

# **fluid planning**

**Redwood  
Penshurst Road  
TN11 8HY**

**Planning Statement  
0287**

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## 1.0 Introduction

- 1.1 This application is for permission for conversion of an existing outbuilding located within the property known as Redwood.
- 1.2 The application site address is Redwood, Penshurst Road, Kent, Tn11 8HY. The site is comprised of one single storey brick building, previously used for storage of equipment to maintain the grounds.
- 1.3 The structure is in relatively good condition and easily converted through internal works to fit out the structure to modern day standards suitable for habitation. The proposal also includes a small extension to increase the floorspace, but by no more than 50% of the original floorspace. The proposal requires removal of two trees, a Scots Pine and a Sycamore tree. A floating slab and pile foundation is proposed to the extension to ensure compatibility with nearby trees.
- 1.4 The site is bounded heavily trees and vegetation and a wider collection of residential and agricultural buildings. The site is located in the Green Belt and the High Weald Area of Outstanding Natural Beauty (“the AONB”). The site is a registered park and garden known as Redleaf, List Entry 1000409 which has Grade II status. The designation covers 74 hectares and is now in fragmented ownership, with redwood forming a small part of the designation. Access to the site is via an existing private driveway from the B2176.
- 1.5 The application is accompanied by the following:
- Existing and proposed plans;
  - Arboricultural assessment; and
  - Ecological appraisal.
- 1.6 This proposal is made on the basis that re-use of existing structures is considered acceptable. Policy GB7 of the Allocations and Development Management Plan (ADMP) states that:

“...

*proposals for the re-use of a building in the Green Belt which would meet the following criteria will be permitted:*

*a) The proposed new use, along with any associated use of land surrounding the building, will not have a materially greater impact than the present use on the openness of the Green Belt or harm the existing character of the area;*

*b) The applicant can demonstrate through a detailed structural survey and method statement that the buildings are of permanent and substantial construction and are capable of conversion without major or complete re-construction that would detract from their original character.”*

- 1.7 The approach taken is for policy GB7 to be applied pragmatically to the re-use of buildings within the Green Belt where it would not have a materially greater impact than the present use. This proposal is simply for a small additional dwellinghouse within an existing garden. In practice although a separate dwellinghouse, the converted building will act as a second gate house to the Redwood Estate.

## **2.0 Planning considerations**

- 2.1 The planning considerations are discussed below.

### *Impact on openness of the Green Belt*

- 2.2 Policy L08 of the Sevenoaks Core Strategy states that the Green Belt will be maintained, and that the countryside will be conserved and the distinctive features that contribute to the special character of its landscape and its biodiversity will be protected and enhanced where possible. The distinctive character of the High Weald Area of Outstanding Natural Beauty and their settings, will be conserved and enhanced.
- 2.3 Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.
- 2.4 Paragraph 134 goes on to state that the Green Belt serves five purposes: (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging into one another; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns; and (e) to assist in urban regeneration, by encouraging the recycling of derelict and other

urban land.

2.5 Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

2.6 The site or at least at the minimum the building itself is previously developed land (PDL). The site falls under paragraph 146 d) of the NPPF:

“...

*d) the re-use of buildings provided that the buildings are of permanent and substantial construction*

...”

2.7 The proposed extension of the building falls under paragraph 145 c) of the NPPF:

“...

*c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*

...”

2.8 Policy GB7 of the ADMP is clear at part a) that re-use of sound structures is permissible. It is therefore considered that re-use of this structure and its subsequent extension is full policy compliant.

*General approach to openness/harm to Green Belt*

2.9 If the Council is minded to disagree, consideration of the general approach to openness is warranted. The courts have provided some legal guidance on the nature of how planning judgment should be exercised in this context. In John Turner v SoS

CLG [2016] EWCA Civ 466, the Court of Appeal stated (albeit in the context of the sixth exception at paragraph 89 of the 2012 version of the NPPF, but still relevant here):

*“14 The concept of “openness of the Green Belt” is not narrowly limited to the volumetric approach suggested by Mr Rudd. The word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents.*

*15 The question of visual impact is implicitly part of the concept of “openness of the Green Belt” as a matter of the natural meaning of the language used in para.89 of the NPPF. I consider that this interpretation is also reinforced by the general guidance in paras 79-81 of the NPPF, which introduce section 9 on the protection of Green Belt Land. There is an important visual dimension to checking “the unrestricted sprawl of large built-up areas” and the merging of neighbouring towns, as indeed the name “Green Belt” itself implies. Greenness is a visual quality: part of the idea of the Green Belt is that the eye and the spirit should be relieved from the prospect of unrelenting urban sprawl. Openness of aspect is a characteristic quality of the countryside, and “safeguarding the countryside from encroachment” includes preservation of that quality of openness. Again, the reference in para.81 to planning positively “to retain and enhance landscapes, visual amenity and biodiversity” in the Green Belt makes it clear that the visual dimension of the Green Belt is an important part of the point of designating land as Green Belt.” (emphasis added)*

2.10 The Supreme Court recently ruled authoritatively on the issue of “openness” within the Green Belt, in R (Samuel Smith Old Brewery) v North Yorkshire County Council [2020] UKSC 3, having reviewed the case law. It noted that:

- Although it may be a relevant factor, the visual quality of the landscape is not in itself an essential part of the openness for which the Green Belt is protected (paragraph 5).
- Rather, openness is the counterpart of urban sprawl, linked to the purposes of the Green Belt, and not necessarily a statement about the about the visual qualities of the land, though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept (paragraph 22).
- Nor does openness imply freedom from any form of development (paragraph 22).
- The concept of openness means the state of being free from buildings. It is open textured

and a number of factors are capable of being relevant (paragraph 25).

2.11 Drawing on the case law just mentioned, a number of points should be borne in mind when carrying out the assessment under paragraph 145(g):

- The assessment of impact on the openness of the Green Belt is a multi-textured exercise, and factors (such as visual and spatial qualities) will be interlinked.
- As recently confirmed by the Supreme Court, the key point is that openness, as conceptualised in the NPPF, is the counterpart of urban sprawl.
- It is not necessarily a statement about the visual quality of the land, although that may well be a relevant factor.
- Likewise, openness does not necessarily imply freedom from any form of development (and in the context of a proposed development on a site with existing buildings openness clearly cannot involve complete freedom from buildings).
- The task is to consider the openness of the Green Belt, and not of the site, as such.

*Impact of the proposed development on openness/Green Belt*

2.12 The proposed development will not have a greater impact on the openness of the Green Belt. The level of harm will be minimal and is not considered materially greater than the existing situation for a number of reasons:

- The proposed development is not of the nature of urban sprawl. It is a conversion of buildings to one dwelling, that sits comfortably within the context.
- The proposed development will not make the Green Belt in this area less free from buildings. It will not make the site or the Green Belt in this area entirely free from any development whatsoever, but that is not its current state, and that is not what is required to protect the Green Belt.
- The proposed development does not conflict with the purpose of the Green Belt as set out in paragraph 134. It will not compromise the ability of the Green Belt in this area to check unrestricted urban sprawl, or to prevent neighbouring towns merging into each other, or to assist in safeguarding the countryside for encroachment.
- The building already has an impact on the openness of the Green Belt
- The level of harm presented by the proposed development should be assessed as against the existing level of harm emanating from the existing buildings, not against a hypothetical non-existent level of harm.
- The proposed development is screened by the hedgerows and trees and the perimeter of the site. Further extensive landscaping can be secured by way of condition.

2.13 In Roberts v Wychavon DC [2020] PAD 24, a Planning Inspector allowed an appeal and granted planning permission for the use of land for the siting of a mobile home

and touring caravan, on a site which already housed a stable and hard standing. The Planning Inspector considered the openness of the Green Belt as follows:

*“8 Although the Framework sets out five reasons for the existence and protection of the Green Belt, the only reason relevant here is to safeguard the countryside from encroachment. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. This can have a spatial or visual aspect, as found by the courts.*

*9 The locality of the appeal site is an area of narrow country lanes and tall hedgerows which afford occasional glimpsed views of dwellings, agricultural and commercial premises, as well as large open fields. The site is well-screened from the road by a mature hedge and I noticed that the mobile caravan is screened by vegetation from the adjacent fields to the rear.*

*10 Insofar as openness is generally taken to mean freedom from operational development, there is encroachment into the countryside and a loss of openness. However, the caravans take up a very small proportion of what was a site with previous hardstanding and stable blocks. Consequently, the loss of openness is limited to a small area. The existing boundary treatments lead me to conclude that the visual impact of the development is limited. My reasoning in this regard is reinforced by the conclusions of the previous appeals and the council’s statements.*

*11 Nonetheless, although the development represents minor harm to the Green Belt in respect of openness and the purposes of including harm in the Green Belt, even this minor harm carries substantial weight.”*

- 2.14 In conclusion, the assessment of openness is a broad-textured exercise, and should be looked at in the round. The impact of the existing structure on openness can be taken into consideration if the Council are minded to require very special circumstances. The proposed development will, both visually, and spatially, is no more intrusive than the existing situation, and the impact on openness will therefore be minor. This exercise has correctly defined the parameters of the VSC in respect of openness and in this context the position outlined is robust.

*Very Special Circumstances (if required)*

- 2.15 This application raises a number of considerations to be weighed against the impact



on the openness of the Green Belt resulting from the proposed development:

- The proposed development would not result in harm to the five purposes of the Green Belt.
- The existing structure is no longer required by the estate for its original purpose and has become redundant.
- The proposed development will utilise up-to-date technology/techniques to create a dwelling that is sustainable (for example by meeting/exceeding carbon dioxide emissions standards, high-performing insulation and use of renewable technologies in the conversion of the building).
- In accordance with the NPPF, substantial weight should be attached to the sustainable and high-quality nature of the design that is being proposed.

2.16 It is submitted that when these considerations are taken together, and also with the considerations as to the AONB and its setting, they clearly outweigh any harm that might be caused to the Green Belt.

#### *Impact on the AONB and light spill*

2.17 The site lies within the AONB. The Sevenoaks Countryside Assessment SPD identifies the key characteristics of the area and as light spill being of concern.

2.18 The Countryside and Rights of Way Act 2000 states that the Local Planning Authority should conserve and enhance Areas of Outstanding Natural Beauty. Designating an Area of Outstanding Natural Beauty protects its distinctive character and natural beauty and can include human settlement and development. The proposed development must therefore both conserve and enhance the AONB.

“The character and distinctiveness of villages, farmsteads and individual buildings are conserved and enhanced by combining the best traditions of the past with the best technologies of the present to create environmentally sustainable and locally enhancing development.” (p28)

“New developments respect and reinforce the traditions of the past, whilst integrating sustainable technologies and sensitive new design.” (p28)

2.19 However, conserving and enhancing the AONB does not mean that it must simply remain static, in line with the fact that human settlement and development is considered part of (and not necessarily opposed to) the character and beauty of the AONB.

- 2.20 Policy EN5 (Landscape) of the ADMP states that proposals within the AONB will be permitted where the form, scale, materials and design would conserve and enhance the character of the landscape and have regard to the relevant Management Plan and associated guidance. Proposals that affect the landscape throughout the District will be permitted where they would: (a) conserve the character of the landscape, including areas of tranquillity, and (b) where feasible help secure enhancements in accordance with landscape actions in accordance with the Sevenoaks Countryside Assessment SPD.
- 2.21 The proposed development will, firstly, conserve the AONB:
- The proposed development involves the conversion of an existing building and put it into a productive use.
  - Residential development of the site with a single dwellinghouse will help enhance this part of the Redwood Estate.
  - There will be no loss of open spaces and green infrastructure, and indeed, the proposed development will open up the site (as discussed above).
  - The proposed development is of a sensitive scale.
- 2.22 The proposed development, secondly, will also enhance the AONB:
- The fact that the proposed development will reinvigorate the site is a relevant factor to take into account.
  - The sympathetic planting of the site in a manner which will allow it to sit much more comfortably within its surroundings.
  - The form, scale, materials and design of the proposal would conserve and enhance the character of the landscape and would preserve the character and appearance of the area generally. This is in accordance with the NPPF, policies SP1 and LO8 of the Core Strategy and policies EN1 and EN5 of the ADMP.
- 2.23 Conditions could be specified in order to ensure that the development has a satisfactory external appearance and to protect the appearance of the AONB. For example, a materials condition could be imposed to include details of roofing materials, hard landscaping, means of enclosure and so on. A condition could also be imposed in respect of landscaping and the delivery of biodiversity features.
- 2.24 Outdoor lighting will be designed to meet the criteria set out in Policy EN6 (Outdoor lighting) and a scheme can be secured by condition. The proposal will be well integrated within the overall development scheme, and any impact on the night sky will be minimised through time-limited and user-activated lighting, as well as through

the alignment of lamps, provision of shielding and selection of appropriate lighting type and intensity. The proposed development will not directly affect any built listed heritage assets, and only serve to improve the immediate setting of the Listed Garden that is to date neglected. Only lighting that is essential for safety and security reasons will be installed, and any potential impact on wildlife will be adequately mitigated. Low energy lighting will be used. There will be no harmful impact of privacy or amenity for nearby residential properties.

- 2.25 Policy LO1 states that although development will be focussed within the built confines of existing settlements, and in other locations priority will be given to protecting the rural character of the District, development may take place where it is compatible with policies for protecting the Green Belt and High Weald Area of Outstanding Natural Beauty, where relevant (as it is here).

*Impact on the setting of a the listed garden*

- 2.26 The proposal re-uses an unlisted structure within a Listed Park and Garden categorised as Grade II.
- 2.27 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Planning Listed Buildings Act”) provides that in considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, a local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 2.28 Paragraph 189 states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary.
- 2.29 Paragraph 190 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into

account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

- 2.30 Paragraph 192 states that in determining applications, local planning authorities should take account of (a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; (b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and (c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 2.31 The proposed development will not have any impact on a listed structure, rather put the building into a sensitive use. The land is already garden and through condition, can be kept in a similar and sensitive manner appropriate to the wider designation. Overall, this is a minor change of use and would not harm anything of heritage value. For the reasons set out above, the proposed development would preserve the significance of Listed Garden.. The proposed scheme will therefore comply with policy SP1 of the Core Strategy (protection and enhancement of heritage assets) and with the NPPF.

### *Design*

- 2.32 Policy SP1 of the Core Strategy and Policy EN1 of the ADMP state that all new development should be designed to a high quality and should respond to and respect the character of the area in which it is situated. In rural areas account should be taken of guidance in the Countryside Assessment and AONB Management Plans.
- 2.33 The area is not subject to a specific architectural style. The residential dwellings in this area vary considerably, but generally conform to traditionally proportioned structures. The materiality is varied but brick work is common to the area. The proposed development is a high-quality modern design that sensitively reuses the existing structure and places it in a single viable use. The proposed extension mirrors the existing architectural style. The proposal conforms to the policies identified.

### *Ecology*

- 2.34 A Preliminary Ecological Appraisal was undertaken on this and one additional building

subject to a separate application for planning permission. Long-eared bats were identified. As a precautionary measure, it is proposed that works are subject to a precautionary approach, controlled by condition. Conversion works can be overseen by a suitably qualified ecologist and an EPS license sought if required. The submitted survey allows for development to proceed.

- 2.35 The proposed development will therefore comply with Policy SP 11 (the biodiversity of the District will be conserved and opportunities sought for enhancement to ensure no net loss of biodiversity).

### **3.0 Summary**

- 3.1 For the reasons explained, the proposal is considered to be policy compliant. Planning permission should therefore be granted.

