

2. The Site:

- 2.1 The application site comprises the landholding associated with the detached dwelling known as Chalk House. The landholding is extensive, and slopes steeply downhill from the north and west, reflecting the fact that it was formerly a chalk quarry. Chalk House and the building subject to the application, and indeed The Quarry which is the adjacent house located to the north-east of Chalk House, are situated on relatively flat plateaux within the overall slope. The building subject to the application is surrounded by retaining walls, due to its proximity to the slope behind.
- 2.2 There is a large swimming pool, pool house and pond located to the east of Chalk House itself, and several other sheds/greenhouses located within the landholding.
- 2.3 Vehicular access is provided to the application site from a shared drive (with The Quarry) from Gravesend Road.
- 2.4 The site is in the MGB and Kent Downs AONB.

3. Reason for reporting to Committee:

- 3.1 At the request of Councillor Coffin and due to the planning history of the site.

4. Planning History:

TM/53/10517/OLD Grant with Conditions 6 August 1953

Use of 'Chalk Farm' as House and 2 Flats. (O/A for one house).

TM/54/10489/OLD Grant with Conditions 12 February 1954

Dwelling house and garage.

TM/01/03409/FL Grant with Conditions 15 March 2002

Conversion and alteration of former domestic garage building to form self-contained annex to main house.

TM/02/03785/FL Refuse 17 February 2003

Amendment to previously approved plans for conversion and alterations to former garage to provide self-contained annex to main house

TM/03/01344/FL Grant With Conditions 24 July 2003

Conversion and alterations to garage to provide self-contained annexe to main house (amendment to TM/01/03409/FL)

TM/03/02930/RD Grant 27 October 2003

Details of landscaping scheme pursuant to condition 6 of planning permission TM/03/01344/FL (conversion and alterations to garage to provide self-contained annexe to main house)

TM/03/02931/ORM ORM approved 4 November 2003

Minor amendments to windows and elevational treatment to annexe permitted under planning ref. TM/03/01344/FL

TM/04/02465/FL Refuse 20 October 2004

Construction of retaining walls to garden and temporary alterations to access on to Gravesend Road

TM/04/02668/FL Application Withdrawn 12 October 2004

Re-erection of outbuilding for use as self contained annexe in accordance with terms of permission TM/03/01344/FL

TM/05/00342/FL Grant With Conditions 16 March 2005

Retention of retaining walls, temporary widening of vehicular access and proposed landscaping of wall (revised scheme to that submitted under planning ref. TM/04/02465/FL) (retrospective)

TM/05/03153/LDCP Refuse 6 December 2005

Lawful Development Certificate Proposed: Extension

TM/06/00084/FL Grant With Conditions 16 February 2006

Extension to dwelling to provide pitched roof to replace existing flat roof

TM/07/01703/FL Application Withdrawn 28 June 2007

Replacement garage accommodating 3 cars with store and greenhouse to rear and playroom in roof

TM/07/02820/FL Approved 27 September 2007

Retrospective application for the creation of a fishpond (engineering works)

TM/07/04213/RD Approved 16 January 2008

Details of landscaping scheme submitted pursuant to condition 1 of planning permission TM/07/02820/FL: Retrospective application for the creation of a fishpond (engineering works)

- The proposal will result in additional external parking, both for the main house and the ancillary unit and also additional external residential paraphernalia to the new ancillary unit.
 - i) This will be detrimental to the openness of the MGB. Contrary to policy CP3.
 - ii) This will detract from the character and beauty of this area of Downlands AONB. Contrary to policy CP7.

5.2 DHH: The only comments made are in respect of contaminated land. DHH requests the imposition of an informative detailing that thought be given to the incorporation of a vapour impermeable membrane within the floor slab of the development. However, the floor slab has already been constructed.

5.3 KCC (Highways): No objection.

5.4 EA: No comments.

5.5 Private Reps (6/0X/1R/0S): A letter has been received from the occupier of the adjacent house (The Quarry) objecting on the grounds that the proposal amounts to a new dwelling, which would be contrary to MGB policy and would harm the AONB and create conditions harmful to highway safety. The letter also refers to Conditions attached to the grant of planning permission for the garage.

6. Determining Issues:

6.1 Policy DC1 of the MDE DPD sets out that the reuse of existing rural buildings for residential use that are of permanent and sound construction and are capable of conversion without major or complete reconstruction can be acceptable, subject to satisfying a number of criteria. Several of these criteria (c – severance of agricultural unit, e – negative impact on protected species, f – buildings of architectural or historic interest) are not applicable in this instance. In addition, the proposal needs to be assessed against MGB policy.

6.2 Having regard to the above, the chief determining issues are considered to be:

- Whether the proposal is contrary to MGB policy;
- The design of the alterations to the building and the impact of these on the scenic beauty of the Kent Downs AONB;
- Whether the proposal would harm the living conditions of neighbouring properties;
- Whether the proposal would create conditions which are harmful to highway safety.

6.3 The planning policy framework most relevant to the above are paragraphs 56 – 66 (design), 32, 35, 80, 87, 88, 90 and 115 of the NPPF, Policies CP1, CP3, CP7, CP14 and CP24 of the TMB CS and Policies DC1, SQ1 and SQ8 of the TMB MDE DPD.

MGB

6.4 Members are advised that there are some similarities between the current proposal and a building which was erected in the curtilage of a dwelling known as 2 Keepers Cottage. Planning applications related to this building at 2 Keepers Cottage have been reported to APC2 over the last couple of years.

6.5 At that site, planning permission was granted for a sizeable outbuilding for the intended use as triple carport and stable with first floor storage (TM/06/03316/FL). However, without planning permission it was constructed to include kitchen and washing facilities at ground floor, as well as two bedrooms and living accommodation at first floor. There have been several appeals in respect of the site, against the refusals of planning permission and against an enforcement notice. The appeals were all dismissed and the enforcement notice was upheld. The Inspector who considered the first appeal concluded:

- *“Part of the ground floor and the entire upper floor of the building are occupied by accommodation that clearly gives the overall appearance of being a self-contained residential unit. There is a fully-equipped modern kitchen with a breakfast area off and a bathroom, containing a shower, WC and wash hand basin, at ground floor level, while at first-floor level are two bedrooms off a large living area. The living space may be occupied by close family relatives (the appellant’s son, his partner and their daughter), but, in my professional judgement, they inhabit this residential accommodation as a separate household. This use, therefore, has to be looked upon as an activity in its own right within the MGB that does not enjoy the benefit of planning permission”.*
- *“By using this building for occupation by a separate household, MGB openness is harmed by the bringing of additional vehicles onto the site, by the generation of traffic on the approaches to the land in an isolated rural location and by the multiplicity of domestic artefacts and general paraphernalia in the surroundings of 2 Keepers Cottage. Therefore, the use of this building as residential development, which is not incidental to the enjoyment of the dwellinghouse at 2 Keepers Cottage, constitutes inappropriate development in this part of the MGB.”*

6.6 In considering an appeal based on the appellants having removed the cooking apparatus and proposing to use the building as an annex, that Inspector stated:

“By providing additional sleeping accommodation within the ancillary building Green Belt openness would be harmed as a result of additional vehicular movements in the area and the tendency to increase the amount of domestic

paraphernalia in the area, evidence of which was clearly seen on my site visit. The increased intensity of use of the site would therefore be harmful to the openness and visual amenities of the Green Belt”.

- 6.7 I recognise that 2 Keeper’s Cottage is located in a much more rural and unsustainable location than the current site in Gravesend Road, but I consider that the thrust of the Inspectors’ conclusions set out above is useful in the consideration of the current application at Chalk House.
- 6.8 TMB CS Policy CP3 states that national MGB policy will be applied to those parts of the Borough designated as such. Paragraph 90 of the NPPF details that the re-use of buildings in the MGB can be appropriate development “provided that the buildings are of permanent and substantial construction”, subject to the use preserving the openness of the MGB and not conflicting with the purposes of including land in the MGB.
- 6.9 The building subject to this application is relatively new (having a Building Regulations completion date of June 2011), and is of substantial and permanent construction. Due to the extent of primary accommodation and the facilities which the building would contain, I am of the opinion that the proposal will result in a building which is capable of independent occupation and would, in effect, constitute an additional dwelling within the MGB. As such, there is considerable potential for additional domestic paraphernalia to be located within the vicinity of the building, including items such as washing lines and childrens’ play equipment, together with the parking of additional vehicles and additional domestic activity at the site, even if the building were to be occupied by members of the applicant’s family. It is my considerations that this will not preserve the openness of the MGB and will conflict with the stated purpose of the MGB (at paragraph 80 of the NPPF) of assisting in “safeguarding the countryside from encroachment”.
- 6.10 Accordingly, it is my opinion that the change in the use of the building would be inappropriate development within the MGB. Paragraphs 87 and 88 of the NPPF explain that “inappropriate development is, by definition, harmful to the MGB and should not be approved except in very special circumstances” and “when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the MGB”. The applicants have not put forward a detailed case of VSCs.
- 6.11 However, in my considerations as to whether VSC exist, I have also had regard to the planning history of the site, including both the fact that planning permission had previously been granted for an annex in the location of the building subject to this application (through conversion) and the circumstances in which it is contended the former garage was accidentally demolished.
- 6.12 My review of the planning history indicates that there was formerly a single storey garage at the site, which had planning permission to be extended through the addition of a roof and converted into a 2 bedroom annex (TM/03/01344/FL and

TM/01/03409/FL). However, it is understood that as works were being carried out to the garage, it became evident that the building was not structurally capable of conversion without extensive works, and the building was demolished. There was considerable correspondence between the applicant and TMBC at this time: the applicant's agent view is that this demolition was undertaken accidentally as a result of discussions with the Borough Council's Building Control department.

- 6.13 Accordingly, as the grants of planning permission were for the conversion of this building, following its demolition the planning permissions could not be implemented.
- 6.14 In considering application TM/03/01344/FL, I advised Members that it was my opinion that any increase in activity at the site would not harm the character of the MGB sufficiently to justify a refusal of planning permission. However, since that time, there have been a number of changes in circumstance, including changes to the planning policy framework (such as the publication of the NPPF and the adoption of the various DPDs in the LDF), the fact that the building which was on site at the time had been there for a considerable period of time (rather than having been recently constructed) and, significantly, the Inspectors conclusions in respect of the building at 2 Keepers Cottage. These factors have resulted in my conclusions in respect of the effect on the MGB of the use of the present building at the site for residential purposes differing to those conclusions which I formed in respect of the use of the former garage which existed at the site.
- 6.15 I have also had regard to the fact that the building which existed on the site previously was evidently not structurally suitable for conversion: it appears to have been a single skin building, which did not have the necessary structural ties and did not have robust foundations. None of the original applications for conversion were accompanied by structural surveys, although the applicant's agent had asserted in various correspondence that the building was capable of conversion. Members are advised that the requirement to submit a structural survey for the conversion of buildings can be a finely balanced judgement: although the submission of such a survey with every application ensures that all applications are assessed on the same basis, it is not the intention to put applicants to unnecessary expense. Unfortunately, in this instance the applicant's agent's assertions proved to be incorrect.
- 6.16 Accordingly, although I have had regard to the chain of events which led to this building being demolished, given that the former garage building was inherently not suitable for conversion leads me to conclude that this does not amount to VSC to clearly overcome the harm which would be caused to the openness of the MGB as a result of the proposed change in use of the existing building subject to this application.

6.17 I therefore recommend that planning permission be refused on grounds of inappropriate development within, and harm to the openness of, the MGB.

Design and landscaping of the building

6.18 The building, as constructed and as permitted already has a rather domestic appearance. The proposed alterations (namely the replacement of the garage doors with windows and the construction of a larger conservatory on the northern elevation) are considered to generally accord with the design and appearance of the existing building, and are in my view acceptable. They will not materially harm the scenic beauty of the Kent Downs AONB or the general character of the area.

6.19 A landscaping scheme was agreed as details pursuant to condition 3 of planning permission TM/09/00057/FL and has been undertaken at the site.

Whether the proposal would harm the living conditions of neighbouring properties

6.20 The proposed use of the building would, in my view, result in a more intense domestic use of the building than would occur as a result of the use of the building as a garage, greenhouse and games room. Nevertheless, I am of the opinion that the building is set sufficiently far from The Quarry for such use to not materially harm the living conditions which the occupier of this property could expect to enjoy.

Highway safety

6.21 From Case Officers' experience, cars can travel at considerable speed along the Gravesend Road, and it is a relatively steep and sinuous highway. As detailed above, the proposal is likely to result in a more intensive use of the site.

6.22 However, the access/egress point to the site (shared with The Quarry) allows for relatively good visibility in either direction. KCC Highway Services have not raised any objection on highway safety grounds.

6.23 There would be sufficient space at the application site for the parking of cars for Chalk House and the building subject to the application.

Conclusion

6.24 I have given careful consideration to the planning history of the site, and the building in particular, including the fact that planning permission had previously been granted for the conversion of an existing garage to an annex and the fact that the former garage was accidentally demolished. However, that planning permission was not implemented as a result of that garage being demolished. The building which has been constructed on site contains an internal wall which

presently precludes its use as a garage, and it has been finished internally with plaster and paint and has a fully installed central heating system with radiators, and has the appearance of a domestic dwelling.

6.25 I am of the opinion that the proposed change of use would be tantamount to a new (and newly constructed) dwelling in the MGB (even if it were to be occupied by members of the applicant's family), and the change of use would be harmful to the openness of the MGB and would conflict with one of the stated purposes of including land in the MGB. As such, it is inappropriate development which is contrary to national MGB planning policy and TMB CS Policy CP3. I do not consider that there are VSC which clearly overcome the harm caused by its inappropriateness and by the impact on openness. I have therefore recommended that planning permission be refused for the development.

7. Recommendation:

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

1. The proposed use of the building as shown on the submitted plans and supporting information would include the provision of primary accommodation. The Local Planning Authority considers that this proposed use would not be for a purpose which is genuinely incidental and ancillary to the enjoyment of the principal dwellinghouse and therefore comprises inappropriate development in the Metropolitan Green Belt which is contrary to Policy CP3 of the Tonbridge and Malling Borough Core Strategy, and paragraphs 86 and 90 of the National Planning Policy Framework (2012). There are not Very Special Circumstances which clearly overcome this harm.

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