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<b>Offham Downs</b>	<b>564844 158001</b>	<b>08.05.2006</b>	<b>TM/06/01272/FL</b>
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Proposal:	Modular built workshop - private use and associated change in use from agricultural land to land associated with 'The Apple House' (retrospective)
Location:	Aldon Farmyard Aldon Lane Offham West Malling Kent
Applicant:	Anthony M Crosse

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**1. Description:**

- 1.1 This relates to a timber clad detached building with a tiled roof.
- 1.2 It measures 8.2m by 5.3m with a ridge height of 5.25m (dimensions from submitted drawings).
- 1.3 Internally, the ground floor is open plan and a site inspection revealed that it had an area with table and chairs and sofa, a kitchen and stairs to roof accommodation, comprising a landing, shower room and bedroom.
- 1.4 The originally submitted drawings did not show a kitchen, staircase or any first floor accommodation. Subsequently, the applicant has submitted revised plans which do show a kitchenette, stairs and upstairs shower room. The room that had the appearance of a double bedroom during the site inspection is described by the applicant as a "storage space" and the area with sofa, large table and chairs is described as "workshop/studio space".
- 1.5 The building has central heating via radiators.
- 1.6 The originally submitted drawings showed a number of windows, glazed doors and rooflights. However, a site inspection revealed 2 additional rooflights and also a first floor side glazed door to serve the roof accommodation. Subsequently, the applicant has submitted revised elevations which now include the rooflights but show the first floor glazed door as blocked in by timber cladding.
- 1.7 The footprint of the building lies on established farmyard and so there has also been a change of use of land to residential use within this footprint.
- 1.8 When the application was being initially registered and validated, the applicant was advised to include any land in the environs of the building that were used as residential garden. The applicant did not include any of the land in the environs in the "red line area" and explicitly stated "the new construction does not include the creation of a garden". However, a site inspection revealed that an area at the rear of the Apple House leading to the main front door and to the French doors of the building was being used domestically (ie as a sitting out area with garden furniture

and decorative plant pots) not for farmyard related uses. However, this area was expressly excluded from the application site area and hence is not part of this retrospective application.

## **2. The Site:**

- 2.1 The outbuilding has been erected on land that was formerly the farmyard of Aldon Farm, being next to the concrete apron to agricultural storage buildings that are still in use in relation to rented farmland to the north and east.
- 2.2 To the rear (north) and eastern flank is agricultural land, farmed by a tenant farmer. To the western flank is a converted Apple House, the host dwelling.
- 2.3 To the front (south) is an area laid with tarmac and concrete pavements and used domestically for siting of garden furniture etc.

## **3. Planning History:**

- 3.1 TM/02/01222/FL      Approved 08.07.2002  
Conversion of existing garage and stores, involving some rebuilding to an artist studio.
- 3.2 TM/01/01040/OA      Withdrawn 07.08.2001  
Outline Application: Two storey agricultural dwelling.

## **4. Consultees:**

- 4.1 PC: Offham Parish Council objects strongly to this retrospective application for a “modular built workshop” and the associated change in use from agricultural land to land associated with The Applehouse for the following reasons:
  - This is a new structure within a Conservation Area and the Metropolitan Green Belt that is, as far as we understand, required solely for residential use.
  - We presume therefore that the wording in the application actually means a change in use from agricultural to residential.
  - The property is zoned Metropolitan Green Belt and no information has been submitted with the application to explain what special circumstances justify the erection of this new structure.
  - The property sits within one of Offham’s Conservation Areas and does nothing to preserve or enhance the character or appearance of the area. In fact the structure itself only intensifies the amount of built form in this particular location that was once a farmyard leading directly into open farm land.

- Whilst we appreciate that every application has to be dealt with on its own merits we also understand that the history of the site is relevant. We note from our files that an outline application for a two storey agricultural dwelling in virtually the same location was submitted in 2001, but later withdrawn. It would appear that this current application is in effect an alternative way of achieving an additional residential unit on the site, albeit this time the structure has already been built and indeed is occupied.
- Bearing in mind that this is a retrospective application, if TMBC is minded to support our objections and refuse planning permission how are the Council intending to deal with the offending structure? Should consideration be given to issuing an Enforcement Notice in tandem with a planning refusal if this is the recommendation to be pursued?

4.1.2 Private Reps + Press and Site Notice (4/0X/0S/0R). No responses received.

## **5. Determining Issues:**

- 5.1 The site is in the rural area, outside the settlement confines of Offham Village. It is in the MGB and in the Aldon Offham Conservation Area. To the west, beyond the Apple House, are a number of listed buildings.
- 5.2 In addition to PPG2 (Green Belts), relevant policies as regards the rural/ MGB siting are Policy P2/16 of the TMBLP and Policies SS2, EN1 and HP5 of the adopted KMSP. The main considerations are whether the building is appropriate in the MGB/rural area or if not, if there are any "very special circumstances" in mitigation of the harm thereby caused.
- 5.3 Also Policy P6/10 of the TMBLP is relevant in so far as the host dwelling is a converted rural building. This policy presumes against extensions to dwellings resultant from converted rural buildings.
- 5.4 Policies P4/4 and P4/1 of the TMBLP relate to Conservation Areas and listed buildings (including their settings) respectively. These matters are also referred to in Policies QL6 and QL8 respectively of the adopted KMSP.
- 5.5 The building has been located on agricultural land. It is described in the application as a workshop for private use but Members will note that it has been laid out with facilities that would enable day to day use as habitable accommodation.
- 5.6 The building does not meet the criteria for appropriate development listed in PPG2 and is therefore contrary to Policy P2/16 of the TMBLP and Policy SS2 of the adopted KMSP. Even if it were considered to be genuinely ancillary and incidental "modest extension" of the host dwelling (the Apple House), it has been erected on agricultural land and not on lawful domestic curtilage. The building therefore harms

the MGB due to inappropriateness and is also harmful to the Green Belt because it reduces the openness and visual amenities of the Green Belt. No case purporting to be “very special circumstances” has been put forward by the applicant.

- 5.7 Due to its siting on agricultural land, the building harms the countryside which should be protected for its own sake and it is therefore also contrary to Policies EN1 and HP5 of the adopted KMSP.
- 5.8 Notwithstanding the above, even if it were considered acceptable to grant planning permission for the land on which the building has been erected as garden curtilage to serve the Apple House, in my view this would be subject to the removal of permitted development rights for outbuildings etc. The basis for imposing such a constraint would not only be to protect the openness of the MGB but also because the Apple House is a converted rural building which has already been allowed to have extensions as part of its conversion. The conversion as approved under ref TM/02/01222/FL included more than adequate garaging and storage to serve the dwelling being created and there would be no justification in my view for any relaxation of Policy P6/10 in regard to the building as erected.
- 5.9 The Conservation Area centres on the historic farm complex of Aldon Farm. It specifically includes the buildings of the farm complex. However, before the development in this retrospective planning application, the Conservation Area was clearly split along the eastern rear boundary of the Apple House between residential uses and the agricultural uses of the farmyard. This development represents an encroachment of the domestic uses towards the agricultural land. The building therefore harms the character and appearance of the Conservation Area, in my opinion.
- 5.10 The juxtaposition of the building compared to the listed buildings at Aldon Farm is such that the setting of those buildings is not harmed in my view because of the intervening Apple House which is taller than the building subject to this application.
- 5.11 In conclusion, I recommend that the building should be refused planning permission and enforcement action taken to secure the removal of the building. I do not recommend enforcement action be taken at this point in time in regard to the unauthorised change of use of land to garden curtilage but a retrospective application should be requested so that appropriate conditions can be imposed, for example in regard to the removal of permitted development rights. If no such application is submitted in a reasonable period, I will report this matter back to this Committee for further consideration.

**6. Recommendation:**

- 6.1 **Refuse Planning Permission** as detailed by letters dated 03.05.2006, 18.04.2006, 17.07.2006; site location plan date stamped 08.05.2006; block plan date stamped 04.05.2006; drawing of floor layout and elevations date stamped 17.07.2006 for the following reasons:
- 1 By virtue of its size and siting, the building is inappropriate development in the Green Belt and harms the countryside which should be protected for its own sake. The building is therefore contrary to PPG2 (Green Belts) and to Policy P2/16 of the Tonbridge and Malling Borough Local Plan 1998 and Policies SS2, EN1 and HP5 of the Kent and Medway Structure Plan 2006.
  - 2 By virtue of its size and siting, the building represents significant residential encroachment into a farmyard complex and thereby harms the character and appearance of the Conservation Area. The building is therefore contrary to Policy P4/4 of the Tonbridge and Malling Borough Local Plan 1998 and Policy QL6 of the Kent and Medway Structure Plan 2006.
  - 3 The building is additional subsequent development to a converted rural building and is therefore contrary to Policy P6/10 of the Tonbridge and Malling Borough Local Plan 1998.
- 6.2 An Enforcement Notice **be issued** as set out below and copies **be served** on all interested parties.

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Chief Solicitor, he being authorised to amend the wording of the Enforcement Notice as may be necessary.
- In the event of an appeal against the Notice the Secretary of State and the appellant to be advised that the Local Planning Authority is not prepared to grant planning permission for the development the subject of the Enforcement Notice.

**Alleged Breach Of Planning Control**

Without planning permission, the construction and use of a modular built workshop for private use.

**Reasons For Issuing The Notice**

It would appear to this Authority that the above breach of planning control has occurred within the last four years. By virtue of its size and siting, the building is inappropriate development in the Green Belt and harms the countryside which should be protected for its own sake. The building is therefore contrary to PPG2

(Green Belts) and to Policy P2/16 of the Tonbridge and Malling Borough Local Plan 1998 and Policies SS2, EN1 and HP5 of the Kent and Medway Structure Plan 2006.

By virtue of its size and siting, the building represents significant residential encroachment into a farmyard complex and thereby harms the character and appearance of the Conservation Area. The building is therefore contrary to Policy P4/4 of the Tonbridge and Malling Borough Local Plan 1998 and Policy QL6 of the Kent and Medway Structure Plan 2006.

The building is additional subsequent development to a converted rural building and is therefore contrary to Policy P6/10 of the Tonbridge and Malling Borough Local Plan 1998.

### **Requirement**

Remove the unauthorised new building.

Reinstate the land to its original condition.

### **Period For Compliance**

Three calendar months from the date the Notice becomes effective.

## **6.3 Further Proceedings**

In the event of the Enforcement Notice not being complied with and subject to satisfactory evidence, the Chief Solicitor **be authorised** to commence any proceedings which may be necessary under Section 179 of the Town and Country Planning Act 1990 (as amended) to secure compliance with the Enforcement Notice.

Contact: Marion Geary