

**East Peckham**                      **567479 149352**      **20 December 2006**    **TM/06/02417/FL**  
East Peckham And  
Golden Green

Proposal:                              Erection of building for part use as agriculture and part use for  
tank storage business and change of use of existing barn to  
storage (retrospective)  
Location:                              Tagmar Hale Street Farm 152 Hale Street East Peckham  
Tonbridge Kent TN12 5JB  
Applicant:                              Mr And Mrs D J Allen

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**1. Description:**

- 1.1 Retrospective planning permission is sought for the erection of an open sided building for use partly for agriculture and partly for office and storage uses pursuant to an oil tank business. The application also requests permission for retrospective change of use of a detached barn from agricultural to storage use.
- 1.2 The building erected measures 150sqm (1,614sqft) with height to eaves at 2.5m and height to ridge at 3.3m. The building has open sides, a steel framework and corrugated metal roofing sheets.
- 1.3 Within the building are sited 3 sea containers, 1 mobile home (used as an office) and covered storage space. There is an area to the south of the building of a similar footprint to the building which has been covered in hardstanding for the open storage of oil tanks. There are also oil tanks on open land elsewhere on the site.
- 1.4 The existing barn approved under TM/93/0805/AGF was originally granted for agricultural purposes. It is now proposed that it be used for storage of oil tanks to reduce the current open storage on the site. The building measures 19m x 6m and is timber clad with timber framed glazing, wooden side hung garage doors and a metal corrugated roof.

**2. Reason for reporting to Committee:**

- 2.1 Retrospective application with a recommendation for refusal and therefore enforcement action must be considered simultaneously.

**3. The Site:**

- 3.1 The site lies to the northeast of Hop Bine Close, and to the west of the A228 Boyle Way. The buildings the subject of this application lie in the southwest corner of the site close to the access on to Hop Bine Close. Hop Bine Close is a residential housing development which has access off Smithers Lane.

- 3.2 The site lies adjacent to the boundary of the built confines but falls outside any defined settlement and lies within the Metropolitan Green Belt.

**4. Planning History: (most relevant)**

TM/63/10409/OLD Grant with Conditions 4 September 1963  
(MK/4/63/344)  
Outline application for agricultural dwelling.

TM/84/11029/FUL Grant with Conditions 31 January 1984  
(TM/83/1338)  
First floor extension conversion of single storey bungalow into two storey chalet bungalow.

TM/93/0805/AGF Not Development 18 August 1993

Prior Agricultural Notification: building 19m long x 6m wide.

**5. Consultees:**

- 5.1 PC: Objection, the PC finds the application unacceptable on the basis that light industry would be intruded on to a predominantly residential area. The local roads are also not suitable for or designed for the use of HGVs. The close proximity of this proposal to the existing children's play area.
- 5.2 DHH: Pollution – I have no record of any complaints concerning the business at this address and have no objection to the granting of retrospective permission. Food and Safety – I have spoken to Mrs Allen about the activities on this site and conclude that I have no comments to make about this application.
- 5.3 KCC (Highways): Based on the details provided and with no known problems associated with the current use, subject to all loading/unloading and turning being carried out within the site, I would on balance raise no objections.
- 5.4 Private Reps (4/0X/3R/0S + Article 8 Site Notice) One neighbour has written in on three occasions. The following issues were raised (in summary).
- The building that has been erected is unsightly, is not agricultural or historical, and neither of these activities are carried out.
  - If the applicants carry out the business activities described there will be unacceptable noise and disturbance levels which are not appropriate in a rural residential environment.
  - This unsightly building is inappropriate in a countryside environment. Moving this building to another location on the site would still have a detrimental impact.

- This unsightly site is a potential breeding ground for rats.
- It is inappropriate to have erected an industrial building and it is totally inappropriate to use this and the area around for the storage of tanks. There should be no caravans, industrial sheds or machinery. All this involves an unacceptable noise element and visual impact. Any activities should be solely agricultural or horticultural.
- No attempt has been made to tidy the site.
- No lorries or vans should access this site through the housing estate. It is narrow with on-street parking. There is a children's play area just by the main access into the site.

## **6. Determining Issues:**

- 6.1 The main determining issues on this site are the appropriateness of the development in the Metropolitan Green Belt (MGB) and the impact on the openness and functioning of the MGB, whether the proposal would cause harm to the character of the countryside, and whether there would be a detrimental impact on visual or residential amenity.
- 6.2 In the Green Belt PPG2 applies along with policy SS2 of the Kent and Medway Structure Plan 2006 and policy CP3 of the Tonbridge and Malling Core Strategy 2007. These policies adopt a general presumption against inappropriate development and consider all new built development to be inappropriate unless essential for agriculture and forestry, essential facilities for outdoor sport and recreation or modest alterations to or replacement of existing dwellings.
- 6.3 The erection of new buildings in the MGB for use as an oil tank storage business does not fall within any of the accepted purposes outlined within paragraph 3.4 of PPG2. Notwithstanding that it is, in part, said to be intended for an agricultural use, the new building that has been erected is therefore contrary to PPG2 and therefore harmful by definition to the MGB.
- 6.4 The re-use of existing buildings within the MGB can be supported by PPG2 provided:
- (a) it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it;
- (b) strict control is exercised over the extension of re-used buildings, and over any associated uses of land surrounding the building which might conflict with the openness of the Green Belt and the purposes of including land in it (eg because they involve extensive external storage, or extensive hardstanding, car parking, boundary walling or fencing);

(c) the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction; and

(d) the form, bulk and general design of the buildings are in keeping with their surroundings. (Conversion proposals may be more acceptable if they respect local building styles and materials, though the use of equivalent natural materials that are not local should not be ruled out.)

- 6.5 Accordingly, re-use of the existing barn could be supported, provided it did not involve extensive external storage, hardstanding, car parking, boundary walls or fencing. The use of the land and buildings as an oil tank storage business has resulted in large areas of open storage and associated hardstanding. The re-use of the existing barn does not therefore, in my opinion, respect the openness of the MGB as it has associated negative impacts through open storage and hardstanding. Whilst the previous agricultural use may have resulted in similar levels of hardstanding it would not be likely, in my view, to give rise to this extent of open storage. I do not therefore consider that the re-use of the existing barn is supported by PPG2 or policy EP7 of the Kent and Medway Structure Plan 2006.
- 6.6 In addition to the appropriateness of the proposal in the MGB, the application must also be considered against national and strategic policies which support economic development in rural areas and in particular policies which support farm diversification.
- 6.7 PPS7: Sustainable Development in Rural Areas, states that Local Planning Authorities should:
- “...be supportive of well-conceived farm diversification schemes for business purposes that contribute to sustainable development objectives and help to sustain the agricultural enterprise, and are consistent in their scale with their rural location. This applies equally to farm diversification schemes around the fringes of urban areas; and (iii) where relevant, give favourable consideration 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. (Where farm diversification proposals in the Green Belt would result in inappropriate development in terms of PPG2, any wider benefits of the diversification may contribute to the ‘very special circumstances’ required by PPG2 for a development to be granted planning permission.)”
- 6.8 A Consultation Draft of PPS4 was published in December 2007 and is currently under national consultation. PPS4 is an emerging policy document which in time will replace the current PPG4. Although as an emerging document it carries little weight, it is in my view relevant to this application. The Draft PPS takes a constructive approach to changes of use where there is no likelihood of demonstrable harm. It also asks LPAs to consider proposals involving economic development favourably unless there is good reason to believe that the economic

social and/or environmental costs of development are likely to outweigh the benefits. In particular, when considering proposals for farm diversification for business purposes, LPAs must support proposals which help to sustain agricultural enterprise and are consistent in their scale with their rural location and environmental impacts.

- 6.9 It has been established that new buildings in this Green Belt location are considered inappropriate development and that re-use of existing buildings may be considered acceptable in principle. Paragraph 6.5 above discusses the re-use of this particular building and finds that due to the extent of open storage and hard standing required in this instance and for this purpose, re-use is not considered acceptable.
- 6.10 In addition to the above, where farm diversification is proposed it must be demonstrated that it would support the long term viability of the agricultural land. At present the agricultural land is not used for any arable or livestock activity. Although the applicants have stated they intend to re-invest in a new and hopefully viable agricultural enterprise, there is no such plan in place and accordingly, it cannot be demonstrated that the diversification this application seeks to regularise would directly enable further agricultural uses, or the long term viability of the agricultural land. Accordingly, the proposal is contrary to PPS7, policy EP8 of the Kent and Medway Structure Plan 2006 and policy CP14 of the Tonbridge and Malling Core Strategy 2007.
- 6.11 Consequently, whilst agricultural diversification may be acceptable in principle on this site, the use applied for does not meet the national tests and accordingly cannot be supported. In addition, the scale of the use proposed is not consistent with this rural location and the costs to the countryside and MGB are not in my view outweighed by any economic benefits. The proposal is therefore contrary to PPS7, Draft PPS4 and in turn policies SS8 and EP8 of the Kent and Medway Structure Plan 2006.
- 6.12 Various statements have been submitted which seek to set out a case of “very special circumstances” to outweigh the policy objections to the application. The statements include the need for the owners of the oil tank business to earn a living, the financial losses encountered through an unsuccessful worm enterprise, that there are no plans to intensify the current oil tank business, the existing barn could accommodate all the oil tanks and therefore remove all open storage on the site, the oil tank business allows for the site as a whole to be maintained, the desire of the owners of the oil tank business to be self employed, an intention to use the remainder of the land as horticultural/agricultural in the future, and the cost of rented accommodation for the business if this application were refused. The applicants have also stated they are happy to landscape and screen the defined storage area and maintain vehicle movements at the current level.

- 6.13 Whilst there may be the potential for all of the oil tanks (if the level of tanks kept on site were reduced significantly) to be accommodated within the existing timber barn, the unauthorised building erected would remain for which there is no justification, and there is no demonstrable plan for this business to facilitate the long term viability of the agricultural land. Accordingly, I do not consider the potential for the tanks to be stored internally to constitute a case of very special circumstances (VSC) sufficient to outweigh the overriding policy objections.
- 6.14 The remainder of the statements set out in paragraph 6.12 could, in my opinion, be argued on other parcels of agricultural land in the Borough or indeed the wider countryside. Accordingly, they cannot be deemed to be special, or indeed “very special”. I do not therefore consider that a case of very special circumstances exists which is sufficient to outweigh the strong policy objections to the application.
- 6.15 The applicants have stated that no deliveries are made before 10am or after 2pm to avoid conflict with nearby residents taking and collecting their children from school. Such a restriction could be conditioned on any approval. There is sufficient land within the site area to allow for turning and off loading, and accordingly KCC Highways has raised no objection, on balance.
- 6.16 The site is near to residential properties though the use proposed does not involve processes which would give rise to harm to residential amenity, in my view. The Director of Health and Housing has therefore raised no objections.
- 6.17 In light of the above considerations, it is my opinion that the application constitutes inappropriate development in the MGB for which there is no justifiable case of VSC. The proposal is not supported by policies which seek to enable appropriate development in the countryside, including farm diversification policies. The application is therefore contrary to PPG2, policies SS2, SS8, EP7 and EP8 of the Kent and Medway Structure Plan 2006 and policies CP3 and CP14 of the Tonbridge and Malling Core Strategy 2007.
- 6.18 As permission has been sought for these developments retrospectively, it is also appropriate to consider whether it is expedient to take enforcement action. In addition to the breaches of planning control that have been considered in the context of the planning application, a further breach is taking place consisting of the unauthorised change of use of the site from agricultural to non-agricultural open storage, associated with the tank business. This open storage appears to have begun at about the same time as the unauthorised building was erected. In the light of the extent of visual harm that is being caused by these breaches both individually and collectively, particularly the harm caused to the openness of the MGB, I consider that enforcement action to secure the removal of the unauthorised building and the cessation of the unauthorised uses is appropriate. I consider such action is both necessary and proportionate, having taken into account the economic and personal hardship this may cause.

**7. Recommendation:**

**7.1 Refuse Planning Permission** for the following reasons:

1. The development constitutes inappropriate development within the Metropolitan Green Belt for which there is no justifiable case of very special circumstances. The development is therefore contrary to PPG2 Green Belts, policy SS2 of the Kent and Medway Structure Plan 2006 and policy CP3 of the Tonbridge and Malling Core Strategy 2007.
2. The proposal, by virtue of the visual impact of the newly-erected building and the extent of associated external open storage, gives rise to unacceptable harm to the openness of the Metropolitan Green Belt and rural character of the locality. The proposal is therefore contrary to PPG2 Green Belts and policy EP7 of the Kent and Medway Structure Plan 2006.
3. The proposal, by virtue of there being no evidence that the scheme would support the viability of an existing agricultural enterprise, cannot be considered to form an appropriate farm diversification proposal. The application is therefore contrary to PPS7, Draft Consultation PPS4, policies SS8 and EP8 of the Kent and Medway Structure Plan 2006 and policy CP14 of the Tonbridge and Malling Core Strategy 2007.

**7.2 An Enforcement Notice(s) be issued** as set out below and copies **be served** on all interested parties.

The Notice(s) 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(s) 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(s).

**Breaches of Planning Control Alleged**

1. The erection of an open sided building.
2. Use of the detached barn for storage use.
3. Change of use of the site from agricultural use to use for a tank business including associated open storage.

### **Reasons for Issuing the Notice**

The Local Planning Authority is satisfied that the breaches alleged have occurred within the last four (ten) years (as appropriate). The breaches constitute inappropriate development within the Metropolitan Green Belt for which there is no justifiable case of very special circumstances. They are therefore contrary to PPG2 Green Belts, policy SS2 of the Kent and Medway Structure Plan 2006 and policy CP3 of the Tonbridge and Malling Core Strategy 2007.

The unauthorised building and the unauthorised change of use involving extensive areas of external open storage give rise to unacceptable harm to the openness of the Metropolitan Green Belt and rural character of the locality. These developments are therefore contrary to PPG2 Green Belts and policy EP7 of the Kent and Medway Structure Plan 2006.

The use, by virtue of there being no evidence that the scheme would support the viability of an existing agricultural enterprise, cannot be considered to form appropriate farm diversification proposal. It is therefore contrary to PPS7, Draft Consultation PPS4, policies SS8 and EP8 of the Kent and Medway Structure Plan 2006 and policy CP14 of the Tonbridge and Malling Core Strategy 2007.

### **Requirements**

1. Remove the open sided building and all arisings.
2. Cease the use of the detached barn for storage purposes not in connection with agricultural use.
3. Cease the use of the site for open storage unrelated to agriculture and remove all associated equipment from the site.

### **Period For Compliance**

3 Months.

### **7.3 Further Proceedings**

In the event of the Enforcement Notice(s) 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(s).

Contact: Lucy Stainton