

Alleged Unauthorised Development

Ightham

10/00020/UNAWKS

558926 155430

Ightham

Location: Hope Farm Sandy Lane Ightham Sevenoaks Kent TN15 9BA

1. Purpose of Report:

- 1.1 Consideration of this matter was deferred from the meeting of the Area 2 Planning Committee on 8 December 2010 for a Members' Site Inspection. That inspection took place on 25 January 2011. A copy of the original report is attached as Annex 1 to this report.
- 1.2 At the Members' Site Inspection there was some discussion as to the extent of the residential curtilage relating to Hope Farm, and the location of the polytunnel in relation to that boundary. I have therefore taken the opportunity to review that matter fully and, as a result, a plan is attached as Annex 2 to this report showing:
- the extent of the domestic curtilage,
 - the extent of the site area relating to application TM/01/02877/FL for the construction of a stable and concrete yard, and
 - the extent of the Article 4 Direction on the adjoining paddock.
- 1.3 It is clear from looking at the Planning history of this site that the extent of the residential curtilage has varied over time and, at certain times, the boundary may have been undefined. The most recent definition is that comprised in applications TM/03/03330/FL and TM/04/00752/FL (although the former application was refused, the latter was described as a resubmission of that earlier proposal). This clearly shows the whole of the area where the polytunnel is sited as being outside that curtilage.
- 1.4 Application TM/01/02877/FL related to the construction of the stable and concrete yard. As Members will have seen at the Site Inspection, the polytunnel is sited partly on, and partly beyond, the concrete yard created following that permission. However, when that application was under consideration the view was taken that the proposed stable and its yard lay outside the residential curtilage, and there is an Informative attached to that permission that says:

"The applicant is reminded that the application site does not form part of the residential curtilage of Hope Farm and that, under the Town and Country Planning (General Permitted Development) Order 1988, the site has limited "permitted development right entitlements". Planning permission will therefore be required for any material alteration and change of use to the buildings hereby permitted."

- 1.5 The site of the polytunnel also lies within the area in relation to which an Article 4 Direction was issued in 2001. The extent of the area covered by the Article 4 Direction appears to reflect what was understood to be the extent of the “paddock” area at that time. Although that Direction does not affect any rights to erect a building such as the polytunnel that is the subject of the current report, this is another indication that it lies beyond the lawful residential curtilage.
- 1.6 In the light of all these factors, it is now clear that the whole of the polytunnel lies outside the current residential curtilage.
- 1.7 At the site Inspection, Members also asked for clarification as to the permitted development rights that might apply, were the structure to be located within the residential curtilage. The maximum height of the greenhouse or poly tunnel is 2.4 metres from ground level to the top of the convex roof. Therefore if the structure were to be relocated to within the domestic curtilage of the house, it would comply with the relevant conditions and limitations and constitute permitted development under Part 1, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended).
- 1.8 The site of the stable and associated yard approved by planning permission TM/01/02877/FL was levelled by 18 June 2004. The construction of the stable appears to have started in January 2005. The stable building was substantially complete by 1 April 2005 when an inspection confirmed that it was not being built in accordance with the drawings approved by TM/01/02877/FL. A revised scheme for the stable and yard was submitted and approved on 8 August 2005 by planning permission TM/05/01655/FL.

2. 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 does 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