

**Plaxtol**                                **561480 153288**    **11 August 2008**                        **TM/08/02102/FL**  
Borough Green And  
Long Mill

Proposal:                                Proposed erection of new multi-purpose agricultural barn, conversion of existing stone barn into a single dwelling (farm house) and conversion of existing storage barn into a B1 office unit  
Location:                                Allens Farm Allens Lane Plaxtol Sevenoaks Kent TN15 0QZ  
Applicant:                                Mr + Mrs P Webb

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**1. Description:**

- 1.1 Members will recall that this application was deferred from the A2PC meeting on 21 January 2009 for further information to be sought in respect of the potential use of planning conditions or legal agreement. Previous to this Committee a Members' Site Inspection had been held on 15 January 2009 at 9.30am. The application was originally reported to A2PC on 10 December 2008. The relevant reports are reproduced as an Annex.
- 1.2 In addition, following the previous Committee meeting, amended plans have been submitted showing the reduction in height of the proposed agricultural barn by one metre. This has largely been achieved by cutting the building further into the slope of the land and thereby reducing the ridge height above the surrounding ground level.
- 1.3 This proposal includes the conversion and change of use of an agricultural building to an office, the change of use of an office/store to a dwelling and associated change of use of land from agricultural to residential curtilage and the erection of one new agricultural barn.
- 1.4 A detailed Supporting Statement and Case of Very Special Circumstances were submitted in support of the planning application and these were discussed in the previous reports.
- 1.5 Further to the information provided previously the agent has written a further letter raising issues that he considers are not covered in the relevant Committee reports. This letter also encloses a copy of an appeal decision relating to a replacement agricultural building in Staffordshire.

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

- 2.1 Deferred from previous A2PC for further clarification on the scope for use of conditions or legal agreements to safeguard long term agricultural activity on the farm by linking the occupation of the new dwelling to the holding.

**3. Representations** (subsequent to previous report):

3.1 PC: No objections.

3.2 A letter has been received from the Kentish Cobnuts Association in support of the application and setting out the importance of Allens Farm and the applicants in the production of organic cobnuts.

**4. Determining Issues:**

4.1 At the previous Committee meeting, Members requested further clarification in respect of the potential for using conditions or a legal agreement to safeguard the long term agricultural activity on the farm by linking the occupation of the new dwelling to the holding. The main policy issues and an assessment of the supporting case submitted by the Applicant relating to this development can be found in the annexed reports. However further consideration of the additional information submitted following the previous meeting is also required.

4.2 In terms of the possibility of planning control over the occupation of the proposed dwelling, there are two options available. The first is a condition restricting the occupation of the dwelling to an agricultural worker, but this normally includes occupation by any persons “last employed” in agriculture so it would not necessarily secure long term farming by the current applicants because ex-farmers other than the applicants could live in the dwelling and also the applicants could carry on living there after retiring and ceasing to farm. The “model” form of this condition advocated in Government advice (Circular 11/95) allows for occupation by people employed in agriculture in the locality generally, rather than tying this to a particular farm or farm holding.

4.3 Secondly the signing of a S106 Planning Obligation could tie the occupation of the dwelling to the farm and its farming activities. This can be in one of two forms: either a legal agreement signed by both the applicants and the LPA, or a Unilateral Undertaking put forward by the applicant in support of the application. Both procedures hold the same legal control over the land and are both legally binding. However both restrictions could be removed at a later date by the submission of appropriate applications demonstrating that the condition/legal agreements are no longer necessary. There is a right of appeal against any refusal of such an application.

4.4 The different procedures and options both have a similar level of control over the use or occupation of the proposed dwelling although a condition could be appealed immediately, a variation of a S106 could be sought after 5 years. It is a fundamental legal requirement that, in either imposing a condition or relying on the terms of a S106 Obligation, the subject matter must meet a number of “tests”, including that it is both necessary to the grant of planning permission, and directly related to the proposed development. Furthermore

it is still not clear at this stage why it is not possible to make use of Allens farmhouse. This dwelling is in the same ownership/control as the application site and is being occupied by a family member.

- 4.5 A legal agreement or unilateral undertaking would tie the dwelling to the farm holding and could restrict its occupation to the main farm workers on the holding. A breach of an agreement is still enforceable under planning legislation but proceedings would take place within the High Court, so consequently such an agreement would have a slightly greater level of control and in my view would be preferable to a condition.
- 4.6 Notwithstanding the above, I remain of the view that there are policy objections to the application and that the proposal represents inappropriate development within the Metropolitan Green Belt and within the rural locality.
- 4.7 Amended plans have been submitted that reduce the height of the proposed farm building. Clearly any reduction in height has a beneficial impact in terms of the visual impact on the landscape. However the proposed agricultural building is intended to replace the building being converted into an office. That conversion is, itself, occasioned by the residential conversion. In this particular instance, the need for this new building and its siting both seem to arise as a result of the existing facilities being lost due to the combined proposed conversions included in the overall scheme. In such circumstances, I consider this new agricultural building in the siting proposed to be an unjustified incursion of built development into the open countryside, notwithstanding its intended agricultural use.
- 4.8 Members will be aware from the previous reports that, in my opinion, the need for a further dwelling on the site and consequently the need for erection of another agricultural building are questionable. Better sorting and storage facilities could be provided by replacing and improving the existing flat roof timber buildings and upgrading the barn. In conclusion therefore, in my view, there is not a sufficient case of very special circumstances to justify overturning the MGB policies that resist inappropriate development. Moreover the application also fails to comply with the relevant conversion policies P6/14 and P6/15 of the Tonbridge and Malling Borough Local Plan 1998.
- 4.9 Further information has also been submitted in support of the application that identifies the need to consider advice in PPS7 and also policy EP8 of the Kent and Medway Structure Plan. I recognise the importance of this advice and the need to support farm diversification however I believe that these issues have been addressed in previous reports and that the need for the conversions to ensure the future needs of the farm and its efficiency requirements has not been fully demonstrated. In terms of farm diversification, this application has not been submitted on this basis. A new

dwelling on the site will, it has been stated, allow for a greater number of livestock on the farm but the other uses and other activities will remain as existing. Therefore this proposal would not change the range of activities on the farm or the business use on the site that supports the farm business and therefore it can not be fully justified on the basis of it being a farm diversification project.

- 4.10 Whilst I consider there is a case for a modern and more efficient farm building on the site to enable the different farming activities to take place within a purpose built environment, this does not provide a justification for the conversions or the dwelling that is being proposed in my opinion based upon advice from the Council's agricultural consultant.
- 4.11 Consequently, the application is recommended for refusal as it constitutes inappropriate development in the Green Belt, it adversely affects the openness of the MGB and rural area and the proposal as a whole does not preserve or enhance the character and appearance of the Conservation Area. It is also considered, as discussed above, that no case of "very special circumstances" has been demonstrated to outweigh the objections to this scheme.
- 4.12 Nevertheless if, having considered all the relevant factors, Members wish to approve this application, I would advise that a S106 Planning Obligation should be required that ensures that the occupation of the dwelling is tied in the long term to the farming of the agricultural land holding.

## **5. Recommendation:**

- 5.1 **Refuse Planning Permission** as detailed by Letter dated 11.08.2008, Report dated 11.08.2008, Contaminated Land Assessment dated 11.08.2008, Letter KW/22/08 dated 07.07.2008, Design and Access Statement dated 07.07.2008, Survey BAT dated 07.07.2008, Photographs SHEET 1 OF 7 dated 07.07.2008, Photographs SHEET 2 OF 7 dated 07.07.2008, Photographs SHEET 3 OF 7 dated 07.07.2008, Photographs SHEET 4 OF 7 dated 07.07.2008, Photographs SHEET 5 OF 7 dated 07.07.2008, Photographs SHEET 6 OF 7 dated 07.07.2008, Floor Plan AFPH/01 dated 07.07.2008, Floor Plan AFPH/02 dated 07.07.2008, Section AFPH/03 dated 07.07.2008, Floor Plan AFPH/04 dated 07.07.2008, Elevations AFPH/05 dated 07.07.2008, Elevations AFPH/06 dated 07.07.2008, Section AFPH/07 dated 07.07.2008, Existing Plans AFPO/01 dated 07.07.2008, Section AFPO/02 dated 07.07.2008, Floor Plan AFPO/03 dated 07.07.2008, Floor Plan AFPO/04 dated 07.07.2008, Elevations AFPOI05 dated 07.07.2008,

Section AFPO/06 dated 07.07.2008, Letter KW/22/08 dated 14.07.2008, Drawing dated 14.07.2008, Letter dated 13.02.09, Elevations AFPB/03 A dated 13.02.09 and Section AFPB/04 A dated 13.02.09 for the following reasons:

- 1 The application site is in the Metropolitan Green Belt and lies in the rural area outside designated settlement confines. The proposed re-use of the buildings involves alterations and reuse of agricultural land which leads to conflict with PPG2 (Green Belts), Policies SS2, SS8 and HP5 of the Kent and Medway Structure Plan 2006, Saved Policies P6/14 and P6/15 of the Tonbridge and Malling Borough Local Plan 1998 and Policies CP1, CP3 and CP14 and CP24 of the Tonbridge and Malling Core Strategy 2007 and does not preserve or enhance the Conservation Area.

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