

- *On-site presence is needed to deal with theft or vandalism and vermin.*
- *Losses to plants would mean risk of failing to meet contract obligations and therefore business viability.*
- *There are no dwellings in the locality that are either suitable (within sight and sound of the nursery) that are available for rent or affordable to purchase for an agricultural worker.*

2. The Site:

- 2.1 The site for the dwelling and its curtilage measures 25m by 40m (0.1ha).
- 2.2 It is in the NW corner of the nursery site, south of the dwellings at Brookside Cottages. Access to Ismays Road is shown to be from the NW corner, utilising an existing access that serves the nursery.
- 2.3 It is a level site and partly uncultivated although there are several small polytunnels on the plot. There is mature shrubbery to the north. The frontage to Ismays Road is an over mature hedgerow with some gaps. There are no trees of special visual amenity value.

3. Planning History (selected):

- 3.1 TM/05/01465/FL Approved 04.07.2005
Agricultural/horticultural building to replace existing buildings.
- 3.2 TM/04/03404/FL Withdrawn 28.10.2004
Telecommunications installation comprising 20 metre column mast accommodating 3 No. antennas and 2 No. 60mm transmission dishes with 6 No. equipment cabinets located within the same compound measuring 6m x 6m.
- 3.3 TM/88/1158 Approved 29.07.1988
Demolition of Dutch lighthouse and replacement with Robinson 6.7m type glasshouse.
- 3.4 TM/88/0720 Refused 17.06.1988
Outline application for detached house.
- 3.5 TM/85/0757 Approved 26.07.1985
Extension to agricultural workshop and store and erection of multi-bay polythene house.
- 3.6 TM/83/0512 Approved 18.08.1983
Erection of one commercial glasshouse (100 ft. x 88 ft.)
- 3.7 TM/81/1107 Refused 22.01.1982
Outline application for one detached house with integral garage.

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- 3.8 TM/74/700 Refused 09.09.1974
Stationing of caravan.
- 3.9 MK/4/71/758 Appeal Dismissed 13.08.1973
Erection of an agricultural worker's dwelling.
- 3.10 MK/4/62/614 Refused 16.01.1963
Outline application for dwelling on smallholding.
- 3.11 MK/4/62/206 Refused 02.05.1962
Outline application for detached dwelling.

4. Consultees:

- 4.1 PC: Object: This site is in the MGB, AONB, and SLA. We find the Acorus report unconvincing and do not consider the functional test is met. The nursery has operated for many years without on-site accommodation and if housing is required for staff near the nursery, we consider suitable accommodation for sale or rent could be found in the area.
- 4.2 EA: Care needed to avoid pollution to public water supplies and foul water disposal should be to sewer or package treatment plant.
- 4.3 KCC (Highways): The site is served by an existing entrance and gated field access to adjoining land within applicant's ownership. No details are provided of the size of property, but suitable parking / turning to be provided to accord with full KCCVPS requirements. The current access has good visibility to the right, but bad visibility to the left. With potential increased use I would encourage the applicant to improve vision splays by realigning or trimming the boundary hedge. I note that an alternative access serves adjacent land and could also be used to serve the application site. In principle, I would raise no objections to this proposal subject to details and a number of suggested conditions.
- 4.4 KCC (Archaeology): Watching Brief required.
- 4.5 Council's Agricultural Consultant:

Background

Ivy Hatch Nurseries is a fairly large (approx. 4.4ha), and long-established, wholesale plant nursery that stretches between Ismays Road on the west side and Back Lane on the east side. The two main production areas are connected by a strip of land about 35m wide: the ownership excludes about 0.9ha in the centre, south of this strip, which I gather includes some form of small dwelling. However the nursery itself has had no associated dwelling since about 2000, when the former owners split away "Oaklands" opposite the site, east of Back Lane.

The nursery was owned for many years by Coblands Nurseries, based at Trench Road, Tonbridge, and Mr Norris used to be their production manager and a director. He came to an agreement to buy Ivy Hatch Nursery in 2003, but initially there was an arrangement whereby he was renting the nursery back to Coblands and they were also still paying him a salary.

This current financial year, 2005/6, is the first trading year that Mr Norris has operated the nursery solely on his own account, as an independent unit. In the main he is continuing to grow and sell a large number of plants (as detailed in the application submissions) to Coblands, on the basis of a contractual arrangement with that company, but he also has quite an extent of non-contract stock for sale to other outlets.

The unit includes about 5000m² of glasshouses at the western end, where there is also a large multispan polytunnel of about 2230m², and 6 large (straight-sided) tunnels each about 226m². Three other such tunnels have been lost to storms in recent years and Mr Norris is likely to be proposing their replacement with a further multi-span. There are also about 30 smaller tunnels (about 98m² each), mainly at the eastern end of the holding, where there is also a 4-span tunnel, and a large shade-roofed area for larger specimen plants.

There is a large quantity of plants under the glass and polythene, and extensive areas of standing-out beds are also used.

Mr Norris works full-time on the nursery and employs 4 other full-time staff, and a part-time assistant over the summer. He lives several miles away, owning a house in Tonbridge, and the staff also live well away from the site.

Mr Norris now wishes to build a dwelling for his occupation at the western end of the site (where most of the small more vulnerable plants are raised). This would enable him to be on hand at most times, out of normal working hours, to deal with any emergencies arising that might endanger plant production, for example taking action in the event of failure of heaters, or changes in weather conditions that require vents to be opened up or shut down (particularly the latter when very windy conditions could threaten the structures).

Security at the premises is also a problem and is a material consideration, albeit not a determining issues in itself. It would also be convenient for Mr Norris to live on site to assist in the spraying and watering regimes early in the morning or later in the evening.

Functional Need

Overall, for the above reasons, I would advise that a dwelling on site is warranted in principle under the functional test of Annex A of PPS7, being essential for the proper operation of the unit. No other existing dwelling, close enough to the unit

(i.e. within sight and sound) appears to be available now that “Oaklands” (which I gather had no tie to the nursery) has been split away.

The gap of several years from 2000, during which no dwelling has been associated with the nursery, has been one during which the premises became rather run down, but Mr Norris has already taken some steps to renovate the structures and now wishes to invest further in the development of the unit. His presence on site should assist this process.

Annex A of PPS7 does not state that a dwelling will only be allowed where it is impossible to run the unit without it, the test rather is that it should be essential to the “proper functioning” of the enterprise. Thus the fact that the nursery currently operates without a dwelling should not be seen, in my view, as proof that a dwelling is not required.

Financial Test

The other main consideration under Annex A of PPS7 is whether the nursery is sufficiently well-established, and financially sound.

The figures presented in the supporting statement are by way a prediction rather than actual accounts as yet, and the budget is not broken down into great detail, however as explained Mr Norris has been associated with Coblands’ production on the site which has been continuous here for many years, and he is in a good position (under the contractual arrangement with Coblands) to continue the business. Mr Norris’s own investment in the premises and in acquiring the stock has been achieved through use of personal capital and there is no loan against the premises or business as it stands. The viability of the unit should have been apparent to Mr Norris given his previous position and it may be reasonably expected that he would not have invested his own capital in its acquisition if he did not consider it would provide him with an adequate return.

It should be possible to finance a suitably modest dwelling from the equity available in the Tonbridge dwelling, although the budget indicates that a dwelling should be capable of being financed from the nursery without such sale proceeds. The budget indicates a net income before any notional rental or interest charges of some £44,000, excluding the income from new non-contract sales. This would be enough for, say £24,000 income for the owner’s management (out of which he could finance a dwelling if need be) and £20,000 return on capital.

I consider, therefore, that overall this established enterprise is of a scale and type that I would expect to be profitable and capable of supporting the provision of a manager’s dwelling.

On the other hand I would advise that in most cases (albeit usually when new units are being established) it is possible to refer to actual detailed profit and loss accounts and balance sheets before a permanent new agricultural dwelling is allowed. For this business as a separate entity, such accounts will not be available until after the end of the 2005/06 financial year. Notwithstanding the above assessment, therefore, there may be at least a reasonable argument that a decision on a permanent dwelling could be rather premature until the current year's accounts are available, so as to demonstrate the financial soundness of the business under the new ownership, as well as the size/cost of the dwelling that it may support (given the current application is purely in outline).

Other Issues

I gather there has been a suggestion that Mr Norris is not all that far from pensionable age, and a question raised whether this (if correct) would have any bearing on the prospects for the nursery. I am not aware of Mr Norris' exact age but he struck me as someone who is active and very much involved hands-on in the operation of the nursery, and who has put a good deal of work in to its maintenance and planning its future. Farmers/growers often continue operating their own businesses for many years after state retirement age and I have no reason to suppose that the situation here would be any different.

I gather there has also been a question as to the reliance on the contractual relationship with Coblands, although I am not aware of any evidence to suggest that this may be under any risk. Given the background there is no reason to suppose Mr Norris would not be able to continue to meet Coblands' requirements in terms of quality, price and reliability etc., or indeed those of any other comparable buyer if for any reason Coblands themselves were not in the picture in the future. I would observe that the production includes a wide range of plants, which may be adapted as required, and that this is not such a specialised form of production or market that it should be assumed to be at particular risk by virtue of the current arrangements with one main buyer.

Finally I would suggest, that if a planning consent is considered appropriate in principle, it should be tied to a legal agreement or condition that would prevent the separation of the dwelling from the remainder of the nursery (as well as the usual occupancy condition).

4.6 DHH: No objections.

4.7 Private Reps: Art 8 Site and Press notice (Departure) + 9/0X/1R/0S. One objection has been received as follows (summarised):

- This site is in the MGB, AONB, and SLA and no further building should take place.

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- The dwelling would be sited in the middle of Victorian cottages and totally out of character.
 - The site was purchased 2 years ago and a business should have 3 years of accounts before being able to apply for a agricultural dwelling.
 - It is not imperative that someone lives on the site, the business has been in operation for many years without this criteria.
 - Cheaper housing is available in Borough Green which is only 2 miles away and 5 minutes by car.
 - Any great drop in temperature is usually predictable and precautions for plant protection can be put in place before the site is left in the evening.
 - We have never been aware of any great security problems regarding vandalism and theft in past 15 years.
 - The problem of deer vermin is a surprise as we have never seen any in the nursery in 15 years.
 - There is no need for an agricultural dwelling and the application should be rejected.

5. Determining Issues:

- 5.1 The site is in the MGB, AONB and SLA. It is within an area of archaeologist interest and over an aquifer.
- 5.2 Policies MGB3 and RS5 of the KSP both reflect national guidance in PPG2 (Green Belts) and PPS7 (Sustainable Development in Rural Areas) that allow for new dwellings in the MGB/rural area if they are necessary for agriculture or similar uses.
- 5.3 Policy P6/8 of the TMBLP outlines the tests that need to be met in order to demonstrate that such a dwelling is justified. These largely reflect PPS7 which details the functional and financial tests that both need to be met in respect of such development.
- 5.4 The applicant's primary employment is in horticulture which is a form of agriculture. The need to live at, or very close to, his place of work is said to be justified in order to be able to promptly deal with any emergencies that might endanger plant production eg failure of heaters or changes in ventilation requirements that might significantly affect the value of the products being grown and thereby the financial success of the enterprise. It appears that security is also a problem and this can be an additional material consideration albeit not a determining issue in itself.

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- 5.5 Policy P6/8 requires that it is essential that a worker lives at, or very close to, the associated holding. PPS7 refers to the dwelling location being “essential for the proper functioning” of the enterprise. The advice of the Council’s agricultural consultant is that the functional test is met in this case and that it is at least a strong a need as for other agricultural dwellings that have been permitted in recent years in the Borough.
- 5.6 Policy P6/8 details the financial test as requiring the unit and agricultural activity to have been established for at least 3 years, profitable for at least 1 of them and financially sound and with a clear prospect of remaining so. These reflect the requirements of PPS7.
- 5.7 Due to the recent ownership changes, the nursery site has been hived off from a much larger land holding (the other land being several miles away, in Tonbridge) and is only very recently established as a stand-alone enterprise. Consequently there is no evidence from the applicant that conclusively demonstrates 3 years worth of audited accounts or profitability for 1 or more years for the unit now created.
- 5.8 PPS7 states that, where a new dwelling is essential to support a new farming activity, even on an established agricultural unit, it should normally, for the first three years, be provided by a caravan, a wooden structure that can be easily dismantled, or other temporary accommodation.
- 5.9 There have been cases in recent years in the Borough (Gate House Farm, Hildenborough and Riverside Nurseries, Shipbourne) where permanent agricultural dwellings have been permitted in the absence of a prior temporary dwelling. In both of those cases, there was a continuation of a pre-existing agricultural activity on the same landholding.
- 5.10 Hence Members will note that the permanent planning permissions for those dwellings are not necessarily precedents in the consideration of a dwelling for Ivy Hatch Nursery as a newly established stand alone business.
- 5.11 However, the site has been a horticultural site of this nature for many years and the applicant has a long track record in successful plant production and states that he will continue and expand that activity. Members may agree that this counts in favour of a planning permission for a permanent dwelling.
- 5.12 I am persuaded that the site is large enough to continue to be a viable intensive horticultural unit that can finance a modest dwelling (in the order of 150 sqm GFA) and any necessary investment requirements.
- 5.13 There are not considered to be any fundamental concerns arising from Highway, archaeological or aquifer matters that cannot be dealt with by condition.

5.14 The specific site selected for the proposed dwelling is such that it would be seen in the context of other existing dwellings and thus its impact on openness of the Green Belt would be mitigated. The site is capable of accommodating a modestly-sized dwelling without unacceptably harming the amenity of its neighbours but, as this is an outline application, detailed assessment of this aspect can only be undertaken at the Reserved Matters stage.

5.15 On balance, I recommend planning permission be granted. This needs to be subject to the model condition restricting occupation to an agricultural worker and a Section 106 legal agreement preventing severance of the dwelling from any part of the associated nursery.

6. Recommendation:

6.1 **Grant Planning Permission** as detailed by supporting statement date stamped 01.08.2005; letters dated 06.10.2005; 18.11.2005; site location plan date stamped 21.11.2005; email dated 09.09.2005 subject to:

- The applicant entering into a Section 106 legal agreement that there should be no severance of the dwelling from any part of the area of the associated agricultural land.

- The following conditions:

1 Approval of details of the siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called the “reserved matters”) shall be obtained from the Local Planning Authority. (Z003)

Reason: No such approval has been given.

2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. (Z004)

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

3 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later. (Z053)

Reason: In pursuance of Section 92(2) of the Town and Country Planning Act 1990.

- 4 The occupation of the dwelling shall be limited to a person solely or mainly employed, or last employed, in the locality in agriculture as defined in Section 336 of the Town and Country Planning Act 1990, or in forestry, or a dependant of such a person residing with him or her, or a widow or widower of such a person. (F001)

Reason: The site of the dwelling is outside any area in which development would normally be permitted if it were not required for occupation by a person employed locally in agriculture or in forestry.

- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, B of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto. (R001)

Reason: To ensure the size of the dwelling remains commensurate with the financial and functional requirements of the holding and in the interests of the Green Belt.

- 6 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority. (C005)

Reason: To ensure that features of archaeological interest are properly examined and recorded.

- 7 The details submitted in pursuance of condition 1 shall be accompanied by a scheme of landscaping and boundary treatment which shall include a tree survey specifying the position, height, spread and species of all trees on the site, provision for the retention and protection of existing trees and shrubs and a date for completion of any new planting and boundary treatment. The scheme as approved by the Authority shall be implemented by the approved date or such other date as may be agreed in writing by the Authority. Any trees or plants which within 10 years of planting are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Authority gives written consent to any variation. (L001)

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

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- 8 No development shall take place until details and samples of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details. (D001)

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 9 No development shall take place until details of any joinery to be used have been submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details. (D006)

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 10 The details submitted in pursuance of Condition 1 shall include a contoured site plan and indicate the level of the ground floor of any building proposed to be constructed. (E003)

Reason: To enable the Local Planning Authority to assess adequately the impact of the development on visual and residential amenities.

- 11 The use of the access shall not be commenced until turning facilities have been provided within the curtilage of the site and these facilities shall be retained thereafter free from any obstruction. (H012)

Reason: In order that a vehicle may enter and leave the site in a forward direction to ensure the safe and free flow of traffic.

- 12 The details submitted in pursuant to Condition 1 shall show land, reserved for parking or garaging in accordance with the adopted County Parking Standards. None of the buildings shall be occupied until this area has been provided, surfaced and drained in accordance with the approved details. Thereafter no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown (other than the erection of a private garage or garages) or in such a position as to preclude vehicular access to reserved vehicle parking area. (P001)

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

- 13 Any gateway to the access shall be set back 5.0 metres from the edge of the highway. (H013)

Reason: To enable vehicles to stand off the highway whilst any gates are being operated.

- 14 Development shall not begin until details of the junction between the proposed service road and the highway have been submitted to and approved by the Local Planning Authority; and the building shall not be occupied until that junction has been constructed in accordance with the approved details. The access shall not be used until the area of land within the vision splays shown on the approved plans has been reduced in level as necessary and cleared of any obstruction exceeding a height of 1.05 metres above the level of the nearest part of the carriageway. The vision splay so created shall be retained at all times thereafter.

Reason: To ensure the safe and free flow of traffic.

- 15 None of the buildings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Local Planning Authority. (W004)

Reason: In the interests of pollution prevention.

Informatives:

- 1 With regard to works within the limits of the highway, the applicant is asked to consult The Highway Manager, Kent Highway Services, West Kent Division, Joynes House, New Road, Gravesend, Kent, DA11 0AT. (Q006)
- 2 You are advised that details to be submitted in respect of condition 1 are expected to show a dwelling of size justified by the financial status of the business and in any event, no larger than 150 sqm gross floor area.

Contact: Marion Geary

SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 7 December 2005

**Ightham
Ightham****TM/05/02374/OA****Outline Application for Agricultural dwelling for Nursery Manager at Ivy Hatch Nurseries Ismays Road Ivy Hatch Ightham Kent for Mr T Norris**

The applicant has submitted a letter with comments summarised as follows:

- The functional test is overwhelming
- The financial test has been met with the information supplied
- The PC objection is an automatic response and the other objection is not based on any actual knowledge of the application and both have been answered by my agent
- The nursery is not an area of outstanding natural beauty and the dwelling can only enhance the site
- 2 similar planning permissions have been granted within a 5 mile radius with much weaker cases than mine

Agent: The applicant's agent advises that the property suffered a break-in during November in which a number of plants were stolen. He also advises that a dwelling opposite the site (Oaklands) was sold off by the previous owner and was never made available to Mr Norris. That dwelling satisfied the functional needs of the unit although not ideal as it was not actually on-site. There is only one property for sale in Ivy Hatch, but this is too expensive and is not close enough to the Nursery.

Ightham PC: Remains of view that functional test is not met. The financial viability is based upon estimates of profitability as a stand-alone enterprise, not on audited accounts over a three year period as required by P6/8. Agricultural dwellings on this site have been refused 6 times previously (including on appeal) because the functional test was not met so need to apply P6/8 before a permanent dwelling is considered for approval.

Private Reps: The objector has submitted additional comments as follows:

- There are affordable properties in both Borough Green and Plaxtol
- Unaware of local problem with rabbits as presume the foxes keep them under control

- The site is very open and security is minimal and any thefts should be viewed in that context
- The main damage to polytunnels is from the elements
- A nursery can successfully trade without the need for a manager to live on site.

DPT: As outlined in the main report, the Council's agricultural adviser is of the view that the proposal does meet the functional test of PPS7, being essential for the proper functioning of the enterprise. It is his view that the test does not require a demonstration that it is impossible to function without on-site accommodation.

In the light of the agricultural adviser's advice that a dwelling within sight or sound of the nursery is required for the proper functioning of the business, I am of the view that dwellings in Borough Green or Plaxtol are unlikely to meet this requirement.

In terms of the previous refusals, some relate to dwellings on smaller parts of the site and appear to have been intended as smallholdings for retired persons. I am of the view that any other cases are too old to be significantly material to the determination of this case on its particular merits.

In the main report, I acknowledge that the normal financial test is not met by this proposal in the absence of 3 years of audited accounts. However, I remain of the view that because the applicant has a personal long track record in cultivating this particular site and there is no reason to doubt the soundness of the financial information presented, on balance, a permanent dwelling is justified.

I have already stated in the main report that security is not, on its own, a determining issue in this type of case.

RECOMMENDATION REMAINS UNCHANGED
