**Alleged Unauthorised Development**

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| **Ightham**<br>Ightham | **10/00020/UNAWKS** | **558926 155430** |
| Location: | Hope Farm Sandy Lane Ightham Sevenoaks Kent TN15 9BA | |

## 1. Purpose of Report:

1.1 To report an alleged breach of planning control consisting of the erection or construction of a greenhouse or poly tunnel.

## 2. The Site:

2.1 Hope Farm is a detached house on the north west side of Sandy Lane surrounded by a domestic curtilage, but with a large contiguous paddock area to the north of about 0.54 hectares (1.3 acres) of open grassland with some recent tree planting. The premises are on a hill that rises up from Sandy Lane and then slopes down towards a public right of way adjacent to the northern boundary of the paddock. The main access is from Sandy Lane. There are residential properties adjoining the western and southern boundaries and on the other side of Sandy Lane. The site lies in a semi-rural location characterised by mainly detached dwellings within spacious, often wooded grounds approached via quiet narrow country lanes. The paddock is particularly visible when approaching via Sandy Lane from an easterly direction from Ismays Road and from the adjoining public right of way (bridleway – MR419) adjoining the northern boundary. There is a secondary access from Sandy Lane adjacent to the public right of way that serves a detached stable and associated yard permitted by planning permissions TM/01/02877/FL and TM/05/01655/FL. The stable building for which planning permission was granted has never been used to accommodate horses.

2.2 The public right of way joins Sandy Lane with Common Road and has the character of a narrow un-surfaced quiet rural lane with mature trees along the boundary with Hope Farm. To the north of the public right of way lies a former sandpit with wooded slopes down to houses in Nutfields.

2.3 I am of the opinion that the paddock, although in the same ownership, does not constitute part of the curtilage of the dwellinghouse and consequently does not qualify for those permitted development rights relating to the erection of buildings within the curtilage of a dwellinghouse under Part 1, Class E of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). There is no dividing fence between the domestic curtilage and the paddock, but the boundaries of an Article 4 Direction confirmed in 2001 (see paragraph 3.8 of the History section below) were drawn so as to exclude the curtilage of the dwellinghouse as last defined on a plan submitted as part of planning application MK/4/72/869 relating to additions and alterations to the dwelling and as

shown on Ordnance Survey map editions of 1965 and 1978. The domestic curtilage was also slightly re-defined on application TM/01/02877/FL for the construction of a stable with associated concrete yard and fencing and retention of existing access from Sandy Lane across the paddock.

**3. History (selected):**

3.1 TM/10/02482/FL Undetermined
Replace existing fence along northern boundary of the paddock adjacent to the public bridle path with a similar fence of timber posts about 1.3 metres high with stock netting and barbed wire on top.

3.2 TM/07/00258/FL 27.03.2007 Approved
Single storey extension to rear.

3.3 TM/05/01655/FL 08.08.2005 Granted with conditions
Revised scheme for stable and yard previously approved under planning ref: TM/01/02877/FL.

3.4 TM/04/02170/RD 16.08.2004 Granted
Details of materials submitted pursuant to condition 2 of planning permission ref: TM/04/00752/FL (ground floor alterations and first floor extension)

3.5 TM/04/00752/FL 17.06.2004 Granted with conditions
Ground floor alterations and first floor extension (Revisions to previously refused applicationTM/03/03330/FL).

3.6 TM/03/03330/FL 03.02.2004 Refused
Porch, first floor extension and new roof with accommodation.

3.7 TM/01/02877/FL 17.01.2002 Granted with conditions
Construction of stable with associated yard and fencing and retention of existing access from Sandy Lane across paddock area.

3.8 Article 4 Direction Confirmed 27 September 2001
Removes permitted development rights relating to the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, being development comprised within Class A of Part 2 referred to in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended).

**4. Alleged Unauthorised Development:**

4.1 Without the necessary planning permission, the erection or construction of greenhouse or poly tunnel.

4.2 The greenhouse or poly tunnel is situated partially on the concrete yard to the front of the stable and partially on the paddock outside the defined domestic curtilage. The structure has a galvanised tubular steel frame fixed to a timber batten base fixed to the ground by metal brackets bolted or screwed to the concrete yard in at least two places. The frame is covered by bubble insulated plastic sheeting. There is a door on the south eastern end and an opening window on the north western end (both in timber frames) with opening vents on either side. The structure measures 3.8m wide x 6m long x 2.4m high from ground floor to the ridge. It is understood that the structure was delivered in sections on a lorry and erected on site taking two men several hours. The structure is used in connection with the adjoining private garden and is not related to any agricultural use of the land as part of an agricultural holding operated for the purposes of a trade or business. The structure has not been moved since being erected and the existence and type of fixing to the ground suggest that it is intended to be kept in its current location on a permanent basis. There is an internal workbench. The erection of the structure has involved operational development that is not permitted development in its present location. The necessary planning permission has not been obtained and the development is therefore unauthorised and in breach of planning control.

**5. Determining Issues:**

5.1 The owner has been invited to either relocate the structure to the domestic curtilage with screening or to apply for planning permission to retain the structure in its present location. However the owner has declined to take either course of action. The owner is of the opinion that no operation development has taken place and that the structure has less impact on rural amenity in its present location than if it was relocated to the domestic curtilage.

5.2 Policy CP1 of TMBCS requires that development should result in a high quality and sustainable environment where the need for development will be balanced against the need to protect and enhance the natural environment.

5.3 The site lies within the Metropolitan Green Belt within which the objective is to prevent major expansion of settlements or their coalescence, and preventing development in the countryside that would affect its openness. Policy CP3 of TMBCS requires that national Green Belt policies are applied to development within the Green Belt.

5.4 Policy CP14 of TMBCS seeks to restrict development in the countryside to a limited number of categories, none of which applies to this development.

5.5 Policy CP24 of TMBCS seeks to ensure that the character of settlements is not adversely affected by development and requires all development to be well designed and of a high quality and through its scale, siting, character and appearance to be

designed to respect its site and surroundings. Development, which by virtue of its design would be detrimental to the amenity or character of a settlement or the countryside, will not be permitted.

5.6 Policy SQ1 of the Tonbridge and Malling Borough, Managing Development and the Environment Development Plan Document 2010 reflects the general intent of CP24 and requires that all new development should protect, conserve and where possible enhance the character and local distinctiveness of the area, the distinctive setting of and relationship between the pattern of settlement the landscape and important views and the biodiversity value of the area including patterns of vegetation and property boundaries.

5.7 The structure in its present location encroaches into the open landscape outside the domestic curtilage of the premises and due to its location on a hill, is clearly visible in the rural landscape from the adjoining public right of way. The structure by virtue of its appearance and location is detrimental to the character and local distinctiveness of the area and to the property boundaries contrary to the above policies. It is therefore expedient to take enforcement action to secure the removal of the structure from its present location. The structure could still be relocated within the accepted domestic curtilage, where it would constitute permitted development and have a more appropriate relationship appropriate to the character of the area.

**6. Recommendation:**

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

The Notice to take effect not less than 28 days from the date of service, subject to:

- The concurrence of the Legal Services Partnership Manager, he being authorised to amend the wording of the Enforcement Notice as may be necessary.

- In the event of an appeal against the Notice 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.

**Breach Of Planning Control Alleged**

Without planning permission, the erection or construction of a greenhouse or poly tunnel.

**Reasons For Issuing The Notice**

It appears to the Council that the breach of planning control has occurred within the last 4 years. The retention of the unauthorised structure would, by virtue of its design, appearance and location, be detrimental to the amenity, character and local distinctiveness of the area and to the pattern of property boundaries. The retention

of unauthorised development is therefore contrary to Policies CP1, CP3, CP6 and CP24 of the Tonbridge and Malling Borough Core Strategy 2007 and Policy SQ1 of the Tonbridge and Malling Borough, Managing Development and the Environment Development Plan Document 2010. The Enforcement Notice is necessary to alleviate the nuisance and detriment to amenity resulting from the unauthorised development. The Council do not consider that that planning permission should be granted because planning conditions could not overcome these objections.

**Requirement**

Remove the building from the land

**Period For Compliance**

One calendar month from the date that the notice takes effect.

Contact: Gordon Hogben