to introduce a permitted development right to build upwards was first announced.

¹ <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Allowing an additional 2 storeys on top of purpose-built detached blocks of flats of 3 or more storeys is considered to provide more certainty for developers and local authorities, and so encourage take up, while protecting local amenity.

- 7.12 Adding additional storeys to purpose-built blocks of flats will generally be more practical to deliver as, for example, they may already have separate internal means of access and escape, such as separate lift shafts and staircases. They are therefore likely to be suitable to benefit from the permitted development right. Nevertheless, this does not mean that they will necessarily be able to meet building and fire safety requirements, which are covered by separate regimes.
- 7.13 The right is subject to a maximum height limit for the newly extended building of 30 metres. This height limit recognises sensitivities around local amenity and is considered to be practical in terms of carrying out the building works. All development, whether granted permission following a planning application or through a national permitted development right is legally required to comply with the Building Regulations 2010 (S.I. 2010/2214), as amended (“the Building Regulations”). Where additional storeys and homes are added to a building some aspects of the building as a whole may also be required to be upgraded under Building Regulations.
- 7.14 Given the potential impact on neighbours during the construction of the additional storeys and any engineering works to strengthen the building, the developer must prepare a report setting out the proposed hours of operation and how they intend to minimise any adverse impacts of noise, dust, vibration and traffic movements during the building works on occupiers of the building and neighbouring premises.
- 7.15 The right is subject to obtaining prior approval from the local planning authority, which will consider certain matters relating to the proposal. In line with the existing permitted development rights for change of use to residential, these allow for the consideration of potential transport and highways impacts as well as contamination and flood risks. Prior approval is also needed on the appearance of the proposal. The right does not apply in Conservation Areas, National Parks and the Broads, areas of outstanding natural beauty, or sites of special scientific interest. The right does not apply if the building is a listed building or scheduled monument, or if the land on which the building is sited is within the curtilage of a listed building or scheduled monument.
- 7.16 As the new right permits upwards development of existing buildings there are additional prior approval considerations. These are consideration of any impacts a taller building may have on air traffic and defence assets and on protected vistas in London. Where an aerodrome, technical site or defence asset is identified on a safeguarding map provided to the local planning authority, prior approval cannot be granted for development where an operator of a site, the Civil Aviation Authority or Secretary of State for Defence has responded to consultation on the application indicating that that the development should not proceed.
- 7.17 The right requires prior approval consideration in respect of the provision of adequate natural light in all habitable rooms. The application for prior approval must therefore be accompanied by detailed floor plans indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the proposed elevations of the homes. Local planning authorities are expected to exercise their planning judgement when considering the detailed floor plans and elevations in their assessment of adequate natural light in habitable rooms. The right contains a

definition of habitable rooms which mirrors the definition as set out in Regulation 19. Local planning authorities are required to refuse prior approval applications where inadequate natural light is provided.

- 7.18 The local planning authority is required to make a decision on an application for prior approval under the right within 8 weeks. The right does not provide a default deemed consent if the local planning authority fails to make a decision within this time, reflecting the significance of the matters under consideration including the potential impacts of the proposed development on the amenity of neighbours. If a decision has not been made within 8 weeks there is a right of appeal to the Secretary of State for non-determination of the prior approval application.

Natural light

- 7.19 Legislative changes are also being made to the General Permitted Development Order in response to concerns raised about the quality of homes delivered in some developments under existing permitted development rights for changes of use to housing. The measure will improve the quality of new homes delivered under permitted development rights by requiring that adequate natural light is provided in all habitable rooms.
- 7.20 The Amendment Regulations introduce a new matter for prior approval consideration in respect of the provision of adequate natural light in all habitable rooms. This requirement will apply to developments to be delivered by Class M, N, O, PA and Q in Part 3 of Schedule 2 the General Permitted Development Order and also in the new Class A of Part 20 of Schedule 2, as set out above.
- 7.21 Detailed floor plans indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the homes are required to be submitted as part of the prior approval application under paragraph W of Part 3 of Schedule 2 to the General Permitted Development Order to enable the local planning authority to consider the provision of adequate natural light. Local planning authorities are expected to exercise their planning judgement when considering the detailed floor plans in their assessment of adequate light in habitable rooms. The definition of “habitable rooms” is set out in regulation 19. Local planning authorities are required to refuse prior approval applications where inadequate natural light is provided.
- 7.22 As regulations 13 to 18 impose these additional requirements to existing permitted development rights the transitional provisions in regulation 27 are designed to provide assurance to developers who have already submitted an application for prior approval in respect of Classes M, N, O, PA and Q. Applications for prior approval submitted before 1st August 2020 will be determined in accordance with the right as in force at that time. Those with a prior approval event (as defined in the Amendment Regulations) before 1st August 2020 may continue to rely on the permitted development right as though the amendments made by the Amendment Regulations had not been made. They will have three years in which to complete the development. Those refused prior approval before 1st August 2020 will have the right to appeal in line with the regulations in force at the time of the application for prior approval.

Other minor amendments and clarifications

- 7.23 Minor technical and clarificatory amendments are being made to the General Permitted Development Order and the Advertisement Regulations in response to matters raised about their operation.
- 7.24 Regulation 3 of the Amendment Regulations amends the definitions of “dwellinghouse” and “flat” in article 2 of the General Permitted Development Order for the operation of the new Part 20 and the time-limited Part 12A of Schedule 2 permitted development rights.
- 7.25 Regulation 4 of the Amendment Regulations clarifies that an applicant and a local planning authority may agree to a longer period to determine prior approval applications. This applies to applications which are subject to a time period specified in Schedule 2 of the General Permitted Development Order, or which are subject to a time period of 8 weeks as no time period has been specified.
- 7.26 Regulation 5 of the Amendment Regulations allows applications for prior approval for a larger single storey rear extension to a house, permitted by Class A.1(g) of Part 1 of Schedule 2 to the General Permitted Development Order, to be subject to a prior approval fee. This fee is set out in the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, as amended.
- 7.27 Regulation 6 of the Amendment Regulations clarifies that for the purposes of the alteration of the roof of a house, permitted by Class B of Part 1 of Schedule 2 to the General Permitted Development Order, a rear or side extension, sometimes referred to as an “outrigger”, includes an original projection or a subsequent extension of the house that extends from the rear or side of the principal part of the original house. This is to ensure that roof alterations permitted by Class B of Part 1 apply to any original part or subsequent rear or side extension which extends out from the principal part of the original house.
- 7.28 Regulations 6 to 12 of the Amendment Regulations introduces a new limitation to Classes A to H of Part 1 of Schedule 2 of the General Permitted Development Order so that a new home built under the new Part 20 (construction of new dwellinghouses), introduced by Regulation 22, does not benefit from any of the permitted development rights under Part 1 (development within the curtilage of a dwellinghouse).
- 7.29 Regulation 24 of the Amendment Regulations amends the Advertisement Regulations by re-inserting the definitions of “electronic communications apparatus”, “electronic communications service” and “telephone kiosk” into the interpretation paragraph of Part 2 of Schedule 3 to assist with any residual references to those phrases in the Advertisement Regulations.

Compensation Regulations

- 7.30 Regulation 26 of the Amendment Regulations amends the Compensation Regulations by adding the new Part 20 of Schedule 2 to the General Permitted Development Order into the list of permitted development rights for which compensation on withdrawal of the right is limited. This limits to 12 months the period during which a local planning authority may be liable to pay compensation and excludes compensation liability where it withdraws permitted development rights in Part 20 by making a direction under article 4 of the General Permitted Development Order for which they have given at least 12 months’ notice.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The General Permitted Development Order was consolidated in 2015. This is the thirteenth amending instrument to the General Permitted Development Order. There are no current plans for a consolidation.
- 9.2 The Compensation Regulations were consolidated in 2015. This is the twelfth amending instrument to the Compensation Regulations. There are no current plans for a consolidation.
- 9.3 This is the fifth amending instrument to the Advertisement Regulations. There are no current plans for a consolidation.

10. Consultation outcome

- 10.1 The proposal for new homes on existing blocks of flats was included in the *Planning Reform: supporting the high street and increasing the delivery of new homes* consultation published in October 2018. The consultation offered three options for building up. For residential and certain commercial premises, it was proposed to either allow building up to the height of the highest roofline in a terrace; or to the height of the prevailing roofline in the locality. A third option was to allow additional storeys to be built on top of existing purpose-built free standing blocks of flats over 5 storeys.
- 10.2 There were 326 responses to the proposal from local planning authorities, members of the public, business and interest groups who provided a range of comments. Those supporting such a permitted development right recognised that increasing density may relieve pressure for additional housing sites, allow for additional homes to be created by transport hubs and in town centres, and reduce the need for development in the green belt. Where concerns were raised, we have sought to address this through the prior approval process where possible.
- 10.3 A summary of responses to the consultation and the government's response was published in May 2019 and is available at:
<https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes>. This committed to further engagement with interested parties on the technical details of the proposals in light of the complexity involved in designing such a right.
- 10.4 In view of the consultation responses and subsequent further engagement with interested parties it was decided that a permitted development right to allow an additional 2 storeys to be built on top of existing purpose-built, detached blocks of flats of 3 storeys or more, up to a maximum height of 30 metres, would best support the Government's Covid-19 economic renewal package. It would provide most certainty for developers and local planning authorities, and therefore encourage take up and enable new homes to be delivered more easily.
- 10.5 To address concerns raised through the consultation process the right allows the developer to construct appropriate and safe access, including means of escape from

fire for the new and existing flats. The right also requires the developer to provide a report on how the impacts of the construction on the occupiers of the existing block of flats and adjoining buildings will be mitigated and is subject to additional prior approval considerations, compared with existing permitted development rights which create new homes. These allow for the additional consideration of the impact on air traffic and defence assets and on protected vistas in London. They require consideration of the impact on the amenity of the existing block of flats, including on leasehold flats within the block, as well as on neighbouring premises. Amenity includes matters such as overlooking, privacy and loss of light. The local planning authority must notify all owners and occupiers of the existing block of flats, including leaseholders, as well as adjoining owners or occupiers of the proposed development.

- 10.6 The time-limited changes to assist businesses following the relaxation of closures introduced to limit the spread of coronavirus have not been subject to consultation. Government has, however, carried out engagement with local authorities and business on how public spaces can be safely managed to facilitate social distancing.

11. Guidance

- 11.1 There are no plans to issue specific statutory guidance for this instrument. However, the Ministry of Housing, Communities and Local Government intends to issue a circular letter to building control bodies reminding them of the building and fire safety requirements, including restrictions on the use of combustible materials, for the whole building when additional residential storeys are added. It will be available at <https://www.gov.uk/government/collections/building-regulations-divisional-circular-letters>.

12. Impact

- 12.1 The impact on business, charities or the voluntary bodies for the measure to build upwards is to reduce the cost and time burden of having to submit a planning application in more cases. Owners of buildings to which this permitted right applies will also benefit from land value uplift.
- 12.2 The impact on the public sector is a reduction in administrative cost and time of processing planning applications, where the development would have come forward through an application. Regulations to set a fee per dwelling, which will reflect the consideration required for a prior approval application compared with a full planning application, will be brought forward at an early opportunity to offset local authorities' costs of considering these applications.
- 12.3 We have not identified a cost to business from meeting the new requirement in respect of the provision of adequate natural light in new homes delivered under Class M, Class N, Class O, Class PA and Class Q of Part 3 of Schedule 2 of the General Permitted Development Order. We expect that developers want to bring forward homes that are good quality and marketable. We do not have evidence indicating that this is likely to be a widespread issue.
- 12.4 A Regulatory Impact Assessment for this instrument is currently being considered by the Regulatory Policy Committee.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 Overall, the impact of the changes is deregulatory. The permitted development right to build upwards is deregulatory in effect, helping to reduce bureaucracy and cost in the planning system. The change in respect of adequate natural light in habitable rooms is regulatory, adding a reasonable requirement to existing rights.

14. Monitoring & review

14.1 The Ministry of Housing, Communities and Local Government will monitor progress and carry out a review by 2025 in line with the requirements of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Julie Shanahan at the Ministry of Housing, Communities and Local Government (Tel: 0303 444 3378 or e-mail: julie.shanahan@communities.gov.uk) can be contacted with any queries on this instrument.

15.2 Lucy Hargreaves, Deputy Director for Planning – Development Management, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

15.3 Christopher Pincher, Minister of State at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

Appeal Decision

Site visit made on 8 June 2020.

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2020

Appeal Ref: W/4000666

Summerhill, Seal Hollow Road, Sevenoaks, Kent TN13 3SH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Brentfield Homes Ltd against Sevenoaks District Council.
 - The application Ref 19/02971/FUL, is dated 21 October 2019.
 - The development proposed is demolition of existing garage and erection of a replacement single garage together with additional single garage to serve plots 1 and 2; to be constructed and occupied only in connection with the two dwellings approved under consent references SE/18/00158/OUT and SE/18/02903/CONVAR.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and erection of a replacement single garage together with additional single garage to serve plots 1 and 2; to be constructed and occupied only in connection with the two dwellings approved under consent references SE/18/00158/OUT and SE/18/02903/CONVAR at Summerhill, Seal Hollow Road, Sevenoaks, Kent TN13 3SH in accordance with the terms of the application, Ref 19/02971/FUL, dated 21 October 2019, subject to the conditions set out in the Schedule attached to this decision.

Application for costs

2. An application for costs was made by Brentfield Homes Ltd against Sevenoaks District Council. This application is the subject of a separate Decision.

Procedural Matters

3. As set out above, the appeal is against the Council's failure to issue a decision on the application within the prescribed period. The Council has informed the Inspectorate that, had it been in a position to make a decision, the application would have been granted planning permission subject to conditions.

Main Issue

4. The main issue is the effect the replacement garage would have on the character and appearance of the area with respect to any impacts upon the adjacent mature oak tree within the neighbouring property of Salterns, Seal Hollow Road, Sevenoaks.

Reasons

5. The site is within an area of quite spacious suburban housing in Sevenoaks. It presently contains a single detached dwelling sited diagonally within a square plot. The site is to the rear of housing along Seal Hollow Road and is served by a private drive also used by the adjacent dwelling at Salterns. A mature oak tree grows towards the rear corner of the back garden of Salterns, the canopy of which overhangs the appeal site, including where there is an existing single garage. Of the single garages sought for each of the two detached houses already permitted at Summerhill, it is that which replaces the existing one sitting under the canopy of the oak tree that gives rise to the main concerns.
6. The tree is a fine, mature specimen which makes a positive contribution to the visual amenity of the area, as recognised by its protection through a Tree Preservation Order. Paragraph 175 c) of the National Planning Policy Framework applies the principle that development resulting in the loss or deterioration of irreplaceable habitats, such as ancient or veteran trees, should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. Section 197 of the Town and Country Planning Act 1990 places a duty on me to ensure, whenever it is appropriate, that in granting planning permission for any development, adequate provision is made, by the imposition of conditions, for the preservation of trees.
7. I have had regard to the Arboricultural Report¹ (AR) that had accompanied the application and the interested parties' response to this. This included a BS5837² tree survey, an arboricultural impact assessment of the replacement garage and a tree protection plan. It is common ground that the replacement garage would be within the root protection area (RPA) of the oak tree. Damage to this root system could threaten the life of the tree, which being a mature specimen would be relatively less tolerant of disturbance.
8. In a case like this, BS5837 would suggest the ideal solution would be for the development to take place outside of the RPA. The interested parties have suggested the developer could revert back to an earlier approved dwelling, which had included an integral garage. With reference to BS5837, this is cited as the alternative design solution available to avoid disturbing this oak tree by carrying out construction within its RPA.
9. However, I consider the alternative design solution that is available relates to the proposed replacement garage itself, and the construction methodology proposed in the AR. This would accord with construction methods approved under BS5837. The replacement garage would be built over a reinforced concrete slab, within the depth of the existing garage floor slab, resulting in no further excavation within this area. The increased slab area to accommodate the larger garage would affect a relatively small area of the RPA and all excavation here would be hand dug to help protect any tree roots encountered. An impermeable membrane would be placed beneath the new concrete slab to avoid any soil contamination.
10. The interested parties refer to the significantly greater volume and weight of the new reinforced concrete and the harm this might pose to the RPA.

¹ Arboricultural Report BS5837 Tree Survey, Arboricultural Impact Assessment and Tree Protection Specification for proposed development at Summerhill Seal Hollow Road Sevenoaks Kent TN13 3SH by Curtis Barkel RCarborA, DipArb (RFS), F.Arbor.A Sylvanarb Arboricultural Consultants Ref: SA/1580/19 Dated 21 October 2019

² British Standard 5837:2012 Trees in Relation to Design, Demolition and Construction

However, the Council has accepted the proposed construction methodology would prevent harm to the tree and has not raised similar concerns over additional weight and volume.

11. No specialist arboricultural advice challenging that supporting the original application has been provided by the interested parties objecting to this proposal. On the evidence in front of me, I am satisfied that, subject to following the recommendations of the AR, the replacement garage would pose little risk to the future health of the mature oak tree within the neighbouring property of Salterns. As a consequence, the proposal as a whole would cause no material harm to the character and appearance of this area.

Other Matters

12. The interested parties refer to their concerns more generally over planning control in respect of the wider development on this and an adjoining site. However, these issues fall outside the ambit of this appeal and need to be directed firstly to the Council. It would be the Council, for example, who would be responsible for ensuring compliance with any conditions applied in any earlier appeal decision here.

Conditions and conclusion

13. I have considered the conditions suggested by the Council. I have applied the standard three-year time limit for commencement and, for certainty, included a condition specifying the approved drawings. As external materials are specified in the latter, a further condition requiring these to be used in the development is unnecessary. However, given the main issue in the appeal, it is necessary in the interests of certainty that a specific condition is applied which governs the development being carried out in accordance with the AR. For the same reason, it is necessary that a pre-commencement condition requires the replacement garage to be built to an agreed method statement. The Council's Arboricultural and Landscape Officer's supervision of the removal of the existing foundations, and the laying of the new slab for the replacement garage, could form part of this agreed method statement, thus obviating the need for the further condition to this effect recommended by the Council.
14. Subject to these conditions, and having taken into consideration all other matters raised, I conclude that the appeal be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL/552/10 Rev.B, PL/552/11 Rev.B, PL/552/12 Rev.B, PL/552/13 Rev.A and SH/TPP/1580-02-A.
- 3) The development shall be carried out in accordance with the Arboricultural Report produced by Sylanarb, dated 21 October 2019 and the Tree Protection Plan SH/TPP/1580-02-A.

- 4) Prior to the commencement of the development hereby permitted, a detailed method statement relating to the demolition of the existing garage and the erection of the new garage building to the south-west corner of the site shall be submitted to and approved in writing by the local planning authority. The statement shall detail how the existing garage might be used during the course of the development of the wider site, how the demolition of the garage and removal of the existing slab would be carried out, how the additional excavation works would be carried out, how the new slab would be formed, how the new garage would be constructed, how the raised ground to the front and rear of the garage would be treated and how the whole process would be monitored. The development shall be carried out in accordance with the approved method statement.

Costs Decision

Site visit made on 8 June 2020.

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 July 2020

Costs application in relation to Appeal Ref: W/4000666 Summerhill, Seal Hollow Road, Sevenoaks, Kent TN13 3SH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Brentfield Homes Ltd for a full award of costs against Sevenoaks District Council.
 - The appeal was against the failure of the Council to issue a notice of their decision within the prescribed period on an application for planning permission for demolition of existing garage and erection of a replacement single garage together with additional single garage to serve plots 1 and 2; to be constructed and occupied only in connection with the two dwellings approved under consent references SE/18/00158/OUT and SE/18/02903/CONVAR.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The national Planning Practice Guidance (PPG) states that parties in planning appeals normally meet their own expenses but that costs may be awarded where a party has behaved unreasonably and such behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 048¹ in the PPG advises as to when a local planning authority's handling of a planning application prior to the appeal might lead to an award of costs. This states that the applicant should be given a proper explanation if it is clear that the Council will fail to determine an application within the time limits. In an appeal against non-determination, the Council should explain their reasons for not reaching a decision within the relevant time limit, and why permission would not have been granted had the application been determined within the relevant period.
4. I find no unreasonable behaviour on the part of the appellant in causing or adding to the delay in this case. Therefore, where an appeal is allowed, my decision over an award of costs would relate to whether or not there were substantive reasons to justify delaying the determination and better communication with the applicant would have enabled the appeal to be avoided altogether.

¹ Paragraph: 048 Reference ID: 16-048-20140306

5. The Council acknowledges that there were delays. These were initially over the Council's Arboricultural Officer, quite reasonably, investigating concerns from interested parties over replacing a building within the root protection area of a mature oak tree. However, the further details provided by the applicant to seek to overcome these concerns were provided well within the statutory period for determining the application. Whilst the outstanding objections from interested parties still remained, in taking the matter forward it would be reasonable to expect the Council to have agreed an extension of time for a decision.
6. Based on the evidence before me, it would have been necessary for the decision to be made at Committee level, given the concerns of the Ward Member and the unresolved objections from interested parties. Reporting the matter to the Committee for a decision in December 2019 might have been an unreasonable expectation. However, notwithstanding the change in personnel mitigating against the smooth progress of this application, the evidence is that the Council thereafter failed to engage adequately and clearly with the applicant over how the matter would be progressed.
7. It would appear that a clear course of action was precipitated only once the appeal against non-determination had been lodged on 7 February 2020. I am persuaded by the applicant's argument that had there been action initiated by the Council at an earlier stage, in respect of reporting this case to Committee on a defined date, recourse to an appeal might have been unnecessary.
8. I therefore find that unreasonable behaviour on the part of the Council resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Sevenoaks District Council shall pay to Brentfield Homes Ltd, the costs of the appeal proceedings described in the heading of this decision, such costs to be assessed in the Senior Courts Costs Office if not agreed.
10. The applicant is now invited to submit to Sevenoaks District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Jonathan Price

INSPECTOR

Planning Applications to be Considered

Planning Applications received to be considered on 13 July 2020

1	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01612/HOUSE	S Simmons 16-07-2020	Cllr Bonin	n/a
<i>Case Officer</i>				
<i>Applicant</i>				
<i>House Name</i>		<i>Road</i>	<i>Locality</i>	
Mr J Horgan		7 Granville Road	Town	
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				25/06/20
Adding a sloping roof over an existing courtyard for the creation of a studio.				
20/01612/HOUSE - Amended Plan:				
Plans have been updated to confirm the works do not overhang a boundary with neighbouring properties.				
<i>Web link</i>	https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QBPW9CBKLFW00			

2	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01613/LBCALT	S Simmons 16-07-2020	Cllr Bonin	n/a
<i>Case Officer</i>				
<i>Applicant</i>				
<i>House Name</i>		<i>Road</i>	<i>Locality</i>	
Mr J Horgan		7 Granville Road	Town	
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				25/06/20
Adding a sloping roof over an existing courtyard for the creation of a studio.				
20/01613/LBCALT - Amended Plan:				
Plans have been updated to confirm the works do not overhang a boundary with neighbouring properties.				
<i>Web link</i>	https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QBPW9DBKLFX00			

3	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01627/FUL	Sean Mitchell 17-07-2020	Cllr Waite	Robinson Escott Planning
<i>Case Officer</i>				
<i>Applicant</i>				
<i>House Name</i>		<i>Road</i>	<i>Locality</i>	
Kentmere Homes Limited		49 Wickenden Road	Eastern	
<i>Town</i>		<i>County</i>	<i>Post Code</i>	<i>Application date</i>
				01/07/20
Erection of detached two bedroom dwelling with associated parking, secure bin and cycle storage and amenity space.				
<i>Web link</i>	https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QBRQXNBKLN100			

4	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01666/HOUSE	Holly Pockett 24-07-2020	Cllr Parry	Sevenoaks Plans Ltd

Planning Applications to be Considered

Planning Applications received to be considered on 13 July 2020

<i>Case Officer</i>			
<i>Applicant</i>	<i>House Name</i>	<i>Road</i>	<i>Locality</i>
Mr & Mrs Hodkinson	Scots Pines	Grassy Lane	Kippington
<i>Town</i>	<i>County</i>	<i>Post Code</i>	<i>Application date</i>
			03/07/20
Proposed new property access; drop kerb; side wall to be increase; enlarging parking area; proposed electric gate and proposed retaining wall at side.			
<i>Web link</i>	https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QC10CGBKLQR00		

5	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01681/LBCALT	Mark Mirams 20-07-2020	Cllr Busvine	Andrew Wells Planning & Design
<i>Case Officer</i>				
<i>Applicant</i>	<i>House Name</i>	<i>Road</i>	<i>Locality</i>	
Mr I McLaughlin		20 London Road	Town	
<i>Town</i>	<i>County</i>	<i>Post Code</i>	<i>Application date</i>	
			01/07/20	
Internal works to include a new internal staircase in a revised position, removal of modern internal partitions, erection of new partition walls to allow minor revisions to the first and second floor internal layouts.				
<i>Web link</i>	https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QC2UY5BKLWJ00			

6	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01689/FUL	Mark Mirams 21-07-2020	Cllr Shea	SMARTePLANS
<i>Case Officer</i>				
<i>Applicant</i>	<i>House Name</i>	<i>Road</i>	<i>Locality</i>	
Mr B Shayler		30 Swanzy Road	Northern	
<i>Town</i>	<i>County</i>	<i>Post Code</i>	<i>Application date</i>	
			02/07/20	
Demolition of existing garage and conservatory and the erection of an attached new dwelling.				
<i>Web link</i>	https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QC463LBK0LO00			

7	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01696/HOUSE	Ronald Tong 20-07-2020	Cllr Michaelides	Sevenoaks Plans Ltd
<i>Case Officer</i>				
<i>Applicant</i>	<i>House Name</i>	<i>Road</i>	<i>Locality</i>	
Citron		23 Eardley Road	Town	
<i>Town</i>	<i>County</i>	<i>Post Code</i>	<i>Application date</i>	
			01/07/20	
Rear first floor extension.				
<i>Web link</i>	https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QC4PLWBKLZU00			

8	<i>Plan Number</i>	<i>Planning officer</i>	<i>Town Councillor</i>	<i>Agent</i>
	20/01731/MMA	Holly Pockett 16-07-2020	Cllr Eyre	Kent Building Control Ltd

