

Offham	566835	(A) 15 December 2003	(A) TM/03/03918/FL
Downs	156893	(B) 4 January 2007	(B) TM/06/04015/FL

Proposal: (A) Change of use of part of agricultural building to one unit for B8 storage
(B) Temporary permission for the change of use of agricultural land to land used for various activities including quad biking, "apache" off road driving, sporting trials cars, off road 4x4 driving, blindfold and reverse steer driving, outdoor activity days, B and E trailer and countryside management training to include the use of chainsaws, 4x4, ATVs, tractors, diggers, all terrain forklifts and winches. Change of use of agricultural building to use as an office/administration and training base and ancillary storage and maintenance of equipment in association with this use.

Location: Ashtree Farm Teston Road Offham West Malling Kent ME19 5RL

Applicant: Pond Investments Ltd

1. Description:

(A) TM/03/03918/FL:

1.1 This application, which was subsequently submitted following enforcement investigations, relates to the use of one half of a large agricultural barn to use for the storage of furniture. The conversion has involved extending the barn with a small single storey extension and inserting a number of windows.

(B) TM/06/04015/FL:

1.2 The unauthorised change in use of the other half of the agricultural building to use as an office/ administration and training base has also been the subject of enforcement investigations.

1.3 An application relating to change of use of the building was subsequently submitted in 2003 (TM/03/03919/FL). However, due to a number of difficulties in establishing what was actually taking place on the site it was not possible to reach a decision on the application. A full evaluation has now taken place of the activities taking place on the site and it has been established that since the previous planning application was submitted, the nature of the business and the activities carried out on this site have altered and it has become evident that planning permission is also required for the change of use of the land from agricultural for use for various activities as described in the heading to this report. The building is used as an office/ administration and training base and for ancillary storage and maintenance of equipment in association with this use.

- 1.4 The application is accompanied by a supporting statement, a Travel Plan for staff and clients, an ecological report and a noise survey.

2. The Site:

- 2.1 The site is situated within the Metropolitan Green Belt and Special Landscape Area, on the southern side of Teston Road, between King Hill and the junction with Offham Road. Part of the site lies within a Site of Nature Conservation Interest identified in the TMBLP. However, since the adoption of the TMBLP the KWT has reviewed the boundaries of this SNCI, and as a result, the application site is no longer included in the area they believe merits SNCI designation. The site is situated on a classified road, with a speed limit of 60mph. The site has two main accesses serving it, both on Teston Road. The east access was subject to an appeal against the enforcement notice (02/00324/UNAWKS), whereby it was subsequently allowed to remain, subject to Condition 1 of the Inspector's decision notice which required it to be used as an entrance only to the site, with the other (historic) access being used to exit the site.

3. Planning History:

TM/86/10722/FUL Grant with conditions 22 October 1986
(TM/86/1284)
General purpose farm building and hay barn.

TM/03/00143/FL Application Withdrawn 18 July 2003

Change of use of redundant agricultural building to two units of B8 storage

TM/03/03919/FL Application Withdrawn 16 February 2007

Change of use of part of agricultural building to use as an Office / Administration and Training Base in connection with recreation and training in the use of vehicles and equipment for countryside management

TM/03/03924/FL Application Withdrawn 29 March 2005

Revised application for access

TM/04/02243/LDCE Application Withdrawn 29 March 2005

Lawful Development Certificate Existing: Occupation of dwelling by person not fulfilling the terms of condition (iii) of planning permission TM/89/0200 (Agricultural occupancy)

TM/04/02549/FL Application Withdrawn 8 February 2006

Removal of agricultural occupancy condition from TM/89/00200

TM/05/02278/RD Grant 15 December 2005

Details of landscaping submitted pursuant to condition 2 of appeal decision following planning enforcement notice TM/02/00324/UNAWKS

TM/05/02987/LDCE Certifies 15 December 2005

Lawful Development Certificate Existing: Immunity from agricultural occupancy condition attached to farmhouse

TM/06/02031/LDCE Certifies 16 November 2006

Lawful Development Certificate Existing: Use of garage and farm store as independent dwelling

4. Consultees:

(A) TM/03/03918/FL:

Note: The consultation responses listed below were submitted in 2004, soon after receipt of the application.

4.1 Offham PC: On a general point, the Committee is disappointed that the application is retrospective and only follows action taken by T&MBC rather than being promoted by the user/ occupier as should have been the case.

4.1.1 The Council objects to this application on the following grounds:

- The Committee questions whether the building would be permitted in its own right for the types of uses it is currently being used for given the land's zoning of Green Belt and Special Landscape Area.
- The Committee is concerned that agricultural need which allowed the farmhouse to be built has/ is very quickly evaporated/ing. The pattern of business use on the site over the last few years indicates this.
- Application states that "there is no view of it from either the highway or public footpath". The building is clearly visible from Teston Road, especially if travelling by bus.
- Traffic – Planning Application Form 2 states that no cars will visit the site during each normal working day but 2 car parking spaces are provided?

- The use to which the building is being put does not in any way “meet the needs of rural areas for commercial and industrial development, as well as for sport and recreation”. The current use is of no environmental or economic benefit to the rural area in which it is located. The application states that “no staff are employed on site”.
- Taking into account the other application (TM/03/03919/FL) for the same building, the remaining “half” of the barn is still unaccounted for. Presumably this remains as agricultural use?
- The Committee notes that TMBC is awaiting a planning application on the current access and if this is not forthcoming, an Enforcement Notice will be served.

4.2 West Malling PC: Members OBJECT strongly to this proposal.

4.2.1 This would undoubtedly represent an erosion of the Green Wedge between West Malling and Kings Hill which must be resisted vigorously.

4.2.2 The building in question is subject to a condition as to agricultural occupancy which according to information available to members is not being fulfilled.

4.2.3 They regard as totally spurious the attempted justification in the supporting papers that this proposal would represent farm diversification. Such diversification should be intended solely to support other agricultural activities – there is a lack of such activities being carried out at this location, hence that argument cannot be sustained.

4.3 Agricultural Consultant: I believe the building, and its associated yard, could have an important role in assisting this holding to re-establish a commercial scale agricultural use and thereby enable the current, or future, occupiers to comply with the agricultural occupancy condition on the associated dwelling. The holding has the advantage of some 25 ha of better quality land, and the existence of an agricultural dwelling with a useful general purpose building already in-situ offers distinct advantages for an agricultural business, particularly for an occupier who might otherwise have to try to obtain planning consent to develop such facilities from scratch elsewhere.

4.4 KCC (Highways): No objections.

4.5 Private Reps: 0/0X/0R/0S + Art 8 Site and Press Notice.

(B) TM/06/04015/FL:

- 4.6 Offham PC: Following our objections to the two outstanding applications TM/03/03918/FL and TM/03/03919/FL we remain firmly opposed to the change of use of both the agricultural land and the agricultural building for the following reasons:
- 4.6.1 We do not believe that the specified uses are an appropriate use of the land bearing in mind that it is zoned Metropolitan Green Belt and lies within a Special Landscape Area;
- 4.6.2 The proposed use of the land and the building does not meet the needs of the rural areas for commercial and industrial development, or for sport and recreation. The use is of no environmental or economic benefit to the rural area in which it is located;
- 4.6.3 In various other planning applications on this site relating to use of the land, the buildings and even the farmhouse, much has been made of the fact that, although when Pond Investment purchased Ashtree Farm in 1995, it was bought in full knowledge of its agricultural status and the then agricultural occupancy condition on the farmhouse itself, in their opinion the farm was unviable due to the limitations of the overall acreage. However, it was only in 1989 that Tonbridge and Malling Borough Council granted consent for the farmhouse based solely on agricultural need. Six years is a very short space of time for such agricultural need to have evaporated.
- 4.6.4 In 1995 Pond Investments were granted consent for a garage and farm store. In that application the acreage of the farm is stated as 78.50 acres, the same size as when consent was granted for the farmhouse. The current application states a total acreage of 26 hectares (64.25 acres) which is a relatively small reduction of 14.25 acres.
- 4.6.5 The application states in paragraph 2.3 that the Ian Wright Organisation only uses part of the existing agricultural building. There is no indication of what are the uses/ is proposed for the remainder of the building, yet the whole of the building is included within the application. This needs to be clarified in terms of what uses could operate within the remaining space.
- 4.6.6 Paragraph 2.5 states that this is a “farm diversification project that makes good use of the land in a reasonably sustainable location for countryside management training purposes and for some motorised sport”. We do not believe that this is an appropriate form of diversification and the site is not in a sustainable location.
- 4.6.7 There is insufficient detail given in the client list in Appendix 3 to make a fair assessment of what proportion of business is “countryside management training” and what proportion is “some form of motorised sport”. Taking on board the

comment made in the last paragraph of Appendix 5 where they state that the busiest day tends to be a Saturday this would suggest that the majority of business is the latter.

4.6.8 We have considerable concerns about a number of the listed activities and in particular the quad biking, apache off road driving, sporting trial cars and other motorised sport activities in terms of the potential noise problems and the long term damage to the land itself both of which can be considerable depending upon the intensity of the use.

4.6.9 We are also concerned that if permission was to be granted there is potential for the expansion of the range of activities and do not believe that the suggestion of a temporary permission sufficiently addresses this issue.

4.6.10 In paragraph 4 the applicant makes reference to Planning Policy Guidance Note 2 – Green Belt. We do not believe that the proposed uses fulfil any of the quoted bullet points. The site is very obviously located in a rural area, it is not in close proximity to an “urban population” and if indeed is seeking to serve an urban population then this is contradictory to the principles of sustainability.

4.6.11 Paragraph 4 – Planning Policy Guidance Note 7 – we would contend that the location of Ashtree Farm is such that it does not meet the criteria of this Guidance Note. It is good that local organisations are making use of the facility but this does not in itself justify its existence. Whilst the applicant states that Ashtree Farm is accessible by car, bus, bicycle and on foot in reality we would suggest that the greater proportion of clients are going to travel to the site by car. There is only one bus, travelling to and from West Malling that passes by the site and the majority of the client base are unlikely to be within cycling or walking distance to the site. A journey by public transport is likely to involve one or more trains and then a bus ride and potentially a walk either for connecting services or to the site itself all of which make this form of transport an unlikely choice.

4.6.12 We are firmly opposed to the granting of a temporary permission for the change of use, as it is totally unnecessary to monitor the impact. The applicants themselves state that the business has in fact been operating since 2000 therefore there is plenty of evidence to evaluate the impact on the amenity of the area, traffic generation and indeed growth of the business over the past six years or so. Indeed, bearing in mind the reasons behind and the technicalities involved in the granting of a temporary permission for the composting plant at Blaise Farm Quarry we are indeed very suspicious for the reasons of seeking a temporary permission. We suggest that this application is considered openly and honestly as an application for a full planning permission rather than hide behind a theoretical temporary permission.

4.7 West Malling PC: Members Object strongly to this application on the grounds that the question of agricultural occupancy has still not been resolved.

- 4.7.1 Members are aware that many of the activities “proposed” are in fact already taking place, and have been for some considerable time.
- 4.7.2 Members reiterate (yet again) that this important Green Wedge between West Malling and Kings Hill must be preserved; it will never be possible to repair the damage caused by these “proposed” activities.
- 4.7.3 Members do not accept that these activities constitute a “diversification project” as there is no existing farm use from which to diversify.
- 4.7.4 Members once again express extreme concerns that these applicants have been permitted to flout planning restrictions with impunity.
- 4.8 DHH: Environmental Health have no record of noise nuisance arising from the activities. The application appears to include a number of noisy activities which may not have occurred in the past. Should complaints be received in the future the outcomes of investigations will inform the consideration of any further applications.
- 4.9 KCC (Highways): No objections.
- 4.10 Private Reps: 4/0X/0S/0R + Art 8 Site and Press Notice.

5. Determining Issues:

(A) TM/03/03918/FL:

- 5.1 The main determining issues associated with this application are whether the change of use of this building is acceptable, in terms of the proposed use, the alterations that have taken place to the building, and whether the proposed use is acceptable in terms of its impact on the amenity of the locality.
- 5.2 PPG2: Green Belt says that the change of use of existing buildings is not inappropriate development in the Green Belt, provided that there is no adverse impact on the openness of the Green Belt or the purposes of including land within it. Policy P6/14 of the TMBLP relates to the conversion of rural buildings to commercial, industrial, recreation and tourist uses. It states that the conversion of a rural building to these uses is acceptable subject to a number of criteria.
- 5.3 The conversion has involved extending the barn with a small single storey extension, the insertion of a mezzanine floor to provide a first floor, a number of internal alterations, and the insertion of a number of windows in the north and west elevations. I am of the opinion that the alterations to the openings are acceptable, given that the number of windows has been reduced and the style altered to be less uniform. The conversion of the barn has not resulted in a significantly detrimental impact upon the rural character or the surrounding locality, nor on the openness of the Green Belt.

- 5.4 I note the comments raised by the PCs in relation to whether a building would be allowed to be erected if this use were the original use and the concerns that the proposal would have a detrimental impact on the countryside. However, given that the building exists I can identify no material harm in these respects.
- 5.5 The building is of a permanent and sound construction and of a general form and design that is in keeping with its surroundings. Policy P6/14(5) of the TMBLP considers what impact the conversion of a rural building will have on the fragmentation of an agricultural land holding and whether it would result in a non-viable agricultural unit. Since this application was submitted, a Lawful Development Certificate has been issued for the immunity from an agricultural occupancy condition on the farmhouse (TM/05/02987/LDCE), based on evidence that the farmhouse had not been occupied by a person whose main income was derived from agriculture or forestry for over ten years. Therefore, there is no requirement for the dwelling at Ashtree Farm to be occupied on this basis.
- 5.6 The existing business generates very few traffic movements, given that the storage company deals with long term furniture storage. The applicant suggests that the company has approximately 2 heavy goods vehicles accessing the site each week. When considering the type and number of vehicles that could be used in association with an agricultural business, I am of the opinion that the proposal is acceptable in terms of highway safety and that there is satisfactory parking. I am satisfied that the proposal will not have a detrimental impact on residential amenity given that the site is relatively isolated from neighbouring residential properties. The proposal would not have a materially greater impact on the openness of the Green Belt, given that the proposal involves the use of an existing building. Whilst the building is visible from Teston Road, the impact on the streetscene has not altered as a result of the proposal.
- 5.7 On balance, I consider the proposal to be acceptable.
- (B) TM/06/04015/FL:
- 5.8 PPG2, Policy SS2 of the KMSP and Policy P2/16 of the TMBLP provide a presumption against inappropriate development within the Green Belt.
- 5.9 As with the previous application, PPG2 allows for the re-use of buildings inside a Green Belt providing that it does not have a materially greater impact than the present use on the openness of the Green Belt, or on the purposes of including land within the Green Belt. The same tests are to be applied in assessing whether changes of use of land (i.e. outdoor uses) constitute inappropriate development in the Green Belt.
- 5.10 PPS7 states that LPAs should support country based enterprises and activities which contribute to rural economies and/ or promote recreation in and enjoyment of the countryside. It states that favourable consideration should be given to proposals for diversification in Green Belts where the development preserves the

openness of the Green Belt and does not conflict with the purposes of including land within it.

- 5.11 PPG17 states that in rural areas those sports and recreation facilities which are likely to attract significant numbers of participants should be located in, or on the edge of country towns. Proposals for farm diversification involving sports and recreation activities should be given favourable consideration.
- 5.12 The Ian Wright Organisation business has been trading at Ashtree Farm since 2000. The applicant has submitted details of the events run by the organisation between 2004 and 2006. Over time, the business has altered and the number of corporate events (12 people or more) held at Ashtree Farm has declined as the company has begun to utilise sites elsewhere that possess larger supporting buildings and a greater range of facilities. The evidence submitted with the application shows that in 2004 there were 65 corporate events at Ashtree Farm, in 2005 there were 28 corporate events and in 2006 (up to July) there were 17 events. The business has shifted so that Ashtree Farm holds events for individuals and smaller groups. Given the changing nature of the business I do not necessarily consider 2½ years to be representative of how it will continue to be run in the future and given the sensitive nature of the surrounding land, I am of the opinion that if planning permission is granted for the proposal it should be subject to a temporary permission to allow the business to continue to evolve, to establish the overall level of activity, and then for this to be monitored.
- 5.13 Whilst the use being undertaken is not of a traditional agricultural or forestry nature, it does involve activities that cannot be considered to be appropriate to many urban locations, due to likely restrictions on the scale of land available, potential impact on adjacent residential properties and the general disturbance that may be caused to the amenity of these properties.
- 5.14 On this basis, I am of the opinion that the broad principle of such a development in this location is acceptable in policy terms.
- 5.15 Policy P6/14 of the TMBLP relates to the conversion of rural buildings to commercial, industrial, recreation and tourist uses. The conversion has involved erecting a ramp to the rear to provide external access to first floor level, the insertion of a mezzanine floor to provide a first floor, a number of internal alterations and the insertion of a number of windows in the north and west elevations. I am of the opinion that the alterations to the openings are acceptable. The conversion of the barn has not resulted in a significantly detrimental impact upon the rural character of the surrounding locality.
- 5.16 The building is of a permanent and sound construction and of a general form and design that is in keeping with its surroundings. For the same reasons as set out in para 5.5 above, I do not consider that this use will result in fragmentation of the agricultural holding.

- 5.17 Policy P6/14(4) seeks to ensure that the proposed use is acceptable in terms of residential and rural amenity, highway impacts and the use of the land surrounding the buildings. The site is relatively large and there are no properties directly adjacent to the site.
- 5.18 Access to the site is by way of an improved eastern access with egress by way of the existing access to the west. KCC (Highways) are not aware of any problems arising from this arrangement.
- 5.19 PPG13 promotes sustainable travel and encourages LPAs to seek travel plans to be submitted alongside planning applications which are unlikely to have significant transport implications.
- 5.20 The applicant has provided details of the travel-to-work arrangements for the seven staff employed at Ashtree Farm in connection with the business. It is suggested that the applicant proposes to give remote network access to employees to enable them to work at home, that they will arrange for free bus passes for staff travelling to work by bus, will provide shower and changing room facilities for employees walking/ cycling and will provide bike racks/ sheds. In terms of the company's clients, it is suggested they either arrive by coach or by train to West Malling, where they catch a taxi or minibus. Agricultural trainees generally arrive by minibus or car share, and it is suggested that 50% of individual agricultural trainees arrive by their own car and 50% arrive by train and then a taxi or bus. The applicant proposes to make bus timetables available on their website.
- 5.21 The widened West Malling and Leybourne bypass has recently opened, and includes a cycle lane between Kings Hill and the station.
- 5.22 I am of the opinion that suitable measures can be taken to reduce the number of vehicular movements in connection with the use, including organising a minibus to pick up clients from West Malling station. Subject to the measures proposed in the Travel Plan being implemented I am of the opinion that the proposal will not be unacceptable in terms of highway issues. Furthermore, I am of the opinion that these measures will also reduce the impact of vehicle parking on the surrounding landscape.
- 5.23 I am satisfied that the proposal will not have a detrimental impact on residential amenity given that the site is relatively isolated from neighbouring residential properties.
- 5.24 I am of the opinion that the proposal will not have a significantly detrimental impact on the openness of the Green Belt or upon the Site of Nature Conservation Interest, given the extent of land used and the overall nature of the business.
- 5.25 An acoustic appraisal has been submitted with the application. Measurements were carried out during a multi activity corporate day. The survey concludes that the hourly LAeq levels from the proposed motorised activities in all areas are

below the existing daytime ambient noise level at the nearest properties, and therefore it was concluded that the venue can operate as planned without causing a significant noise impact. DHH has not received any complaints directed at the site.

5.26 In the light of the above considerations, I consider the proposal to be acceptable. I am, however, giving further consideration to whether there are additional conditions that would be appropriate. Any further recommendations will be contained in a supplementary report.

6. Recommendation:

(A) TM/03/03918/FL:

6.1 **Grant Planning Permission** subject to the following conditions:

1 This use hereby permitted is not for any other use, whether or not falling within Class B8 of the Town and Country Planning (Use Classes) Order.

Reason: In the interests of amenity.

2 Notwithstanding the provision of Section 55 of the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), the layout of the development shall not be varied by means of sub-division or amalgamation of any units, nor by the insertion of additional floors, without the prior permission in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to assess the impact of such variation on parking and vehicle circulation in the interests of safe and free flow of traffic.

3 No floodlighting shall be installed on the building unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity.

(B) TM/06/04015/FL:

6.2 **Grant Planning Permission** subject to the following conditions:

1 The use hereby permitted shall be discontinued and the land restored to its former condition on or before 31 May 2010. (T002)

Reason: In the interests of amenity.

2 The alterations to the building, shown on the hereby approved plans, shall be implemented within 3 months of the date of this decision.

Reason: In the interests of visual amenity.

- 3 Notwithstanding the provision of Section 55 of the Town and Country Planning Act 1990 or the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order), the layout of the development shall not be varied by means of sub-division or amalgamation of any units, nor by the insertion of additional floors, without the prior permission in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to assess the impact of such variation on parking and vehicle circulation in the interests of safe and free flow of traffic.

- 4 The submitted Travel Plan shall be implemented within one month of the date of this planning permission.

Reason: In the interests of highway safety.

- 5 No floodlighting shall be installed on the building unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of amenity.

Contact: Glenda Egerton