

Offham Downs **564844 158001** **12 February 2008** **TM/08/00046/FL**

Proposal: Retention of existing building with external and internal alterations with subsequent conversion to use as staff rest room and facilities for agricultural workers
Location: Land Adjacent The Applehouse Aldon Farmyard Aldon Lane Offham West Malling Kent
Applicant: Anthony M Crosse

1. Description:

- 1.1 The application relates to a building that was previously the subject of a retrospective application for its erection and use as a workshop for teaching/seminar room for literature/poetry/art workshops and/or as artists' studio, with associated facilities (ie toilets and necessary small scale catering facilities) including occasional use of first floor as overnight accommodation for visiting writers/tutors and as associated storage.
- 1.2 That development was reported to the Area 2 Planning Committee on 16 August 2006 with a recommendation for refusal and enforcement action 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 of the 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.*
- 1.3 An appeal was lodged against the refusal of planning permission and the serving of the enforcement notice. In August 2007, the appeal was dismissed and the enforcement notice was upheld, with a variation as to the period for compliance.

- 1.4 The enforcement notice require the building to be removed and the land reinstated to its original condition within 9 calendar months of the decision, ie. by 25 May 2008.
- 1.5 At the hearing, there was an argument put forward by the appellant that the building should not be required to be removed because it could be put to another purpose related to the farm. The Inspector made the following comment in response :
- “It is understandable that the appellant might wish to put the building to some alternative use rather than demolish it. Such matters would need to be explored through further discussions between the parties and where appropriate, a further planning permission....The Council indicates that the appellant would need to demonstrate there was a genuine agricultural need for the building were it to be retained for agricultural purposes and it likely that substantial internal and external changes would be required to reflect its agricultural use”.*
- 1.6 This application is the result of discussion between officers and the owner of the site as mentioned by the Inspector.
- 1.7 The proposal is for the building to be retained for use as a farm workers rest room. This is said to be necessary to meet Health and Safety regulations in that it will provide clean, well ventilated toilets; wash basins with hot and cold (or warm) water, soap and towels; changing facilities where special clothes need to be worn; and a clean drinking water supply.
- 1.8 The building is also proposed to provide a clean area for first aid and space for farm based administrative tasks.
- 1.9 It will be altered as follows:
- A reduced kitchen area
 - A rest and changing area will be provided
 - Toilet and washing facilities
 - Removal of staircase, central serving counter, oven hob and extractor fan and several kitchen cupboards
 - Removal of French doors to be replaced with continuation of black weather boarding
 - Glazed door to be replaced with a solid door, painted black
 - Roof void not be used
 - Addition of burglar alarm and security lighting (motion and heat sensitive)

- The submitted plans show the rooflights to be removed but the applicant has since confirmed by email received 24.04.08 that he would prefer to leave these in situ due to the constructional complication of removing them.

- 1.10 The application details that farm staff numbers total 50 although this varies through the year, e.g. 4 for maintenance throughout the year and 30 for thinning in July/August and 40 for picking during August – October.
- 1.11 Staff are said to arrive by individual car or by minibus and will park in the farmyard.
- 1.12 The applicant advises that there is no scope for these facilities to be provided in any of the existing associated farm buildings, namely a packing shed with an asbestos roof and a cold store. He also states that the separation of rest facilities and the working areas allows for farm operations to continue without interruption and diminishes the risk of accidents.
- 1.13 Since the application was originally submitted, the applicant has confirmed by email received 24.04.08 that he is prepared to remove the existing toilets and the 2 storage cabins to the NW of the application building.

2. Reason for reporting to Committee:

- 2.1 This application involves a complex issue as it relates to a building on which there is an enforcement notice requiring its removal by 25 May 2008. The granting of a planning permission would nullify the enforcement notice that was originally authorised by this Committee.

3. The Site:

- 3.1 The site lies within the Green Belt (MGB) and a Conservation Area.
- 3.2 The outbuilding has been erected on land that was formerly part of an open farmyard of Aldon Farm, being next to the concrete apron to agricultural storage buildings that are still in use in relation to farmland to the north and east.
- 3.3 To the rear (north) and east is agricultural land, currently apple orchards. To the western flank is a converted apple store known as the Apple House, the host dwelling. Beyond is a small hamlet of dwellings including the Granary and a number of listed buildings.
- 3.4 To the front (south) is an area laid with tarmac and concrete pavements. In the rest of the farmyard is a large cold store, a packing shed (which is also used for the overwinter storage of yachts), detached portable toilets next to the packing shed and 2 storage cabins to the NW of the application building. The toilets and the cabins are both in a very poor state of repair.
- 3.5 The building is a timber clad detached building with a tiled roof. It measures 8.2m by 5.3m with a ridge height of 5.25m.

- 3.6 Internally, the ground floor is currently open plan that can accommodate a table, chairs and sofa. There is also a kitchenette and stairs to roof accommodation, comprising a landing, shower room and bedroom.
- 3.7 The building has central heating via radiators and has plumbing for a washing machine. There are 2 windows, a glazed entrance door, a set of French doors and the roof has 4 rooflights.

4. Planning History:

TM/48/10271/OLD Grant with conditions 15 December 1948

Conversion of farm building into dwelling.

TM/84/11286/FUL Grant with conditions 23 May 1984

Apple grading and packing shed having overall height of 6.5m (21 ft.).

TM/01/01040/OA Application Withdrawn 7 August 2001

Outline Application: Two storey agricultural dwelling

TM/02/01222/FL Grant With Conditions 8 July 2002

Conversion of existing garage and stores, involving some rebuilding to an artist studio

TM/06/01272/FL Section 73A Refused 18 October 2006

Appeal dismissed and enforcement notice upheld 25 August 2007

Modular built workshop for teaching/seminar room for literature/poetry/art workshops and/or as artists studio, with associated facilities (ie toilets and necessary small scale catering facilities) including occasional use of first floor as overnight accommodation for visiting writers/tutors and as associated storage (retrospective)

5. Consultees:

- 5.1 PC: This is an unlawful structure for which planning permission was refused for use as a “modular built workshop” in October 2006 and an Appeal dismissed in August 2007. Whilst it is very laudable that the applicant wishes to improve facilities for workers on the farm, paragraph 24 of the abovementioned Appeal Decision stated “The Council indicates the appellant would need to demonstrate there was a genuine agricultural need for the building if it were to be retained for agricultural purposes, and it is likely that substantial internal and external changes

would be required to reflect its agricultural use.” There are indeed substantial internal and external changes proposed that result in the building having a more “agricultural” appearance and being more fitting for its proposed purpose. However, there is no evidence in the papers copied to us of a case being made for “genuine agricultural need” other than a reference in the Design and Access Statement to “The Health and Safety Executive’s booklet, The Farmwise Guide (1999)” and that the existing farm buildings are “unsuitable” for the facilities proposed. Given the circumstances involved: Are TMBC satisfied on the issue of “genuine agricultural need”? Presumably as the farm has been operating for a number of years there are existing facilities albeit that they might not be as good as proposed? If so, where are the existing facilities and can they really not be improved within one of the existing buildings? Is it necessary to use a “new” structure for these purposes? If TMBC are satisfied that there is a “genuine agricultural need” for the building will this be sufficient to override the policy objections to it when it was used as a “modular built workshop” and the conclusions made by the Inspector of the “... inappropriateness of the development in the Green Belt, the loss of openness, and the encroachment of the building into the countryside contrary to one of the purposes for which the land is included in the Green Belt.”? Query potential use of building for “administrative tasks”? In the absence of information to answer any of these questions we therefore object to the application but would be happy to reconsider if more information is available.

- 5.2 The PC was informed of the results of the agricultural consultant’s appraisal (set out below) on 27 March 2008 but no response had been received at the time of writing this report.
- 5.3 KCC (Highways): No objections.
- 5.4 Agricultural Consultant (summarised): Aldon Farm is an orchard holding of some 9.5 ha (23.5 acres). With the exception of 1.6 ha (4 acres) of Bramleys, most of the fruit trees are dessert apples. There are two portal-framed farm buildings, respectively on the east and south sides of the farm yard, comprising a 3-bay general purpose building/packing shed (which I estimate to be about 18m x 13m, rather than 22m x 13m as indicated on the submitted site layout plan), and a pair of cold stores (16m x 7m overall). Whilst the orchards were initially let to a local farmer upon Mr Crosse’s acquisition, he has confirmed that they are now directly managed by himself, and operated as a business with its own accounts, albeit using hired-in contract staff, farm equipment and fruit bins. For the most labour-intensive work at harvest time, he shares pickers with other local farmers (these days such workers tend to be Eastern European students): these travel to the holding as required from other local accommodation. The building that is the subject of this application is located in the north-west corner of the farmyard. Under the current application the stated intention would be to provide the contract/seasonal agricultural workers visiting the holding with suitable facilities for washing/toilet, rest and changing, and a first-aid point. Mr Crosse has indicated

that he would be prepared to remove two sub-standard portaloos in the farmyard that have been these workers' only facilities to date, as well as two portacabins north of the subject building, used for personal storage. Externally on the subject building French windows to the front would be removed, and filled in with matching weatherboarded walling, leaving two windows in the north and east elevations, and the glazed personal door would be changed to a timber boarded door. The stairs would be removed and the WC moved downstairs. Although the original submitted statement indicated there would be potential for storage in the roof via a trap hatch, the latest submitted drawing indicates the roof space would not be used at all. Similarly it appears that the roof windows are now indicated as absent on the amended drawing.

5.4.1 In considering the agricultural case for retention of the (altered) building, a material consideration is likely to be the existence of permitted development rights to provide buildings reasonably necessary for the purposes of agriculture on the farm, which would include buildings reasonably required for providing suitable working facilities for visiting labour. The holding has two existing useable and approved farm buildings, as indicated above. The cold stores are required for their specific function. The general purpose building/packing shed is more flexible in its use, and indeed it is also currently used over the winter months for the storage of yachts. During the fruit cropping and harvest season, however, this building is used for storing and maintaining farm equipment and for temporary fruit and bin storage, although packing as such tends no longer to occur within. Whilst the option of using part of the general purpose building for a workers' wash/rest room might be a possibility, given the design and size of the building I consider the conversion of part of the building for this purpose would not be ideal and could conflict with the operational agricultural use of the building at busy times of the year. In my opinion, therefore, a separate single-storey facility providing the sort of layout as now proposed in the subject building, for the uses concerned, would be "reasonably necessary for the purposes of agriculture" on this holding, having regard to the type of cropping and the visiting labour requirement at busy periods of the year. Its siting also appears reasonably appropriate, being in the corner of the farmyard somewhat away from the operational buildings yet not overly intrusive in respect of the owner's residence, being behind the neighbour's garaging as described above, rather than directly impinging on the owner's living area. I would not regard French windows, an upper floor storage area, or roof windows, as necessary for the proposed agricultural use so I consider it appropriate that these features have been excluded on the amended drawings. Nor is there any agricultural requirement, in my view, for a roof of this pitch and height, but of course the issue of overall design and appearance, including the roof design, is a matter for you. On the basis that the case for the building to be retained, as discussed above, takes into account permitted development rights under the GPDO, it may be that the GPDO condition as to a potential removal of the building should be added, so as to mirror the position if the building, in fact, had been erected as permitted development: i.e. that if the use of the building for agricultural purposes permanently ceases within 10 years of the date of the

substantial completion of the approved alterations, the building would have to be removed unless planning consent had been granted for an alternative use within 3 years from the date of cessation.

5.5 Private Reps (including Art 8 and CA press/site notice): 6/0X/0R/0S.

6. Determining Issues:

6.1 There is a complex planning history.

6.2 The site is within the rural area, outside any settlement boundary, within the designated Green Belt. It also within a Conservation Area. Relevant national guidance includes PPS1, PPG2, PPS7 and PPG15.

6.3 PPS1 (*Delivering Sustainable Development*) states that the planning system should:

- *facilitate and promote sustainable and inclusive patterns of rural development by making suitable land available for development in line with economic, social and environmental objectives to improve people's quality of life;*
- *contribute to sustainable economic development;*
- *protect and enhance the natural and historic environment, the quality and character of the countryside and existing communities,*
- *ensure that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community.*

6.4 PPG2 (*Green Belts*) states that the general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. Such development should not be approved, except in very special circumstances. Para 3.4 of the PPG lists the types of new buildings which can be appropriate in principle in the Green Belt which excludes art/writing studios but includes buildings necessary for agriculture.

6.5 PPS 7 (*Sustainable Development in Rural Areas*) states that Local Planning Authorities should strictly control new building in the countryside away from established settlements but that agricultural development should be supported if it will comply with changing legislation and associated guidance.

6.6 PPG15 relates, in large part, to Conservation Areas, and reiterates the statutory requirement that all development should seek to preserve or enhance the character and appearance of an area in that any development should not prejudice the overall character and integrity of the area and that all development should be sympathetic in scale and character with adjoining buildings and building groups.

PPG15 states *“It is the quality and interest of areas, rather than that of individual buildings, which should be the prime consideration in identifying conservation areas. There has been increasing recognition in recent years that our experience of an historic area depends on much more than the quality of individual buildings - on the historic layout of property boundaries and thoroughfares; on a particular 'mix' of uses;.....; on vistas along streets and between buildings; and on the extent to which traffic intrudes and limits pedestrian use of spaces between buildings. Conservation area designation should be seen as the means of recognising the importance of all these factors and of ensuring that conservation policy addresses the quality of townscape in its broadest sense as well as the protection of individual buildings.”*

- 6.7 Policies CP3 and CP14 of the TMBCS state that long term protection will be given to rural areas and the MGB but allow for necessary agricultural development.
- 6.8 Strategic policy is Policies SP1; SS1; SS2; SS8; EN1; QL6 of the KMSP 2006.
- 6.9 The three main issues which underpinned the enforcement action in relation to this building were the principle of additional buildings in the countryside which is designated Green Belt, harm to the Conservation Area and the environmental sustainability of the building.
- 6.10 The current application relates to a building that was erected on part of a farmyard for the purposes of teaching/seminar room/artists' studio, with occasional use of first floor as overnight accommodation. As is evident from the comments of the agricultural consultant reproduced above, the alternative use (including the internal and external amendments) proposed in this application is considered to be genuinely necessary for agricultural operations in relation to the fruit orchards on the farm and so an altered building would become “appropriate” development in the Green Belt under the terms of PPG2 and PPS7. Such an amended form and use of the building would comply with strategic and local policies that now form the Development Plan.
- 6.11 The building has been located on agricultural land. The site is in Aldon Offham Conservation Area. To the west, beyond the Apple House, are a number of listed buildings.
- 6.12 The Conservation Area centres on the historic farm complex of Aldon Farm. It specifically includes the buildings of the farm complex. The Conservation Area was clearly split both visually and functionally along the eastern rear boundary of the Apple House between residential uses and the agricultural uses of the farmyard. The alternative agricultural use of the building now proposed would no longer represent an encroachment of the non-farming uses towards the agricultural land. The building as proposed to be amended internally and externally would be less domestic and more utilitarian in function and appearance and therefore no longer harms the character and appearance of the Conservation Area sufficient to warrant refusal in my opinion. With regard to the applicant's

preference to retain the rooflights in situ, Members may agree that the retention of these in isolation from the other amendments would not be unacceptable notwithstanding that in this case they will be superfluous for the agricultural function of the building as proposed.

6.13 The extensive public use of the building that was discussed during the appeal process brought 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, 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 scored poorly in environmental sustainability terms in the context of the use previously undertaken/contemplated.

6.14 However, the proposed use no longer fails the general test of environment sustainability, as it is specifically intended to cater for people already working at the site and will not add to the number of people who would visit the site.

6.15 In the event that Members are minded (subject to necessary conditions) to approve the retention of the building with the proposed altered appearance and function, the enforcement notice will be nullified by virtue of the provisions of Section 180 of the 1990 Planning Act.

7. Recommendation:

7.1 **Grant Planning Permission** as detailed by Letter dated 07.01.2008, Letter dated 25.01.2008, Certificate A dated 12.02.2008, Design and Access Statement dated 07.01.2008, Details EMPLOYMENT dated 07.01.2008, Location Plan dated 07.01.2008, Planning Layout dated 25.01.2008, Floor Plans And Elevations dated 25.01.2008 Email dated 24.04.2008 subject to the following conditions:

- 1 Within 3 months of this decision, all internal and external changes detailed in the application documents (as amended by email received 24.04.08) hereby approved shall be carried out in their entirety.

Reason: To accord with the terms of the application in making the building of an agricultural appearance and rendering it appropriate in style and layout to its approved function, in order for it to be appropriate development in the Green Belt and in the interests of ensuring that it preserves or enhances the character and appearance of the Conservation Area,

- 2 Within 3 months of this decision, the existing portacabins to the NW of the application building and the existing portable WCs next to the packing shed shall be removed from the site and the land restored to its former condition.

Reason: To accord with the terms of the application and to ensure that the development secures the overall objective of preserving or enhancing the character and appearance of the Conservation Area, including the setting of the Conservation Area.

- 3 If within 10 years of the first use of the building for agricultural purposes, the agricultural use of the building permanently ceases, then the building shall be removed unless a planning permission has been granted for an alternative use within 3 years from the date of cessation.

Reason: To accord with the terms of the application in making the building of an agricultural function in order to be appropriate development in the Green Belt

Contact: Marion Geary