
Report of 3 February 2010

Shipbourne **557762 151378** **20 January 2010** **TM/09/00978/FL**
 Borough Green And
 Long Mill

Proposal: Retrospective application for installation of three closed circuit television cameras and apparatus at Marchurst Barn (a private domestic dwellinghouse)
 Location: Marchurst Barn Hildenborough Road Shipbourne Tonbridge Kent TN11 9QA
 Applicant: Mrs Jill Turner

1. Description:

1.1 Retrospective planning permission is sought for three closed circuit television cameras, and associated equipment (sensors and infra-red illuminators). In total there are 3 cameras, each comprised of the following components – the camera proper, infra red illuminator(s) and movement sensor(s). There are 3 cameras, 3 sensors and 2 illuminators positioned on the front and side elevation (south) of the dwelling, one illuminator and one sensor have been positioned on the rear elevation and 2 illuminators and 2 sensors have also been positioned on a redundant agricultural building to the west of the dwelling, which serve camera 1. That is a total of 3 cameras, 6 sensors and 5 illuminators on 2 separate buildings.

2. Reason for reporting to Committee:

2.1 The controversial nature of the application.

3. The Site:

3.1 The site lies within the open countryside, within the Metropolitan Green Belt. The dwelling is accessed from Hildenborough Road by a private driveway, serving a number of other properties also. The dwelling is a detached house. It is a white rendered building with black beams. It has a number of outbuildings, including an agricultural outbuilding to the west of the main dwelling, a garage to the north of the dwelling and an open store to the south. The redundant agricultural outbuilding had a planning permission granted in 2003 for a residential conversion but that has expired.

4. Planning History:

MK/4/65/492 Refuse 3 January 1966

The conversion of a barn into dwellinghouse.

MK/4/68/229	Refuse	31 July 1968
Conversion of barn into dwelling, resiting of barn and erection of a double garage.		
TM/77/1164	Grant with conditions	29 November 1977
Extension to form utility room and alterations, and improvements.		
TM/86/59	Planning Application required	20 January 1986
Laying new gravel access road.		
TM/86/459	Grant with conditions	23 May 1986
Formation of new drive.		
TM/92/0682D	Constitutes development	17 July 1992
Section 64 determination: Fill in hole in field with hardcore and rubble, cover with top soil and seed		
TM/92/0728AGF	Planning Permission required	22 July 1992
Notification of erection of field shelter for cattle under permitted development rights		
TM/92/0749FL	Grant with conditions	19 August 1992
Fill in hole in field with hardcore and rubble, cover with top soil and seed		
TM/92/1257FL	Grant with conditions	18 December 1992
erection of single storey field shelter for prime beef cattle		
TM/00/00658/FL	Grant With Conditions	12 May 2000
Swimming pool equipment store		
TM/03/03179/TPOC	Grant With Conditions	6 November 2003
Fell two diseased / leaning Horse Chestnut trees and remove one bough to balance tree		

TM/03/03943/FL Grant With Conditions 7 April 2004

Change of use of redundant agricultural building to a single domestic dwelling house

5. Consultees:

5.1 PC: The Parish Council is unable to make a decision based on the evidence provided. Full details (eg photographic evidence illustrating the range of the cameras) of what the cameras can record are required in order to make a fully informed decision.

5.1.1 In principle, the Parish Council is not opposed to a householder installing appropriately designed and situated closed circuit television cameras, provided they cannot invade the privacy of neighbouring properties.

5.2 Private Reps (including Art 8 Site Notice): 4/5R/0S/0X. Five letters of objection received, two from the same neighbour, raising the following objections:

- The applicant only has a right of way over the driveway, and therefore it is difficult to understand why the applicant has positioned a camera at the driveway;
- The applicant has not asked for permission for recording adjacent properties and the recording of these properties invades privacy;
- The images and/or voices of neighbours and children could be kept for an indefinite period and used for any purpose;
- The use of domestic cctv camera is exempt from the Data Protection Act and therefore neighbours have no right to know or see what recordings have been made of them;
- The gates and piers referred to are not on the applicant's property;
- There has been little history of burglaries to the surrounding properties and therefore the size and nature of the cameras are unnecessary in this location;
- There is no mention in the submitted documents of whether the cameras record sound;
- No plans have been submitted of current or possible field of vision. The technical problems referred to may be overcome to restore the applicant's original plans or she or any subsequent owner could completely change the camera's field of vision;

- The proposal would be detrimental to the amenity and privacy of adjacent properties and would harm the character and appearance of the dwelling, which is a character dwelling. The cameras are unsightly;
- The installed cameras are oversized and inappropriate for a domestic property as they are commercial cameras. The number of cameras is excessive;
- Conditions attached to recent planning consents for the conversion of The Oast and the applicant's redundant agricultural building preclude external aerials and satellite dishes because of the effect that they will have upon the character and appearance of the building. Marchurst Barn is a converted redundant agricultural building of reasonable age. The proposed cameras individually are of an equivalent size and considered in total are considerably larger than a satellite dish and are out of keeping with the building;
- The applicant's supporting letter is misleading. No incidents of antisocial behaviour have been reported to the local police for the application site or surrounding properties;
- The specifications for the mini dome cameras describe the camera as having some of the "industry's most powerful features" and could read at night the number plate of a vehicle parked next to the field belonging to The Oast (some 100yards from the camera);
- The proposal is unsightly and will spoil the appearance of the buildings they are attached to.

5.3 Private Reps: Art 8 (4/6): No response.

6. Determining Issues:

- 6.1 The main material planning considerations relating to such a proposal are the impact that the proposal would have upon the character and appearance of the dwelling and the surrounding locality, and the impact of the proposal upon the privacy of adjacent properties.
- 6.2 Policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007 requires all development to respect the site and its surroundings through its scale, siting, character and appearance. Policy CP1(3) of the TMBCS states that the need for development will be balanced against the need to protect and enhance the natural and built environment.
- 6.3 Since the time of making the application the applicant has appointed an agent who has written setting out a "fall back" position, detailing what could be achieved under Class A of Part 33 of the Town and Country Planning (General Permitted

Development) Order 1995. I am in agreement with the general conclusion set out in the claimed fallback position and agree that the fall back position would be realistic.

- 6.4 Class A, Part 33 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order makes provision for the installation, alteration or replacement on a building of a closed circuit television camera to be used for security purposes. A “camera” is defined within the Order to include the components of housing, pan and tilt mechanism, infra red illuminator, receiver, mountings and bracket. However, in the current case, a specific planning permission is required for the proposed equipment because the cameras are less than 10m from any part of another camera installed on a building; parts of the cameras are over 1m from any other part of the camera; and some of the equipment is less than 250 centimetres above ground level.
- 6.5 The property is not Listed. Whilst the cameras are relatively prominent features on the building I am of the opinion that the cameras will not significantly detract from the character and appearance of the dwelling or the surrounding locality. The cameras, whilst alien to a building of this age, are of colours to match the colours of the exterior of the building. Whilst I note the comments raised with respect to the size of the cameras, if they were placed on different positions around the property they would be permitted development so would not require the submission of a planning application. Effectively, in the national “permitted development” regime, the Government has accepted that alien features such as CCTV components can be erected on non-listed buildings **in principle**.
- 6.6 I note the concerns raised with respect to the impact that the cameras will have upon the privacy of neighbouring properties and the alleged lack of justification for the cameras. However, the fallback position set out by the applicant’s agent as to what could be carried out without the need for a planning application demonstrates that CCTV cameras could be placed to cover the driveway that runs through the site. The applicant has provided technical specifications for the cameras. However, she has advised that the cameras have been altered to only cover land within her ownership and the driveway, over which she has a right of way.
- 6.7 There is the potential of physically “masking” the camera dome or altering the “pixilation” of the video images to control the lines of sight of each camera. The applicant has not provided written details of the distance that each of the cameras is capable of viewing prior to modification and the distance that they may have been modified to cover. Whilst this would be useful in determining how the system can be monitored to avoid viewing neighbouring properties, it should be remembered that there is no control within the General Permitted Development Order regarding the distance that can be viewed by CCTV cameras.

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- 6.8 I note the concerns relating to the loss of privacy that may result from the identification of car number plates from the access road. Number plates are identifiable to anyone however, and do not disclose personal information in themselves. Furthermore, the access road is visible from windows serving Marchurst Barn and, therefore, the applicant could, if she so wished, see and make note of this information without CCTV cameras.
- 6.9 The Data Protection Act 1998 and Information Commissioners Code of Practice on CCTV cameras will afford the residents protection. It is not the purpose of the planning system to duplicate other legislation and safeguards as deemed appropriate by national Government that are already in place.
- 6.10 There is no requirement under planning legislation for the applicant to demonstrate that specific security incidents have occurred and which have led to the erection of CCTV cameras.
- 6.11 The permitted development rights relating to CCTV are not restricted to dwelling houses but relate generally to any “building”. Following assessment of what could be erected under permitted development rights, it is clear that a camera could be placed on the agricultural building to the west of the dwelling and another one could be placed on the side of the dwelling, facing the access track, without requiring a specific planning permission from the LPA. In view of this, I am of the opinion that, whilst the current cameras require specific planning permission, they will not have a significantly additional impact upon adjacent properties when compared to what could be erected under permitted development rights.
- 6.12 I have considered the viability of imposing a condition to control blocking the line of sight of each of the cameras, either through pixelation or a physical mask. Should the applicant alter the set up to comply with permitted development rights there would be no opportunity for such control. I have concerns relating to the on-going enforceability of requiring pixelation. The other option may be to “mask” the cameras. This involves positioning tape inside the camera. It would involve taking the camera apart to insert/remove the tape, and would therefore be more enforceable. However, it would be difficult to implement this on moveable cameras. In view of the fallback position and these considerations, I do not consider it is reasonable to impose such a condition as I am not satisfied this would comply with the legal tests and government advice in Circular 1/95.

7. Recommendation:**7.1 Grant Planning Permission** in accordance with the following submitted details:

This was approved in accordance with the following submitted details: Site Plan dated 27.04.2009, Block Plan dated 27.04.2009, Letter dated 27.04.2009, Schedule dated 27.04.2009, Photographs dated 27.04.2009, Letter dated 13.01.2010, Plan dated 13.01.2010, Letter dated 14.12.2010, subject to the following condition:

- 1 No alterations to the approved cameras' operating specification(s), nor to the height(s) of any of the 3 cameras, the accompanying sensors or illuminators shall be undertaken without the prior written agreement of the Local Planning Authority.

Reason: In the interests of amenity.

Contact: Glenda Egerton

SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 3 February 2010

Shipbourne TM/09/00978/FL
Borough Green And
Long Mill

Retrospective application for installation of three closed circuit television cameras and apparatus at Marchurst Barn (a private domestic dwellinghouse) at Marchurst Barn Hildenborough Road Shipbourne Tonbridge Kent TN11 9QA for Mrs Jill Turner

Private Reps: The letters of objection noted in my main report also object that one of the illuminators shines into the bedroom window of an adjacent property at night. One additional representation has been received, suggesting a number of conditions should Members resolve to grant planning permission:

- 1) No alterations to the approved cameras' operating specification(s), positions, field of vision nor to the height(s) of any of the 3 cameras, the accompanying sensors or illuminators shall be undertaken without the prior written agreement of the Local Planning Authority.
- 2) The cameras may not be used for any other purpose without the prior written agreement of the Local Planning Authority.
- 3) The cameras shall be removed as soon as reasonably practicable after they are no longer required for security purposes.

DPTL: I note the objection relating to the illuminator shining into the bedroom window of an adjacent property. However, it should be noted by Members that this illuminator could be erected to a similar camera set up under permitted development rights.

I am of the opinion that the additional condition 2 suggested by the objector is not sufficiently precise to meet the legal tests for imposition of conditions. Condition 3 is similar to the conditions for installing CCTV cameras under the provisions of the General Permitted Development Order. Condition 1 amends the condition recommended in my main report, inserting 'field of vision'. I consider these suggestions acceptable.

AMENDED RECOMMENDATION:***Amend condition 1:***

- 1 **No alterations to the approved cameras' operating specification(s), positions, field of vision nor to the height(s) of any of the 3 cameras, the accompanying sensors or illuminators shall be undertaken without the prior written agreement of the Local Planning Authority.**

Reason: In the interests of amenity.

Additional condition:

2. The cameras shall be removed as soon as reasonably practicable after they are no longer required for security purposes.

Reason: In the interests of amenity.
