

3. The Site:

- 3.1 The application site comprises a relatively small area within the wider Planet Plants nursery site. Planet Plants is a wholesale nursery, although it is understood that it is open to the public several weekends a year. It is also understood that the applicants operate an internet plant delivery business.
- 3.2 The south eastern corner of the nursery site contains two irrigation lagoons, together with the parking area detailed above. A 24m long and 14.7m wide building is situated within the centre of the site (to the west of the proposed position of the agricultural worker's dwelling), as approved under TM/09/00328/FL (erection of a replacement agricultural building to provide a potting shed, office and storage areas). The remainder of the site contains a number of polytunnels and glasshouses and a series of planting beds.
- 3.3 The site is accessed from Back Lane. The junction between Back Lane and the A227 Tonbridge Road is set a short distance to the south-east of the nursery.
- 3.4 The nursery site is well landscaped, with mature vegetation situated on its boundaries.
- 3.5 Although there are large detached houses located in sizeable and verdant plots located on the north-eastern side of Back Lane, there are no other residencies on the south-western side of this highway. To the east of the nursery, separated by land seemingly used as paddock, is another horticultural nursery, accessed from Ismays Road (Ivy Hatch Nurseries). The two sites were formerly linked by an access to the north of the intervening paddock, although it is understood that the sites were sold off separately and now operate independently.
- 3.6 The application site is located within the MGB and Kent Downs AONB. It also lies in an area of archaeological potential and is relatively close to several SSSIs. A PROW runs along the southern boundary of the nursery site.

4. Planning History:

- 4.1 The planning history for the "Planet Plants" only nursery site is as set out below:

TM/95/51397/FL Grant with Conditions 1 December 1995

Construction of multibay polyhouse

TM/04/03404/FL Application Withdrawn 28 October 2004

Telecommunications installation comprising 20 metre column mast accommodating 3 No. antennas and 2 No. 60mm transmission dishes with 6 No. equipment cabinets located within the same compound measuring 6m x 6m.

TM/07/03886/FL Approved 19 December 2007

2 no. replacement polytunnels

TM/09/00328/FL Approved 1 May 2009

Erection of a replacement agricultural building to provide a potting shed, office and storage areas.

TM/10/00029/RD Approved 28 April 2010

Details reserved by conditions 2, 4 and 5 of planning permission
TM/09/00328/FL: Erection of a replacement agricultural building to provide a potting shed, office and storage areas

TM/10/02923/FL Application withdrawn 15 December 2010

Erection of a detached dwelling house for occupation by the Horticultural Manager and Partner of Planet Plants Nursery

4.2 The following history relates to applications made at the site which comprises both the Planet Plants and Ivy Hatch Nursery sites together with the access link between them:

MK/4/59/526 Refuse 2 September 1959

Alt Ref:

TM/59/10347/OLD

Outline application for erection of agricultural dwelling.

TM/85/757 Grant with Conditions 26 July 1985

Alt Ref:

TM/85/11268/FUL

Extension to agricultural workshop and store and erection of multi-bay polythene house.

TM/88/1158 Grant with Conditions 29 July 1988

Alt Ref:

TM/88/11994/FUL

Demolition of dutch lighthouse and replacement with Robinson 6.7m type glasshouse.

4.3 The following history relates to applications made at just the Ivy Hatch Nursery site:

MK/4/62/614, Refuse 16 January 1963
Alt Ref:
TM/63/10630/OLD
O/A Dwelling on smallholding.

MK/4/71/758 Refuse 24 March 1972
Alt Ref:
TM/72/11610/OLD
Erection of an agricultural worker's dwelling.

MK/4/53/335 Application Withdrawn
Alt Ref:
TM/74/11511/OLD
Outline Application for one dwelling House

TM/05/01465/FL Grant With Conditions 4 July 2005
Agricultural/horticultural building to replace existing buildings

TM/05/02374/OA Refuse 17 January 2006
Outline Application for Agricultural dwelling for Nursery Manager

TM/06/01170/FL Application Withdrawn 7 June 2006
Installation of a radio base station comprising a 22.5m high monopole tower supporting 3 No. 2.0m antennas, 2 No. 0.6. m diameter dishes, radio equipment housing and ancillary development thereto.

TM/07/01854/FL Refuse 21 September 2007
Two storey replacement offices/storage/despatch building

TM/08/02305/FL Approved 18 September 2008
Demolition of existing office and erection of single building housing office and canteen

TM/11/00901/FL Approved 16 September 2011
Replacement of existing agricultural buildings with the erection of a general purpose agricultural building

5. Consultees:

- 5.1 Ightham PC: We supported the previous withdrawn application last November and continue to do so. This revised application makes the case for approval even more convincingly. The serious damage caused to polytunnels by the exceptional snowfall in December last could have been prevented had the McKennas been living on site. Furthermore, account has been taken of TMBC's advice and the size of the proposed house and office has been reduced.
- 5.2 DHH: General advice was provided in respect of waste management, including the position and number of bins to be provided.
- 5.3 Retained agricultural consultant: The Council's retained agricultural consultant has provided a number of comments of relevance to the proposal:
- Comments made in relation to application TM/11/00901/FL (dated 8 December 2010) – Annex 1;
 - Comments made in relation to the documentation originally submitted as part of this application (dated 25 July 2011) – Annex 2;
 - Comments made following the submission of a report by the applicants responding to the retained consultants comments of 25 July 2011) – Annex 3.
- 5.3.1 The retained agricultural consultant's comments can be summarised as follows:
- Background:
 - The site was part of a larger nursery (Ivy Hatch Nurseries);
 - The applicants have invested significantly in renovating the site and the nursery is being developed mainly as a specialist grower of medium to large/specimen sized shrubs, with plants sold wholesale to trade outlets, an on-line retail sales outlet is being developed and there are occasional open weekends for the public;
 - Mr McKenna is an experienced grower who, as well as being involved in establishing Planet Plants Nursery, is currently engaged as manager of the large cash-and-carry nursery at Swanley;
 - Mrs McKenna is becoming involved in the management of Planet Plants but also has day-day care of their two young children;
 - The family live in Tonbridge but propose selling their house to finance the construction of the proposed dwelling;

- There are an additional one no. full-time worker and three no. part-time workers at Planet Plants;
- Annex A of PPS7 functional test: on-site accommodation is warranted in principle under the functional test of Annex A of PPS7, based on the following;
 - The proper care of the plants, particularly when weather conditions are adverse through summer heat or winter cold;
 - The site is difficult to access when there is heavy snow and with someone resident on site it should be possible to take prompt action to help minimise damage through snow or frost;
 - Residency would assist general husbandry tasks (such as spraying and vermin control);
 - Residency should assist in limiting damage or theft;
- There is no residential accommodation on the site or elsewhere locally that would be suitable and available for meeting the functional needs which have been arising;
- Annex A of PPS7 financial test:
 - Whether the unit and activity concerned has been established for at least three years: this has been achieved as trading has commenced since May 2007;
 - Whether it has been profitable for at least one year: The submitted accounts indicate that whilst sales have increased, any profit on the submitted accounts indicate that much is due to net stock valuation increases in 2009/10 and 2010/11 (the latter of which was greater than the sales figures) – accordingly the accounts to date demonstrate no net cash profits but significant net cash outflows from the business despite trading for 4 years. The recorded net profits are notional, on the basis of a large accumulating stock level: producing stock is one thing, achieving actual sales of that stock is another;
 - Whether it is currently financially sound and has a clear prospect of remaining so: Due to the reliance to date on the large valuation changes compared to actual sales income, it is concluded that this particular business is still very much in the course of being established, rather than being “well established” as required in Annex A of PPS7;
 - § The full accounts for the business for all years have not been provided and it is accordingly not possible to see exactly how the reduction in long-term liabilities of the business year-on-year have

been achieved, it is presumed that this must have been achieved through the introduction of outside (non-loan) capital rather than any net profits from within the business itself. This may indicate that there has been a lot of further capital input to help support the business, which is not the same thing as the business being inherently well-established and financially sound;

- Whether the proposed dwelling is of a size commensurate with the established functional requirement and not unusually large in relation to the agricultural needs of the unit; the size of the dwelling as proposed (198 sq m of just residential accommodation proposed or 235 sq m including the business space) appears to be unusually large in relation to the needs of the unit, which is the relevant test, rather than the personal needs of the family. The nursery already has approved office/cloakroom facilities in the new permitted building;
- Whether the proposed dwelling is unusually expensive to construct in relation to the income the enterprise can sustain in the long-term: the cost of constructing the dwelling is a range of £180,000 – £200,000. The applicants have indicated that the cost of the dwelling is expected to be broadly covered by the sale of the applicant's existing house, and whilst no doubt Mr McKenna could also help to support the dwelling from the income gained from his current position at the cash-and-carry nursery, Annex A of PPS7 requires that the cost should be sustainable only from the income the agricultural unit can provide. The applicants assume that a mortgage of £100,000 would a) suffice and b) be obtainable. This relies respectively on outside capital for the balance of the cost, rather than the cost being sustainable by the unit (which PPS7 requires), and on a mortgage being obtainable in a situation where the business has yet to generate any net cash returns. The costs of the dwelling proposed would be a fair degree greater than what the business itself could reasonably afford;
- Conclusion: the case for a permanent dwelling on this site, and particularly one of the large size and cost proposed, remains premature as matters stand.

5.4 KHS: No objection subject to conditions regarding disposal of surface water, parking and turning of operatives' vehicles and retention of parking and turning areas indicated on the approved plans.

5.5 KCC PROW unit had no objection to the proposal.

5.6 Private Representations (12/0X/0R/1S): Representations have been received from one neighbouring property supporting the proposal. Specific reference is made to the need for on-site accommodation to ensure improved security and allow the applicants to deal with the effects of adverse weather.

6. Determining Issues:

- 6.1 The chief determining issues are a) whether the proposal satisfies the tests for a permanent agricultural dwelling as set out in Annex A of PPS7, b) if the proposal does not satisfy this test then whether it comprises inappropriate development in the MGB, and c) the effect of the development on the character of the landscape and rural area, amenities of the MGB and the landscape quality of the AONB.
- 6.2 The planning policy which needs to be taken into account in the consideration of this application includes:
- National planning guidance: the Draft National Planning Framework has recently been published and was subject to a period of consultation from 25 July 2011 – 17 October 2011. It is for the decision making authority to determine how much weight is to be attached to the draft Framework. The national planning guidance relevant to this application is that contained in PPS1, PPG2, PPS3, PPS7 and PPG13;
 - TMBCS: Policies CP1, CP3, CP6, CP7, CP14, CP15 and CP24;
 - TMB MDE DPD: Policies NE3, SQ1 and SQ8.
- 6.3 In respect of the South East Plan, the Government has announced its intention to revoke Regional Spatial Strategies and the Courts have held that this intention is a material consideration to which regard must be had in the determination of planning applications.

Principle of Development

- 6.4 Paragraph 2 of Annex A of PPS7 details that it is essential for planning applications for new occupational dwellings to be scrutinised thoroughly and that in particular it will be important to establish whether, inter alia, the farming practice requires one or more persons engaged to live near-by and whether the enterprise is capable of being sustainable for a reasonable period of time.
- 6.5 Members may recall planning application TM/11/00658/FL at The Nursery, Taylor's Lane, Trottiscliffe, which sought retrospective planning permission for a temporary agricultural worker's dwelling and was considered at APC2 on 25 May 2011. An appeal in respect of the refusal of permission for this development was recently determined by the Planning Inspectorate. The decision notice is provided at Annex 4. Although the scale of the horticultural business, type of plants being grown and the degree of permanency of the dwelling for which permission is sought all differ between the two sites, the Inspector's conclusions in respect of the use of electronic monitoring equipment, remote alerts, an ability to stay on site during times of adverse weather and "the area" in which the availability of suitable and available accommodation should be assessed are considered to be relevant to the determination of this application.

6.6 Planet Plants has been operating since May 2007 and therefore comprises a relatively new farming activity. The enterprise has been set up and operated for four years without such on-site accommodation. An application for an agricultural worker's dwelling at Ivy Hatch Nursery in 2005 (TMBC ref TM/05/02374/FL) was refused by APC2 due to a lack of functional need and financial justification.

6.7 Paragraph 12 of Annex A of PPS7 explains that if a new dwelling is essential to support a new farming activity, whether on a newly created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can easily be dismantled, or other temporary accommodation. This application seeks permission for a permanent dwelling. Paragraph 3 of Annex A of PPS7 says that new permanent dwellings should only be allowed to support existing agricultural activities on well established agricultural units providing a series of tests and criteria are satisfied:

- (i) There is a clearly established existing functional need;
- (ii) The need relates to a full-time worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- (iii)
 - the unit and the agricultural activity concerned have been established for at least three years;
 - the unit and the agricultural activity has been profitable for at least one of the three years;
 - the unit and the agricultural activity is currently financially sound;
 - the unit and the agricultural activity has a clear prospect of remaining financially sound;
- (iv) The functional need could not be fulfilled by another existing dwelling on the unit or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned;
- (v) Other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.

Criteria (i) and (ii): the functional need for a full time worker

6.8 In respect of criterion (i), paragraphs 4 and 5 of Annex A of PPS7 set out that a functional requirement might arise if a worker(s) is needed to be on hand day and night to provide essential care at short notice or to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems. Paragraph 6 of this Annex explains that the protection of livestock from theft or injury by intruders "may contribute on

animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one” (an agricultural dwelling): no reference is made to security concerns related to other agricultural enterprises such as horticulture.

6.9 The applicant’s case that the functional need is met as set out in the submitted application can be summarised as:

- Changes in weather can lead to a loss of stock from drought (in the event of the failure of the irrigation system) or waterlogging due to the need to modify the automated timing system on the irrigation system in times of excessive rainfall;
- A need to deal with ice, slush, or snow on polytunnels and glasshouses;
- In times of severe cold weather (particularly in anticipation of early morning frosts) it is necessary to cover plants with fleecing material to prevent leaf damage and root death which can lead to loss of stock;
- On-site accommodation will assist in protection from rabbit damage;
- On-site accommodation would deter vandalism and theft;
- “The nature and characteristics of the plant stock at the nursery does not lend itself to automatic climate control because the different types and species would require a wide variety of different environment and this would make it too expensive to provide such systems”.

6.10 As detailed above, the agricultural consultant has concluded that he considers that on-site accommodation is warranted, in principle, in accordance with criterion (i). The agricultural consultant made similar conclusions in respect of TM/05/02374/FL which the Council refused. Ivy Hatch Nurseries appears to have successfully developed since 2005 without on-site accommodation. Whilst I attach considerable weight to the comments of the agricultural consultant, I have also had regard to a number of factors which have been established by the recent appeal decision at The Nursery in Trottiscliffe:

- that technology is available via sensitive on-site monitoring equipment linked to telephone numbers that can alert persons to equipment failure, or when water levels or temperature move outside set parameters so that speedy remedial action is required (provided someone was sufficiently close to the site to be able to respond within an effective timeframe) – paragraph 13 of the appeal Decision Notice. It is understood that whilst the parameters will vary between different polytunnels/glasshouses, the equipment and software to monitor the parameters can be set for individual parts of the nursery site and would not be so complex and expensive as to preclude the use of such equipment;

- meteorological information of impending adverse weather conditions including ground frosts or extreme conditions such as heavy snow is available in advance of such weather. The provision of fleecing material to prevent damage from ground frosts can be undertaken at the end of the previous working day, whilst a temporary overnight stay at the site (for example in the existing building which contains washing facilities) would provide a practical solution to allow the applicant to ensure that ice or snow build-up would not damage the polytunnels/glasshouses and plants within, in the very occasional event that roads to the application site were not passable. Such a temporary solution would not amount to a material change of use: indeed, this is not an uncommon practice on agricultural holdings, for example at lambing time – paragraph 17 of the appeal Decision Notice;
- Whilst an on-site presence may assist in limiting damage or theft, and evidence has been provided that indicates that the nursery has been subject to such incidences in the past, PPS7 states that this would not in its own right warrant sufficient justification for an on-site residential presence.

6.11 Overall, therefore, I consider that, whilst it would be convenient and desirable for the owners of the business to live on site, the test as set out in Annex A of PPS7 is that it is essential for the proper functioning of the enterprise for on-site accommodation. For the reasons detailed above, provided persons are sufficiently close to the site to enable attendance in the event of an alarm being triggered, to allow the worker to walk to the site in the (infrequent) event that the roads become blocked, and to allow for relatively frequent access to undertake plant husbandry, it is considered that the applicants have not demonstrated an essential functional need. Indeed, the site has operated without on-site accommodation since it was originally set up. Considerations as to the potential for a worker to live at, or in the area around the site, comprise the test set out at criterion (iv) of Annex A of PPS7.

6.12 Given that I have concluded that there is not an existing functional need for a worker to reside on-site rather than in the area of the nursery, I cannot consider that criterion (ii) is passed.

Criterion (iv): Alternative suitable and available accommodation on-site or in area

6.13 There is no other existing accommodation on the site. The applicant considers that there is not any other alternative existing accommodation in the area which is suitable and available for occupation by an agricultural worker. In reaching this conclusion the supporting information which was provided indicates that within the area of search identified by the applicants, all the dwellings which were for sale were between approximately £500,000 - £1.5 million at the time of the application. However, following a review of present estate agency information of three and four bedroom plus properties for rent and sale (beneath £400,000), there is presently a four bedroom house for sale in Ightham for £295,000 and a three bedroom house for rent for £1100 per calendar month ["pcm"]. These dwellings are suitable, are

available now for workers associated with the site and would allow for rapid access to the site in the event that an alarm is triggered and to facilitate frequent access to monitor plant growth. It would, indeed, fall within the “area of search” within which the dwellings included in the application are located.

6.14 Criterion (iv) as set at paragraph 3 of PPS7 states that it is necessary to establish that the functional need could not be fulfilled by another suitable and available for occupation dwelling in “the area”. The Council has previously concluded, when determining the application at The Nursery in Trottiscliffe, that dwellings for sale and rent at surrounding villages within ten minutes drive of a horticultural nursery would provide sufficient time for a worker to respond to an alarm and to seek to address whatever changes in the environment had caused the alarm to be triggered. The Inspector concluded that “the drive time to the appeal site from such locations was such that swift and responsive access to the appeal site could be obtained by car”.

6.15 There are a number of other villages within ten minutes drive time of the application site (as based on travel times provided by the AA), from which it would also be possible to walk to the application site in the very infrequent occasions that roads are impassable:

- Shipbourne: 3 minutes;
- Borough Green: 4 minutes;
- Plaxtol: 4 minutes;
- Wrotham Heath: 6 minutes;
- Wrotham: 7 minutes;
- Seal: 7 minutes;
- Platt: 5 - 8 minutes.

6.16 There are presently family houses (minimum of three bedrooms) available for sale in a number of these settlements, at prices up to £400,000 summarised in Table 1 below, with a considerable number for sale in Borough Green (ten number three bedroom houses and four number three bed houses):

Settlement	Price range (£) and number of houses	
	Three bedroom houses	Four bedroom houses
Shipbourne	£379,000 (1 no. dwelling)	
Borough Green	£239,000 - £335,000 (10 no. dwellings)	£300,000 - £375,000 (4 no. dwellings)
Plaxtol	£325,000 (2 no. dwellings)	
Wrotham Heath		£310,000 (1 no. dwelling)
Wrotham	£200,000 (1 no. dwelling)	
Seal	£250,000 - £275,000 (4 no. dwellings)	£300,000 - £395,000 (2 no. dwellings)
Platt	£210,000 - £275,000 (4 no. dwellings)	

Table 1: price of family houses (up to £400,000) for sale at settlements around application site

6.17 There are also a considerable number of family dwellings within the surrounding villages which are presently available for rent, again with a predominance in Borough Green, as summarised below in Table 2:

Settlement	Price range (£ per calendar month) and number of houses	
	Three bedroom houses	Four bedroom houses
Borough Green	£775 - £1095 (5 no. dwellings)	£1300 - £1850 (5 no. dwellings)
Plaxtol	£1395 - £1595 (2 no. dwellings)	
Wrotham Heath		£1300 (1 no. dwelling)
Wrotham	£900 (1 no. dwelling)	
Seal	£1395 (1 no. dwelling)	
Platt	£900 (1 no. dwelling)	£1850 (1 no. dwelling)

Table 2: price of family houses for rent at settlements around application site.

6.18 I am therefore of the opinion that whilst the nursery may have a functional requirement for an agricultural worker to reside in relatively close proximity to the site, there is not specific justification for that worker to reside at the site or within Ivy Hatch/Ightham itself given the potential to install remote alarms. There is a broad selection of other existing accommodation within four – eight minutes drive of the application site which is suitable and available for occupation, would allow the applicants to attend the site in the event that an alarm is triggered and to seek to address the reasons why the alarm was set off within a short period of time and would also allow the growing conditions to be frequently checked with minimal travel. In the infrequent event of heavy snowfall, the application site is accessible by foot from many of these settlements and if there were particular concerns regarding the weight of settled snow on the polytunnels or glasshouses overnight, a practical solution would be for a worker to occupy the existing potting shed, office and storage area building for a night or two.

6.19 Therefore, in my judgement, the proposed development does not satisfy the tests for a new agricultural dwelling as set out in Annex A of PPS7, as it has not been demonstrated that there is a functional need for accommodation to be provided

on-site which could not be provided by other existing accommodation within the area which is suitable and available for occupation by the workers concerned.

Criterion (iii): Financial test

- 6.20 Paragraph 8 of Annex details that a financial test is necessary as new permanent accommodation cannot be justified on agricultural grounds unless the farming enterprise is economically viable. The matters to be assessed in the determination of the financial test are detailed at criterion (iii) of paragraph 3 of Annex A of PPS7. In reaching my conclusions as to how the agricultural enterprise performs in respect of the criteria, I have had regard to the comments of the retained agricultural consultant, who has reviewed in detail all the financial information submitted in support of both applications, together with the information and supporting statement from the applicant's agricultural consultant provided as part of the application.
- 6.21 The enterprise has been operating and established for at least three years: trading commenced at the beginning of May 2007. In respect of whether the enterprise has been profitable for one of these years, the submitted accounts indicate significant losses in the first two years whilst stocks were built, followed by a small profit (£2285) for 2009/2010 and a larger profit of £24,886 for 2010/2011. However, the retained agricultural consultant advises that the net profits are as a result of significant net stock valuation increases in 2009/2010 and 2010/2011. Whilst it is understood that stock will increase in value as specimen plants mature and overall stock levels increase (to a level of £700,000 in April 2011) sales are still very low (only £77,318 in 2010/2011). Therefore, whilst the submitted accounts indicate that the enterprise has been profitable, I share the concerns expressed by the agricultural consultant in respect of the large increases in stock valuation and relatively low sales figures.
- 6.22 In respect of the final two parts of the financial test, the applicants have indicated that they consider the enterprise to be financially sound based on the fact that the assets associated with the enterprise far exceed the long-term liabilities, with a considerable stock of plants to be sold (approximately £700,000). However, the retained agricultural consultant advises that it appears from the accounts which are available that the long-term liabilities of the business have been reducing (from £305,844 loans at 31 March 2008 to £82,000 at 31 March 2011) through the introduction of outside (i.e. non-loan) capital rather than from profits generated through the enterprise itself. Therefore, whilst there has been a considerable amount of capital input to support the business, I agree with the agricultural consultant that this is not the same as the business being inherently well-established and financially sound. Similarly, although the indicated figure of stock of £712,155 at March 2011 is considerable and could potentially lead to a higher sales figure in 2011/2012, until such sales have actually been achieved (given the

relatively low level of sales in 2010/2011 compared to stock levels, even taking into account the poor winter weather) I consider it to be premature to conclude that the enterprise is well established and financially sound.

6.23 Therefore, whilst the applicant's intentions to develop the enterprise are apparent, it is premature to conclude that the financial test for a permanent dwelling has been satisfied.

Criterion (v): Other planning requirements

6.24 Criterion (v) of the test for permanent agricultural dwellings requires that all other planning requirements are satisfied. My conclusions in respect of all other material considerations are provided in more detail below: in summary I am of the opinion that the proposal satisfies all other planning requirements.

6.25 Paragraph 9 of Annex A of PPS7 details that agricultural dwellings should be of a size commensurate with the established functional requirement and those which are unusually large in relation to the agricultural needs of the unit, or unusually expensive to construct in relation to the income it can sustain in the long-term, should not be permitted. It also states that "it is the requirements of the enterprise, rather than those of the owner or occupier, that are relevant in determining the size of the dwelling that is appropriate to a particular holding".

6.26 The dwelling as indicated includes a nursery office/wash room. Although such facilities are provided in the existing building which has been constructed on site, the applicants assert that the current arrangement is not ideal when customers attend the site. The applicant's case for the size of the dwelling proposed is that the business makes use of extended family for labour at several times of the year, who travel from elsewhere in the country and need to stay at the site. It is also understood that the applicants have/are expecting three children. Case officers provided the applicants with general advice at pre-application stage as to how the overall size of the dwelling could be reduced in size (from that submitted under the earlier application), although the applicants were reminded of the requirements of paragraph 9 at all times.

6.27 The applicants also advise that it is anticipated that the dwelling will cost between £180,000 and £200,000 to construct, to be financed by a mortgage of £100,000 with the remainder being provided by outside capital.

6.28 The agricultural consultant considers that "the size and cost of the dwelling (198 sq m (or 235 sq m including the business space) does appear to me to be unusually large in relation to the needs of the unit, which is the relevant test, rather than the personal needs of the family". The cost of constructing the dwelling as proposed is clearly considerably greater than the cost which is sustainable from the enterprise based on any profits generated so far and would require a considerable amount of outside capital for the balance of the cost. I similarly share the agricultural consultant's concerns that the size of the dwelling is larger

than the functional need of the unit, although I have had regard to the size of the applicants' family and their wish that their children could be accommodated on site until they left home. Overall, I am of the opinion that the dwelling is not of a size or cost which is commensurate with the functional need of the nursery or the income it can sustain in the long-term.

Conclusion in respect of PPS7 tests for permanent agricultural dwelling

- 6.29 My conclusions in respect of how the proposal performs against the test for a permanent agricultural dwelling are that there is no clearly demonstrated functional need for a dwelling at the nursery that could not be provided at an alternative location within reasonable driving distance of the site (which reflects the recent principles and conclusions established by the Planning Inspectorate in respect of another nursery site within the Borough, albeit of different scale), and that there is suitable alternative family housing which is presently available (particularly for rent) within such a reasonable driving distance. I also consider that it has not been demonstrated that the enterprise is presently financially sound nor that the size and cost of the dwelling proposed is necessary having regard to any functional need nor that a dwelling of this size and cost can be sustained by the enterprise.
- 6.30 If there was not suitable accommodation available in the area, it is my conclusion that whilst the applicant's intentions to develop the nursery are clear, it would be premature to conclude that a permanent agricultural dwelling is justified in respect of this site at this time and a planning permission here could be a direct precedent for a house at the neighbouring nursery also. The usual practice (following the advice in PPS7) when an agricultural enterprise is being established where an applicant considers that there is a functional need for on-site accommodation to be provided which cannot be met by alternative accommodation is for permission to be sought for a temporary agricultural dwelling.

Metropolitan Green Belt (CS Policy CP3) and Open Countryside (CP14)

- 6.31 I have concluded that the proposal fails the tests which are required for new permanent agricultural dwellings: as such the erection of a new building as detailed would not fall within one of the purposes detailed at paragraph 3.4 of PPG2 for which the erection of new buildings is considered appropriate development in the MGB. Accordingly, the proposal comprises inappropriate development and causes actual and definitional harm to the openness of the MGB. I do not consider that the justification expressed by the applicant in the submission amounts to very special circumstances to overcome this harm, for the reasons detailed above. Accordingly, I am of the opinion that the proposal is contrary to CS Policy CS3.

6.32 Similarly, as I have concluded that the development is not essential housing for a farm worker(s), I also consider that the proposal is contrary to Policy CS CP14.

Design and landscape impact

6.33 CS Policy CP7 requires that development which would be detrimental to the natural beauty and quiet enjoyment of the AONBs will not be permitted, other than in exceptional circumstances, including development which is essential to meet local social or economic needs. If there are exceptional circumstances, such development must have regard to local distinctiveness and landscape character and use sympathetic materials and appropriate design. Paragraph 21 of PPS7 details that AONBs have the highest status of protection in relation to landscape and scenic beauty.

6.34 In terms of the impact on the scenic beauty of the AONB, the site is well screened by mature vegetation which serves to restrict and filter views from Back Lane and the PROW in the vicinity of the site. Paragraphs 35 and 36 of PPS1 (Delivering Sustainable Development) and paragraph 16 of PPS3 (Housing), set out matters which should be considered when assessing design quality. I am of the opinion that the proposed dwelling, which is of a traditional form but incorporates modern features such as double height and angular glazed elements at first floor, performs positively against a number of these matters and is well designed in its own right. The area is characterised by large detached dwellings in substantial plots located on the north-eastern side of Back Lane, with no dwellings located on the south-western side: I am of the opinion that the proposal will introduce a building of residential appearance and domestic structures/paraphernalia within this location. However, having regard to the design of the proposal and the screening afforded by vegetation at the site, together with the fact that the dwelling would be seen as part of the wider nursery site, I consider that the proposal will not harm either long or short distances vistas within the Kent Downs AONB or the character of the rural area and accordingly is in conformity with CS Policy CP7 and the relevant design and character policies in the CS and MDE, including CS Policies CP1 and CP24 and MDE DPD Policy SQ1.

6.35 In the event that planning permission was to be granted, it would be possible to use conditions to control the erection of outbuildings and define the extent of curtilage to confine any domestic paraphernalia to particular parts of the wider site.

Living Conditions

6.36 Due to the location of the site away from other dwellings, the proposal will not harm the living conditions which occupiers of neighbouring properties can expect to enjoy by means of overshadowing or loss of privacy.

Highways

6.37 It is proposed to use the existing access to the site, which allows for vehicles to pull off the highway whilst the gates at the front are opened. The proposal would make provision for adequate parking: I consider that it accords with Policy SQ8 of the MDE DPD.

Ecology

6.38 The application is supported by ecological surveys which determine that the presence of great crested newts or reptiles was considered highly unlikely at the site, the site supports habitats which are common and wide-spread and, subject to the use of appropriate mitigation measures, the erection of a dwelling would not materially harm protected species or biodiversity. It is considered that the proposal accords with MDE Policy NE3.

Contamination

6.39 The application is accompanied by a contaminated land assessment which concludes that there is a low risk of land contamination. DHH has no objection to the proposed development.

Conclusion

6.40 I am of the opinion that whilst the applicants have demonstrated a commitment to establishing the nursery and the erection of a permanent dwelling at the site will be a more convenient arrangement, the proposal as detailed fails the tests and requirements as set out in Annex A of PPS7 for permanent agricultural dwellings. It therefore represents development in the MGB and open countryside which is contrary to adopted Development Plan policy and national guidance, would set an undesirable precedent for similar proposals and would be a decision inconsistent with a recent successful appeal on a site just a few miles away. Accordingly, I recommend that planning permission be refused for the reasons as detailed below.

7. Recommendation:

7.1 **Refuse Planning Permission** for the following reasons:

1. The Local Planning Authority is not satisfied that the applicant has demonstrated that there is a current functional need for an agricultural dwelling on the site and furthermore considers that any functional need to live within the vicinity of the application site could be fulfilled by another existing dwelling in the area which is suitable and available for occupation. The proposal comprises inappropriate development which is harmful to the openness of the Metropolitan Green Belt and is therefore contrary to Tonbridge and Malling Borough Core Strategy Policy

CP3: Green Belts and the guidance detailed in PPG2 (Green Belts). The proposal is also contrary to Tonbridge and Malling Borough Council Policy CP14 and the guidance detailed in PPS7 (Sustainable Development in Rural Areas).

2. The Local Planning Authority is not satisfied that the applicant has demonstrated that the financial test for permanent agricultural dwellings as set out in Annex A of PPS7: Sustainable Development in Rural Areas has been satisfied. Furthermore, the Local Planning Authority is not satisfied that the applicant has demonstrated that the size of the dwelling is appropriate having regard to the requirements of the horticultural enterprise, nor that the cost involved in its construction is appropriate relative to the income that the family enterprise can sustain in the long-term. The proposal comprises inappropriate development which is harmful to the openness of the Metropolitan Green Belt and is therefore contrary to Tonbridge and Malling Borough Core Strategy Policy CP3: Green Belts and the guidance detailed in PPG2 (Green Belts). The proposal is also contrary to Tonbridge and Malling Borough Council Policy CP14 and the guidance detailed in PPS7 (Sustainable Development in Rural Areas).

Contact: Steve Baughen