

- *The premises are used for up to 12 persons and the sleeping accommodation is for visiting tutors.*
- *Community based uses in the main studio would lead to conflicts in use.*
- *The kitchen is designed for group catering.*
- *The surrounding orchards are inspirational and conducive to writing.*
- *Letters of support have been received from a local resident and Chalklands Opportunity Centre, a school for children with emotional, social and behavioural difficulties.*
- *The applicant and his partner offer support guidance and tutoring to aspiring artists and writers and helps to development interest and talent. There is no similar service in the area and is subject to high demand and support from KCC.*
- *It complies with the Council's local Cultural Strategy and a number of key themes and documents.*
- *Art Therapy benefits to health.*
- *The workshop, by virtue of its historic context, scale, design and use has minimal impact on the Conservation Area and preserves its special character.*
- *The use is a continuation of 18 years of similar use of the Granary and AppleHouse.*
- *Students can come from a 40 mile radius; Group sizes range from 1-12 and meeting take place 12-14 times per year.*

2. The Site:

2.1 This is as previously described.

3. Planning History:

3.1 This is as previously described.

4. Consultees:

4.1 PC: For the record, we remain opposed to the application; and associated change of use, irrespective of the additional information supplied.

4.2 Any further responses will be included in a supplementary report.

5. Determining Issues:

- 5.1 In response to the additional supporting statements, I would advise Members as follows:
- 5.2 It is unfortunate that the applicant may not have fully appreciated the need for planning permission and/or building regulations, although the building, in any event, is not as initially purchased and installed. However it is necessary for the Committee to consider the proposal as now before it.
- 5.3 This proposal does not constitute “appropriate development” for the purposes of Green Belt policy. There is, therefore, a fundamental policy objection to the proposal. Only if the applicant can justify the proposal on the basis of a fully articulated case of “very special circumstances” (vsCs) will it be possible to set aside this policy objection. The site lies within the open countryside and there is also a general presumption against development such as this; which can only be set aside if there is an overriding need for the development.
- 5.4 The matters set out in paragraph 1.3 above may be treated as the applicant’s claim of “very special circumstances” and justification for the development. In order to assess the claim of vsCs it is also necessary to review the history of this part of the farm complex and the series of facilities procured by the applicant in the recent past because this forms the context in which the current case of vsCs must be considered.
- 5.5 The following history of the Aldon Farm complex is pertinent :
- In 1986, whilst living elsewhere in Offham, the applicant obtained planning permission for the Granary to become 3 floors of artists studio (TM/86/1532/FL).
 - In 1987, the applicant obtained planning permission to use the majority of the floorspace of the Granary to create a one bedroomed dwelling with studio uses relegated to the first floor and second floor (TM/87/1530/FL).
 - In 2003, planning permission obtained to extend and use the Apple store as an artist’s studio. This was to have 5 studios and a small amount of residential accommodation. This planning permission included the creation of pitched roofs which allowed for first floor studio accommodation (TM/02/01222/FL).
 - In 2004, whilst still in residence at the Granary the applicant commenced the erection of the triple carport which was later altered to become the application building.
 - In 2004/05 the applicant sold the Granary and moved into the converted Apple store, called the Apple House. As was evident at the recent site inspection, the

Apple House is no longer laid out primarily for studio use but rather is now primarily residential in terms of floorspace.

- 5.6 Therefore whilst the claimed “very special circumstances” for the outbuilding are noted, any alleged deficiency in the size or appropriateness of studio space for teaching arises from the applicant’s earlier decisions. That is, this has occurred as a result of the disposal of the Granary and the current mode of use of the Apple House.
- 5.7 Whilst the cultural benefits of the facility are noted, it does not contain any justification for a cultural teaching facility to be sited in an inappropriate new building as opposed to a new building within a settlement or in a converted rural building for example. There are not seen to be any overriding cultural benefits from the building having to be in close proximity to the dwelling of the applicant. In my view, having carefully considered the case put forward, there is no overriding case of “very special circumstances” to justify this wholly new building in the Green Belt.
- 5.8 In terms of the close proximity of this teaching premises with the applicant’s dwelling house, if planning permission were to be granted or allowed on appeal, it would be appropriate for a condition or legal agreement to prevent any residential use of the building in accordance with the stated case of vscls. No justification has been advanced, or accepted, for use for additional residential accommodation.
- 5.9 Members will be aware that the agent has now made it clear that there is no ancillary residential use of the building but that its primary use is teaching/seminars/studio as described above. In this case, as a separate use, it will need its own parking requirements. The character of the use could be likened to Further/Higher education use (Class D1) or a conference type use (Class D2). With up to 12 students and one tutor, 3-4 parking spaces will be needed according to Kent Vehicle Parking Standards July 2006. I am satisfied that this number of spaces could be accommodated on part of the farmyard without hindrance to the access and turning requirements of the farm vehicles although this would normally be controlled by a condition if planning permission were to be granted.
- 5.10 The extensive public use of the building that has become evident from the additional supporting information brings with it issues regarding the sustainability of the location. Policy SP1 of the KMSP reflects national planning guidance on environmental sustainability (PPS1, PPS7, PPG3, and PPG13). It requires that development should be in a sustainable form and pattern involving reducing the need to travel and fostering good accessibility to jobs and services. The application site is poorly accessible in terms of public transport and consequently scores poorly in environmental sustainability terms.
- 5.11 At the site inspection Members asked about the Building Regulations implications of the use of the building. While such matters are not material to the planning decision, in this case Members will wish to know that as a public teaching facility it should have had compliance with all relevant Approved Documents, A, C, F, G, H,

J, K, L, N and in particular: fire protection of structure; protected means of escape; emergency lighting and signage; early warning protection to adjacent building as combustible structure; disabled access and facilities; level approach and access; WC facilities; services. Due to the period of time the building has been completed, no Enforcement action can be taken under the Building Regulations. However, should an application be submitted for regularisation, it is likely that this would be technically feasible to successfully implement although this would include costly alterations/relocation to the staircase to from a protected means of escape (Members will recall that the staircase opens into the kitchenette area).

5.12 I am firmly of the view that there are no very special circumstances such as to justify this development. I therefore recommend refusal. The logical implication of this recommendation is that Enforcement action is justified to secure removal of the unauthorised building and use.

6. Recommendation:

6.1 **Refuse planning permission** as detailed by letters dated 03.05.06, 18.04.06 and 17.07.06; block plan date stamped 04.05.06 site location plan date stamped 08.05.06; drawing of floor layout and elevations date stamped 17.07.06; supporting statement and enclosures date stamped 11.09.06; letters of support date stamped 20.09.06 for the following reasons:

- 1 By virtue of its use, 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 Tonbridge and Malling Borough Local Plan 1998 and Policies SS2, SS8 and EN1 of the Kent and Medway Structure Plan 2006.
- 2 By virtue of its use, size and siting, the building represents significant non agricultural 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, due to its location remote from local service centres and with limited scope for walking, cycling or use of public transport will increase the need to travel by private car and hence represents an unsustainable pattern of development, contrary to PPS7 (Sustainable Development in Rural Areas) and Policy SP1 of the Kent and Medway Structure Plan 2006.

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 use as artist's studio and poetry/ literature seminar room.

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 use, 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 Tonbridge and Malling Borough Local Plan 1998 and Policies SS2, SS8 and EN1 of the Kent and Medway Structure Plan 2006.

By virtue of its use, size and siting, the building represents significant non agricultural 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, due to its location remote from local service centres and with limited scope for walking, cycling or use of public transport will increase the need to travel by private car and hence represents an unsustainable pattern of development, contrary to PPS7 (Sustainable Development in Rural Areas) and Policy SP1 of the Kent and Medway Structure Plan 2006.

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