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**Report of 17 April 2013**

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**Shipbourne**                      **560704 151520**    **15 June 2012**                      **TM/12/01819/FL**  
Borough Green And  
Long Mill

Proposal:                      Demolition of 1 no. dwelling and construction of 1 no. four  
   bedroom dwelling, triple garage (alternative to  
   TM/08/01047/FL)

Location:                      Hookwood Farm Puttenden Road Shipbourne Tonbridge Kent  
   TN11 9QY

Applicant:                      Mr & Mrs Michael Kingshott

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**1. Description:**

1.1 Members will recall that this application was initially reported to the 12 December 2012 meeting, when the Committee, after a detailed debate, resolved to refuse planning permission contrary to the Recommendation.

1.2 The Committee resolved that it would refuse the application on the following grounds:

- *The site lies in the Green Belt. The proposed dwelling by reason of its overall bulk is materially larger than the dwelling being replaced and is harmful by reason of being inappropriate development in the Green Belt and by a detrimental impact on the openness and amenities of the Green Belt. The proposal is contrary to paragraphs 88 and 89 of the National Planning Policy Framework 2012 and policies CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007. There is not considered to be a case of “very special circumstances” in justification of the inappropriateness.*
- *The site lies in the Green Belt. The proposed quadruple garage is harmful by reason of being inappropriate development in the Green Belt and by a detrimental impact on the openness and amenities of the Green Belt. The proposal is contrary to paragraphs 88 and 89 of the National Planning Policy Framework 2012 and policies CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007. There is not considered to be a case of “very special circumstances” in justification of the inappropriateness.*

1.3 Following the Committee meeting, the Council received a letter from the applicants' agent raising, amongst other things, the suggestion that the applicant having registered to speak waived that right, having formed an impression he was “advised not to speak”. That letter also made comment on the content of the report in a number of respects. Subsequently the applicant also wrote on similar lines.

- 1.4 As the Decision Notice had not been issued at the time of receiving these letters, it was concluded that in the interests of natural justice, bearing in mind that the applicant felt that he had been invited to not speak, it would be appropriate to report the application back to the Committee. I should stress that no evidence has been found to suggest that the applicant was advised to not speak but that appears to clearly be his perception. Equally, I am content that the report to the Committee was sound and that the appropriate material considerations were before Members for consideration, although the applicant takes a different view as explained below.
- 1.5 Copies of each of the letters received are attached as an Annex, as are my previous reports. These letters were considered in my report to Area 2 Committee on 23 January 2013.
- 1.6 Between the publication of the Agenda and that Committee meeting amended plans were received from the applicant. In the light of this further change in circumstances it was agreed that the application be withdrawn from the agenda of the January meeting to allow reconsultation to be carried out. The amended plans amend the proposal by:
- Altering the location of the proposed garage such that it is to be situated at right angles to the proposed dwelling, rather than opposite;
  - Altering the size of the proposed garage from a quadruple garage with drive through (16.6m x 6.7m) to a triple garage (9.6m x 6.9m), and reduced in height from 6.3m to 6m;
  - Removing the stable building from the application;
  - Raising the slab level of the proposed dwelling from 45.4 to 46.4m AOD.

## **2. The Site:**

- 2.1 The site is in the countryside and is located within the Metropolitan Green Belt, on the west side of Puttenden Road.
- 2.2 The application site currently comprises:
- An existing residential dwellinghouse and associated garage;
  - Trenches for footings for the approved 2 bed bungalow (TM/08/01047/FL) which have been dug;
  - Two agricultural style buildings measuring 338m<sup>3</sup> and 4120m<sup>3</sup>;
  - Two vehicular accesses (one to the north-east of the site and one to the south-east); and

- Agricultural paddock land.

2.3 The site of the proposed dwelling lies outside any established or extant residential curtilage, on the agricultural paddock land.

2.4 The topography of the site rises to the south and west.

**3. Planning History (selected):**

TM/94/01014/LDCE    lawful development            16 April 1994  
   certifies

Application for Certificate of Lawfulness of existing development: repair of motor vehicles, including ancillary parking and storage

TM/99/02422/LDCE    Certifies    6 April 2000

Lawful Development Certificate Existing: Application under S.191 (1) (b) for a residential bungalow

TM/07/02837/FL            Application Withdrawn            15 November 2007

Demolition of 2 no. existing buildings and construction of 2 no. five bed dwellings

TM/08/01047/FL            Approved    22 July 2008

Demolition of 2 no. buildings and construction of 1 no. five bed dwelling and double garage, and 1no. two bed dwelling (Resubmission of TM07/02837/FL)

TM/11/00977/FLX            Approved    7 June 2011

Extension of time limit for planning permission TM/08/01047/FL (Demolition of 2 no. buildings and construction of 1 no. five bed dwelling and double garage, and 1no. two bed dwelling)

TM/11/01014/DEN            Permission Not Required            2 June 2011

Prior Notification of Demolition: Two no. timber frame and clad workshops. One dwelling, formally agricultural building to construct new dwelling as approved under TM/08/01047/FUL

TM/11/01080/NMA            Approved    19 May 2011

Non-material amendment to planning permission TM/08/01047/FL ( Demolition of 2 no. buildings and construction of 1 no. five bed dwelling and double garage, and 1no. two bed dwelling) (Resubmission of TM07/02837/FL)

TM/11/01081/RD            Approved    13 June 2011

Details submitted pursuant to condition 2 (materials), 3 (landscaping), 6 (slab levels) and 8 (energy efficiency assessment) of planning permission

TM/08/01047/FL (demolition of 2 no. buildings and construction of 1 no. five bed dwelling and double garage, and 1no. two bed dwelling) (resubmission of TM/07/02837/FL)

#### **4. Consultees:**

4.1 PC: No objections, but concern over height of the proposed chimneys and courtyard wall and would like to see these reduced;

4.2 Private Reps 2/1S/0X/0R + Art 13 Site & Press. One letter of support:

- The proposed house is well designed and built to a high specification. Would complement the other houses in Puttenden Road and fit in well to its surroundings;
- The new dwelling would replace an undistinguished bungalow of no architectural merit;
- Welcomes the proposal to remove two agricultural buildings which are in a poor state of repair, and to restore the land which has been neglected in recent years.

#### **5. Determining Issues:**

5.1 Prior to the submission of amended plans, the agent, set out in letters, volume calculations of both the existing/ demolished and proposed dwelling. *These calculations were made prior to the submission of the amended plans.* The agent has taken account of the two existing farm style buildings in these volume calculations. It is the view of the applicant and agent that they consider that this proposal is compliant with MGB policy because *“we are well under the policy of 50% in what we proposed in purely residential terms to that on which planning exists.”* It would appear that this suggests that the view is taken that an increase in 50% volume is policy compliant. I must advise Members that it is not the case. Of course it does not automatically follow that such an increase is not acceptable – that can only be judged in the context of the scheme as a whole – but it is clearly a fact that the proposal is not policy compliant. The policy in NPPF relating to the definition of acceptable replacement buildings in the Green Belt reads *“the replacement of a building, provided the building is in the same use and not materially larger than the one it replaces”* (my emphasis).

5.2 The detailed considerations in relation to the letter received from the applicant’s agent following the 12 December committee meeting are set out in my Committee Report of 23 January 2013, attached as an Annex to this report.

- 5.3 The reduction in size of the proposed garage and the removal of a stable building from the proposal assist in reducing the overall scale of the development and I am of the opinion that this addresses the second reason for refusal previously agreed by Members.
- 5.4 Whilst the height of the proposed dwelling remains the same, the slab level has been raised from 45.4 to 46.4. This would therefore raise the overall height of the proposed dwelling in relation to the surrounding locality by 1m. This does not appear to overcome Member's previous concerns relating to the overall height of the proposal, and its impact upon the Metropolitan Green Belt. As such, the first reason for refusal that Members previously identified does not appear to have been overcome, and has actually exacerbated the matter of concern. On this basis, the proposal is at least if not more unacceptable in relation to scheme judged unacceptable by the Committee in terms of paragraphs 88 and 89 of the National Planning Policy Framework 2012 and policies CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007. There is not considered to be a case of "very special circumstances" in justification of this "inappropriateness" and at the time of drafting this report no justification has been advanced for the increase in slab level.
- 5.5 There is nothing within the letters received from the applicants or their agent since December 2012 and January 2013 that would lead me to question the earlier resolution to refuse permission Members must now consider whether the proposed changes are sufficient to overcome their previous concerns in relation to the application. From the analysis above the Committee will see that while I consider that one area of concern has been adequately addressed the other has not.

## **6. Recommendation:**

### **6.1 Refuse Planning Permission** for the following:

#### **Reasons**

1. The site lies in the Green Belt. The proposed dwelling by reason of its overall bulk is materially larger than the dwelling being replaced and is harmful by reason of being inappropriate development in the Green Belt and by a detrimental impact on the openness and amenities of the Green Belt. The proposal is contrary to paragraphs 88 and 89 of the National Planning Policy Framework 2012 and policies CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007. There is not considered to be a case of "very special circumstances" in justification of the inappropriateness.

Contact: Glenda Egerton

SUPPLEMENTARY REPORTS

AREA 2 PLANNING COMMITTEE

DATED 17 April 2013

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**Shipbourne TM/12/01819/FL  
Borough Green And  
Long Mill**

**Demolition of 1 no. dwelling and construction of 1 no. four bedroom dwelling,  
triple garage (alternative to TM/08/01047/FL) at Hookwood Farm Puttenden Road  
Shipbourne Tonbridge Kent TN11 9QY for Mr & Mrs Michael Kingshott**

DPTL: Since the substantive report was drafted the applicant has submitted yet further revised plans reducing the scale of the proposed buildings. In light of this, the application be Withdrawn from the agenda to allow a reconsultation on, and analysis of, these further revised plans before reporting back to Members.

**AMENDED RECOMMENDATION:**

**WITHDRAW APPLICATION FROM AGENDA**

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**Report of 23 January 2013**

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**Shipbourne**                      **560704 151520**    **15 June 2012**                      **TM/12/01819/FL**  
Borough Green And  
Long Mill

Proposal:                      Demolition of 1 no. dwelling and construction of 1 no. four bedroom dwelling, quadruple garage and stable (alternative to TM/08/01047/FL)  
Location:                      Hookwood Farm Puttenden Road Shipbourne Tonbridge Kent TN11 9QY  
Applicant:                      Mr & Mrs Michael Kingshott

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**1. Description:**

- 1.1 Members will recall this application was initially reported to the 12 December meeting, when the Committee, after a detailed debate, resolved to refuse planning permission contrary to the Recommendation.
- 1.2 The Committee will recall that after a debate it Resolved that it would not support the application and would refuse the application on the following grounds:
- *The site lies in the Green Belt. The proposed dwelling by reason of its overall bulk is materially larger than the dwelling being replaced and is harmful by reason of being inappropriate development in the Green Belt and by a detrimental impact on the openness and amenities of the Green Belt. The proposal is contrary to paragraphs 88 and 89 of the National Planning Policy Framework 2012 and policies CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007. There is not considered to be a case of “very special circumstances” in justification of the inappropriateness.*
  - *The site lies in the Green Belt. The proposed quadruple garage is harmful by reason of being inappropriate development in the Green Belt and by a detrimental impact on the openness and amenities of the Green Belt. The proposal is contrary to paragraphs 88 and 89 of the National Planning Policy Framework 2012 and policies CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007. There is not considered to be a case of “very special circumstances” in justification of the inappropriateness.*
- 1.3 Following the Committee meeting the Council received a letter from the applicant’s agent raising, amongst other things, the suggestion that the applicant having registered to speak waived that right, having formed an impression he was “advised not to speak”. That letter also made comment on the content of the report in a number of respects. Subsequently the applicant also wrote on similar lines.

- 1.4 As the Decision Notice had not been issued at the time of receiving these letters, it was concluded that in the interests of natural justice, bearing in mind that the applicant felt that he had been invited to not speak, it would be appropriate to report the application back to the Committee. I should stress that no evidence has been found to suggest that the applicant was advised to not speak but that appears to clearly be his perception. Equally, I am content that the report to the Committee was sound and that the appropriate material considerations were before Members for consideration, although the applicant takes a different view as explained below.
- 1.5 A copy of each of the letters received are attached as an Annex as is my previous report and I set out below my comments to the points raised in the two letters.
- 1.6 The Committee will now wish to consider whether to follow its original decision in light of the applicant's comments.

## **2. The letters:**

- 2.1 The applicant has set out in their letters volume calculations of both of the existing/demolished and proposed dwellings. The applicant has taken account of the two existing farm style buildings to be demolished in the volume calculations. It is the view of the applicant and agent that they consider that this proposal is compliant with MGB policy because "we are well under the policy of 50% in what we propose in purely residential terms to that on which planning exists." It would appear that this suggests that the view is taken that an increase in 50% in volume is policy compliant. I must advise Members that it is not the case. Of course it does not automatically follow that such an increase is not acceptable – that can only be judged in the context of the scheme as a whole – but the proposal is not policy compliant. The policy in NPPF relating to the definition of acceptable replacement buildings in the Green Belt reads "the replacement of a building, *provided the building is in the same use* and not materially larger than the one it replaces" (my emphasis).
- 2.2 In the calculations submitted within the applicant's letter, he challenges the calculations within my report. The applicant's original calculations do not take into account the extant planning permission (demolition of 2 dwellings, and their replacement by a five bedroom dwelling, detached double garage and a two bedroom bungalow), permitted by TM/08/01047/FL, renewed by TM/11/00977/FLX and then amended by TM/11/01080/NMA. My calculations showed that there would be an increase of 56% in terms of the dwelling volumes between the combined volumes of the foregone dwellings (1441m<sup>3</sup>, excluding approved garage, which my calculations show to be around 142m<sup>3</sup>) and the now proposed dwelling 2250m<sup>3</sup> (applicant's latest calculation is 1960m<sup>3</sup>). The situation is compounded if the proposed garaging is also factored in at some 593m<sup>3</sup> (my calculations). Even taking the applicants figures the increase in volume on like for like uses is 61%. It should also be pointed out that in terms of MGB policy, it is far



from clear that a “committed” but not yet built dwelling should be treated as an existing dwelling, although its potential to be built will form part of the overall balance of policy considerations and very special circumstances – see below.

- 2.3 In mitigation, the applicant is proposing to demolish two other existing structures, which amount to 4,458m<sup>3</sup>. These structures are typical agricultural style buildings, of concrete frames and asbestos sheeting. The applicant claims that these farm buildings were used in association with an industrial use for over 20 years prior to the applicant’s occupation. There is a Lawful Development Certificate relating to part of the larger building for ancillary parking and storage of vehicles used in conjunction with their repair within an adjacent building (the adjacent building has now been demolished to facilitate TM/08/01047/FL). There has been no lawful determination relating to the overall use of the buildings but, nonetheless, they are not, in my opinion, necessarily alien structures, in terms of their design, within the countryside. It is accepted that their removal will extinguish a non-conforming use and allow a more open aspect from the creation of the water meadow. In this case the stabling element of the building may reasonably be “traded-off” against the new proposed stable (some 190m<sup>3</sup>).
- 2.4 So, assessment of this case requires a recognition that the principle of a replacement dwelling could be policy compliant but also that where the replacement is materially larger than that to be replaced this would, on the detail, not be policy compliant. In addition it has to be considered whether there are very special circumstances arising with respect to the removal of the agricultural/stabling/storage buildings such as to be of such benefit as to justify the grant of permission. On the balance of these factors I recommended to the Committee that the benefits of demolition outweighed other factors and so recommended permission. In the event, and after its debate, the Committee felt that the balance should be assessed differently and thus reached the view set out in paragraph 1.2 above
- 2.5 In respect of the points raised in the agent’s letter my response is:
- The plan included with the agenda is to aid understanding of the location of the site and is not intended to be a definitive site plan.
  - All plans, indeed the whole of the application, are available both on the website, in hard copy at the Council Offices and after 7 00pm on the night of the meeting for Members’ inspection. The PowerPoint is not intended to display all plans but is, rather, simply a visual aid.
  - I do not accept this assertion with regard to volume calculations and application of policy for the reasons identified above.
  - While the scheme may have been the subject of negotiation with officers the ultimate decision is one for the Committee to make.

- In light of some apparent confusion on the matter of speaking at Committee the case has been reported back to Members.

2.6 In light of all the above factors there is nothing in the latest material from the applicant or their agent that would lead me to question the Committee's Decision.

**3. Recommendation:**

3.1 **Permission Be Refused** for the reasons set out in paragraph 1.2 above.

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**Report of 12 December 2012**

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**Shipbourne**                      **560704 151520**    **15 June 2012**                      **TM/12/01819/FL**  
Borough Green And  
Long Mill

Proposal:                      Demolition of 1 no. dwelling and construction of 1 no. four bedroom dwelling, quadruple garage and stable (alternative to TM/08/01047/FL)  
Location:                      Hookwood Farm Puttenden Road Shipbourne Tonbridge Kent TN11 9QY  
Applicant:                      Mr & Mrs Michael Kingshott

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**1. Description:**

- 1.1 The application is to demolish a chalet bungalow and to erect a larger 2 storey replacement dwelling further from the road frontage, on land which is currently agricultural. It will be built on an east-west line, the eastern flank being set approx 55 m from Puttenden Road. The intervening land will include a timber clad stable block comprising 3 loose boxes. This stable block is to be surrounded by new woodland planting.
- 1.2 There will be a quadruple garage with a central drive-through portion, located to the north (front) of the new dwelling. The driveway will swing round and will access from the existing residential access onto Puttenden Road.
- 1.3 To the north of the quadruple garage entrance feature is lower-lying land to be formed into a water meadow. This is land that has planning permission for the bungalow under ref. TM/08/01047/FL and TM/11/00977/FLX and has 2 large agricultural style buildings to be demolished. A second existing access to Puttenden Road will be closed as it will become redundant once the buildings on this area are all removed and the water meadow is created.
- 1.4 The dwelling and garage block are to be of Palladian style of facing brick, slate roof and timber sash windows.
- 1.5 This is an alternative scheme to a planning permission which was granted for a different applicant which was the demolition of 2 dwellings, and their replacement by 1 no. five bedroom dwelling, detached double garage and 1 no. two bed bungalow. As part of that scheme, 2 agricultural buildings were to be demolished to allow the 2 bed bungalow to have a residential curtilage. This scheme was originally permitted under ref TM/08/01047/FL, renewed by TM/11/00977/FLX and then amended by TM/11/01080/NMA.
- 1.6 Development commenced on this 2 dwelling redevelopment in the form of the 2 agricultural buildings and the 2 bed bungalow being demolished. The footings have been dug for the approved two bedroom bungalow. There has been no start

on the redevelopment for the 5 bed roomed house but the commencement for the bungalow does mean that the overall planning permission is extant and could be completed in the future.

- 1.7 However, the new owner does not wish to build the 2 unit scheme but to combine the overall permission into one much larger house. This current application is proposing to build a large single dwellinghouse, quadruple garage and stables in lieu of the 2 dwellings permitted and in a different location. As part of the proposal, the applicant is proposing to remove a further two additional agricultural style buildings which would have been retained in the scheme TM/08/01047/FL.
- 1.8 The dwelling in this application has been reduced in height during the course of the application by 1m, and would now be 10m in height. The stable block has been resited and is to be timber clad and low rise rather than brick and slate in the Palladian style as originally submitted.
- 1.9 The existing ground level of the proposed dwelling of the current application is higher than the ground level of the existing dwelling and demolished dwelling of the extant planning permission.

## **2. Reason for reporting to Committee:**

- 2.1 The site has a lengthy planning history and at the request of Cllr Sayer.

## **3. The Site:**

- 3.1 The site is in the countryside and is located within the Metropolitan Green Belt, on the west side of Puttenden Road.
- 3.2 The application site currently comprises:
  - An existing residential dwellinghouse and associated garage;
  - Trenches for footings for the approved 2 bed bungalow (TM/08/01047/FL) which have been dug;
  - Two agricultural style buildings measuring 338m<sup>3</sup> and 4120m<sup>3</sup>;
  - Two vehicular accesses (one to the north-east of the site and one to the south-east); and
  - Agricultural paddock land.
- 3.3 The site of the proposed dwelling lies outside any established or extant residential curtilage, on the agricultural paddock land.
- 3.4 The topography of the site rises to the south and west.

**4. Planning History:**

TM/67/10624/OLD grant with conditions 15 September 1967

Alterations to form bedroom in roof.

TM/71/10833/OLD grant with conditions 14 December 1971

Additional Drive.

TM/73/10916/OLD grant with conditions 12 January 1973

Car port

TM/74/11314/OLD grant with conditions 26 March 1974

Double garage for R. Ayre.

TM/90/11109/FUL grant with conditions 13 June 1990

Stable complex comprising 10 no. 12 x 12' x 8' tack room, part for private use and part livery.

TM/91/10319/FUL grant with conditions 3 May 1991

Single storey front extension.

TM/94/01014/LDCE lawful development certifies 16 April 1994

Application for Certificate of Lawfulness of existing development: repair of motor vehicles, including ancillary parking and storage

TM/95/51511/FL Grant With Conditions 22 December 1995

rear extension

TM/97/00665/FL Grant With Conditions 13 June 1997

new pitched roof to existing flat roof garage

TM/98/01191/FL Grant With Conditions 7 September 1998

two storey side extension

TM/99/02422/LDCE Certifies 6 April 2000

Lawful Development Certificate Existing: Application under S.191 (1) (b) for a residential bungalow

TM/07/02837/FL Application Withdrawn 15 November 2007

Demolition of 2 no. existing buildings and construction of 2 no. five bed dwellings

TM/08/01047/FL Approved 22 July 2008

Demolition of 2 no. buildings and construction of 1 no. five bed dwelling and double garage, and 1no. two bed dwelling (Resubmission of TM07/02837/FL)

TM/11/00977/FLX Approved 7 June 2011

Extension of time limit for planning permission TM/08/01047/FL (Demolition of 2 no. buildings and construction of 1 no. five bed dwelling and double garage, and 1no. two bed dwelling)

TM/11/01014/DEN Permission Not Required 2 June 2011

Prior Notification of Demolition: Two no. timber frame and clad workshops. One dwelling, formally agricultural building to construct new dwelling as approved under TM/08/01047/FUL

TM/11/01080/NMA Approved 19 May 2011

Non-material amendment to planning permission TM/08/01047/FL ( Demolition of 2 no. buildings and construction of 1 no. five bed dwelling and double garage, and 1no. two bed dwelling) (Resubmission of TM07/02837/FL)

TM/11/01081/RD Approved 13 June 2011

Details submitted pursuant to condition 2 (materials), 3 (landscaping), 6 (slab levels) and 8 (energy efficiency assessment) of planning permission TM/08/01047/FL (demolition of 2 no. buildings and construction of 1 no. five bed dwelling and double garage, and 1no. two bed dwelling) (resubmission of TM/07/02837/FL)

## 5. Consultees:

5.1 PC: Shipbourne Parish Council objects to the revised proposals for the following reasons:

- 1) We have concerns about the scale, bulk and size of the proposed application. Although the proposed new dwelling represents a 25.4% reduction on the total footprint of the two existing dwellings we do not agree that the increase in the main dwelling size is offset by the compact form of the proposed house. However we are pleased to see a reduction in the height of the main house.

- 2) We are concerned about the visual impact of the proposed drive-through entrance/garage and feel this is out of character with the proposed main house. Although we are pleased to note that the proposed stables now have a separate entrance off the driveway we preferred the symmetry of the original proposals where the garage and stables created a courtyard effect.
- 3) We feel that the extra room on each side of the main house (a snug and a laundry room) create an impression of a larger house and do nothing to add to the aesthetic appearance of the exterior.
- 4) We request that any existing agricultural occupancy conditions should be carried forward to the new dwelling.
- 5) We request that conditions are set for the use of appropriate materials in keeping with the proposed Palladian style albeit recognising its rural setting.

5.2 KCC (Highways): No objection.

5.3 DHH:

5.3.1 (Housing) The applicant needs to recognise and reflect that the submission triggers the Council's adopted Core Strategy for affordable housing provision, as the proposed development considerably exceeds the land area threshold described within CP17 (0.16ha).

5.3.2 (Contaminated Lane): No objection, subject to contamination condition.

5.3.3 (Environmental Protection): No objection, subject to informative restricting hours of construction and prohibiting disposal of waste by incineration.

5.3.4 (Waste Management): No objections.

5.4 EA: The site lies within Flood Zone 1 – an area considered to be of low risk to flooding. However, considering the proximity of the site to the ditch to the north, and the problems you have described below, I would recommend that the floor levels are raised as high as possible, and that consideration is given to the incorporation of flood resilience measures – such as raised electrics – further details are available via website which may be useful to the applicant. I note that the site is situated on clay. In consideration of the low permeability of clay, and the amount of intense rainfall events we have experienced recently, the flooded footings could be indicative of the inability of the rain to infiltrate through the soil, and therefore where it's quite wet at the moment, disturbance leads to large amounts of water "leaking" out of the soil. Also, there could be layers of sand within the clay strata which could have a seam of groundwater going through it. Or there could be a nearby spring. Best that the applicant seeks advice from a civil engineer who may be able to establish exactly what the problem is and how it can be dealt with.

5.5 Private Reps: 2/0S/0X/0R + Art 13 Site & Press. No response.

**6. Determining Issues:**

- 6.1 Paragraph 88 of the NPPF and Policy CP3 of the TMBCS state that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.2 A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Paragraph 89 of the NPPF states that one of the exceptions to this is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
- 6.3 Policy DC2 of the MDE DPD states that a replacement building in the countryside will be permitted subject to the replacement building not being materially larger than the existing building and it being appropriate in scale and design to its setting and any neighbouring dwellings. Policy DC2 also states that the replacement of non-residential buildings in the countryside with residential development will be considered on the basis that it is new residential development and subject to Policy CP14 of the TMBCS.
- 6.4 Policy CP14 accepts the one-for-one replacement of an existing dwelling within the countryside. Policy CP14 of the TMBCS states that within the Green Belt, inappropriate development which is otherwise acceptable within the terms of the policy will need to be justified by very special circumstances.
- 6.5 Policy SQ1 of the MDE DPD requires proposals to reflect the local distinctiveness.
- 6.6 The applicant has submitted volume calculations for both of the existing and proposed dwelling. The applicant has taken account of the two existing farm style buildings to be demolished in the volume calculations.
- 6.7 The applicant has calculated the combined volume of the foregone dwellings to be 1,441 m<sup>3</sup>, the proposed dwelling 2250m<sup>3</sup>, the garaging and stable building totalling 1220 m<sup>3</sup>. It is clear that, overall, there is a significant increase of 56% in terms of the dwelling volumes and the situation is more unfavourable if the garaging and stabling are also factored in. The proposed dwelling and associated outbuildings are located within a different location within the site than the existing or approved buildings, and would result in a significant increase in scale materially larger than the combined volumes of the forgone dwellings, and are therefore inappropriate development.



- 6.8 In mitigation, the applicant is proposing to demolish two other existing structures, which amount to 4,458m<sup>3</sup>. These structures are typical agricultural style buildings, of concrete frames and asbestos sheeting. There is a Lawful Development Certificate relating to part of the larger building for ancillary parking and storage of vehicles used in conjunction with their repair within an adjacent building (the adjacent building has now been demolished to facilitate TM/08/01047/FL). However, policy DC2 of the MDE DPD does not allow for the replacement of non-residential buildings in the countryside with residential development. Furthermore, whilst utilitarian in appearance, they are not necessarily alien structures, in terms of their design, within the countryside. However, whilst it is accepted that their removal will extinguish a non-conforming use and allow a more open aspect from the creation of the water meadow, it is unlikely that a commercial use would be continued with the implementation of the extant permission, given the proximity of the approved dwelling to these buildings. This could contribute to a case of “very special circumstances” (VSCs). However, Members may wish to form a view as to whether the applicant would wish to secure that advantage to improve outlook from the new house in any event.
- 6.9 It is proposed to site the proposed dwelling outside the established residential curtilages. Therefore, the proposal constitutes inappropriate development for that reason also.
- 6.10 The proposed residential curtilage would be the same size as the combined area of the two existing residential curtilages. Those would revert to woodland and water meadow respectively, both to be shown as not residential curtilage. This could amount to VSCs justifying the different siting of the new house. The different siting also does allow it to be set further from the road and some intervening new woodland to be planted, which in the long term could provide some screening.
- 6.11 The layout of the proposed dwelling and associated garage and stables has been amended during the course of the application. The proposed garages and stables have been moved further away from the proposed dwellinghouse. Whilst I note the concerns of the Parish Council, I am of the opinion that this assists in dissipating the bulk of the proposal.
- 6.12 The actual area of the application site is approximately 0.8ha (2 acres). However, the applicant owns approximately 8 ha (20 acres) of land. The applicant has put together a land management plan which comprises flood relief adjustment to the topography of the site, including irrigation and the creation of a catchment pond. Significant planting is proposed across the site. This land management plan is set out in more detail within the applicant’s submission. The site lies within Flood Zone 1 – an area considered to be at low risk of flooding. Technical guidance to the National Planning Policy Framework states that within Flood Zone 1 all uses of land are appropriate. The Council’s Principal Engineer has visited the site and considered the issues raised with respect to flooding. He is of the opinion that the

2 bed bungalow can be built on the position as approved under TM/08/01047/FL. In light of this, I do not consider that any concerns over the water regime contribute to a case of VSCs.

- 6.13 The existing house in situ has a ridge height of between 7 and 7.5m. The approved replacement 5 bed house would measure a maximum height of 8.5m above ground level. Whilst the ground level of the siting of the proposed dwelling is relatively high, the applicant is proposing to dig down, showing a slab level of 40cm below the slab level of the house in situ. The proposed dwelling would measure a maximum height of 9.7m above ground level, a difference of 2.89m above the existing house.
- 6.14 The applicant suggests that potential enlargement by permitted development rights in respect of extensions to the existing dwelling in situ should not be ignored: they suggest potential permitted development rights of between 350-400m<sup>3</sup>. My calculations correspond with this. Should Members consider this be taken into account, the new single house would still would remain materially larger in size than the unbuilt bungalow, existing house and theoretical permitted development rights.
- 6.15 The existing house in situ is a utilitarian, bland mid 20<sup>th</sup> Century building that is of little architectural merit. The approved 2 bed bungalow is low rise and relatively small, reflecting that it is a replacement of a dwelling that arose from the conversion of a chicken shed.
- 6.16 The design of the proposed dwelling is based upon Palladian architecture. Shipbourne is a settlement characterised by dwellings that do indeed vary in terms of size, form and architectural style. The dwelling would be seen in isolation, being a considerable distance away from its neighbours. In this context, I am of the opinion that a building of different architectural style would not necessarily be out of keeping with the surrounding locality. Indeed, in this section of Puttenden Road, development is sporadic with much separation between dwellings, such that they are generally seen in isolation when viewed from the road, and also differ in terms of form and external appearance.
- 6.17 The design of the proposed stable building has been amended during the course of the application. The proposed building would be a weather-boarded construction, with a slate roof. This, to some extent, has reduced the formality of the building and assisted in visually setting it apart from the proposed dwelling.
- 6.18 It is proposed to close off the access to the north of the site and it is proposed to retain the existing access, which currently serves the house in situ. The new house proposed in this application would be accessed by a long driveway and there is plenty of parking and turning space within the site to serve the proposed dwelling.

- 6.19 I note the PC comments relating to the visual impact of the proposed driveway. However, I am of the opinion that the loss of one access and associated parking/turning areas will provide satisfactory mitigation. Also, a condition could require surfacing treatment to be submitted for approval as part of the landscaping scheme.
- 6.20 The proposed dwelling would be sited away from any neighbouring residential dwellings, and I am therefore of the opinion that the proposal complies with Policy CP24 of the TMBCS and Saved Policy P4/12 of the TMBLP.
- 6.21 I note the comments from the DHH regarding affordable housing. However, whilst the site area triggers the need for affordable housing as part of this development, this application is effectively a two for one replacement and relates to only one house. Due to this, I do not consider that this is a suitable scheme to require an element of affordable housing. The request for one unit to be affordable would be in excess of what policy CP17 requires.
- 6.22 I note the Parish Council's comments requiring an agricultural occupancy condition to be attached to any planning permission. Conditions were imposed in association with the planning permissions for the smallholder's dwelling (MK/4/61/644) or bungalow for fruitman (MK/4/62/491), but these have been superseded by TM/08/01047/FL which does not include an agricultural occupancy condition. This consent has started to be implemented by the digging of trenches for the bungalow.
- 6.23 On balance, I am of the opinion that the proposed dwelling would be sited outside of the existing residential curtilages and would be significantly larger than the combined volume of the dwellings that it is proposed to replace. However, Members may agree that the proposal will not have a detrimental impact upon the amenities/openness of the Metropolitan Green Belt as a result of its proposed siting being more remote from the road with intervening landscaping, the replacement of two dwellings with one and the lowering of the existing ground levels to accommodate the proposed dwelling. There is a complex proposal entailing consideration of a number of disparate elements that may, to differing extents, contribute to a case of very special circumstances. There is clearly a balance to be struck in judging the weight to be afforded to each of these elements. Nevertheless, on balance, I consider the proposal to be acceptable.

## **7. Recommendation:**

- 7.1 **Grant Planning Permission** as detailed by Letter dated 07.06.2012, Letter dated 08.06.2012, Planning Statement dated 15.06.2012, Design and Access Statement dated 08.06.2012, Site Survey 07012-SV-01 dated 08.06.2012, Site Survey dated 08.06.2012, Email dated 13.06.2012, Letter dated 24.08.2012, Letter dated 23.08.2012, Photographs dated 23.08.2012, Other dated 23.08.2012, Planning Statement dated 30.10.2012, Proposed Floor Plans 07012 P 01 b dated 16.10.2012, Proposed Floor Plans 07012 P 02 c dated

16.10.2012, Proposed Elevations 07012 P 04 c dated 16.10.2012, Proposed Elevations 07012 P 05 c dated 16.10.2012, Proposed Elevations 07012 P 06 c dated 16.10.2012, Proposed Elevations 07012 P 07 c dated 16.10.2012, Proposed Elevations 07012 P 08 c dated 08.10.2012, Site Plan 07012 P 11 b dated 16.10.2012, Plan 07012 P 12 dated 16.10.2012, Proposed Elevations 07012 P 13 dated 16.10.2012, Floor Plan 07012 P 14 a dated 07.11.2012, Proposed Elevations 07012 P 15 b dated 07.11.2012, Site Plan 07012 P 10 h dated 30.10.2012, subject to the following:

### Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. No development shall take place until written details and photographs of all materials to be used externally in the construction of the dwelling have been submitted to and approved by the Local Planning Authority and samples of the materials shall be made available at the site for inspection by Officers of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character of the existing building in accordance with Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy, Policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 57, 58 and 61 of the National Planning Policy Framework (2012).

3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: To ensure that the development does not harm the character of the existing building in accordance with Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy, Policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 57, 58 and 61 of the National Planning Policy Framework (2012).

4. The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure no adverse impact upon highway safety resulting from potentially hazardous on-street parking, in accordance with Section 2 of Policy SQ8 of the Managing Development and the Environment Development Plan Document 2010.

5. The garage shown on the submitted plan shall be kept available at all times for the parking of private motor vehicles.

Reason: To ensure no adverse impact upon highway safety resulting from potentially hazardous on-street parking, in accordance with Section 2 of Policy SQ8 of the Managing Development and the Environment Development Plan Document 2010.

6. The work shall be carried out in strict accordance with the details of slab levels hereby approved.

Reason: To ensure that the development does not harm the character of the area in accordance with Policies CP1 and CP24 of the Tonbridge and Malling Borough Core Strategy, Policy SQ1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraphs 57, 58, 61 and 137 of the National Planning Policy Framework (2012).

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Classes A, B, C and E of Part 1 and Class A of Part 2 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: In order to enable the Local Planning Authority to regulate and control further development within this site in the interests of the environment.

8. Prior to the commencement of development, details of a scheme to demonstrate that the development hereby approved will incorporate appropriate measures to contribute to a sustainable environment shall be submitted to the Local Planning Authority for approval. The scheme shall include measures to minimise waste generation, and to minimise water and energy consumption, having regard to the need for 10% of energy consumption requirements to be generated on-site from alternative energy sources and the potential for recycling water. The approved scheme be implemented prior to the first occupation of any of the units hereby approved.

Reason: In accordance with Policy CP1 of the Tonbridge and Malling Borough Core Strategy, Policy CC1 of the Tonbridge and Malling Borough Managing Development and the Environment Development Plan Document and paragraph 17 of the National Planning Policy Framework (2012).

- 9 This permission shall be an alternative to TM/08/01047/FL (granted on 22.07.2008), TM/11/00977/FLX (granted on 07.06.2011) and TM/11/01080/NMA (granted on 19.05.2011) and shall not be exercised in addition thereto or in combination therewith.

Reason: The exercise of more than one permission would result in an overintensive use of the land and therefore be contrary to policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

- 10 The existing dwelling, garage and non residential buildings shown to be demolished on plan 07012 P10 Rev H shall be demolished within one month of the first occupation of the new dwelling hereby permitted, if not demolished previously, and all arisings therefrom shall be removed from the site.

Reason: The erection of an additional dwelling would result in an overintensive use of the land and therefore be contrary to paragraph 89 of the National Planning Policy Framework and policy CP3 and policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

- 11 The hereby approved stables shall be used for equestrian use only.

Reason: To safeguard the rural amenity of the locality in accordance with paragraph 89 of the National Planning Policy Framework and Policy CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007 and Policy SQ1 of the Tonbridge and Malling Borough Managing Development and Environment DPD 2010.

- 12 The residential curtilage of the hereby approved dwelling shall be implemented in accordance with that shown on Plan no 07012 P 10H.

Reason: In the interests of the rural amenity of the surrounding locality, in accordance with paragraph 89 of the National Planning Policy Framework and Policy CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007 and Policy SQ1 of the Tonbridge and Malling Borough Managing Development and Environment DPD 2010.

### **Informatives**

1. The proposed development is within a road which does not have a formal street numbering and, if built, the new property/ies will require new name(s), which are required to be approved by the Borough Council, and post codes. To discuss suitable house names you are asked to write to Street Naming & Numbering,

Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ or to e-mail to [nameandnumbering@tmbc.gov.uk](mailto:nameandnumbering@tmbc.gov.uk). To avoid difficulties for first occupiers, you are advised to do this as soon as possible and, in any event, not less than one month before the new properties are ready for occupation.

Contact: Glenda Egerton

Hookwood Farm  
Puttenden Road  
Shipbourne  
Kent  
TN11 9QY



Neil Hewett  
Tonbridge and Malling Borough Council  
Gibson Drive  
Kings Hill  
West Malling  
Kent  
MG19 4LZ

20<sup>th</sup> December 2012

Dear Mr Hewett

Planning application TM/12/01819FL

I am writing to add to our architect's letter of the 19<sup>th</sup> December. I feel that our case was wrongly presented re the volume. I refer you to the table below which sets out clearly the movement between Floor area and Volume. (See page 2)

The totality of built form on site is more than halved with that proposed. You will note that there is a reduction of 3,403 cubic meters.

I am not sure at all that this is a special circumstances issue in the Green belt. We are well under the policy of 50% in what we propose in purely residential terms to that on which planning exists.

You will appreciate that we tried to ensure that our architect took into account those comments made by, not only your department but also that of the Parish council. We noted they voted 3 to 2 in favour of our original application. Following amendments made during discussion with your office, the parish council were consulted for a second time. We understand that a councillor used this opportunity to try to influence the parish council. As you know from your own records however, they preferred the first design despite the lowering of the roof to match the roof height of the existing plans already approved.

Members seemed to be unaware that the often referred to farm buildings are in fact substantial Industrial buildings on the site. Industrial buildings that until our occupation were in constant use for over 20 years. They are in my view unsightly



## Area 2 Planning Committee

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and generally harm the landscape; there is much to be gained from their removal through our application.

<i>available</i>	Floor area **	Volume	** This does not include PD
TWO EXISTING HOUSES	442sq.m	1581cu.m	
PROPOSED SINGLE HOUSE	450sq.m	1960cu.m	- reduced 300cu.m in negotiation with Neil Hewitt/Glenda Edgerton
<u>DIFFERENCE</u>	<u>8sq.m</u>	<u>379cu.m</u>	
INCREASE	2%	24%	- Minimal floor area increase/volume well under policy level
EXISTING INDUSTRIAL/STABLES	999sq.m	5002cu.m	
PROPOSED GARAGES/STABLES	224sq.m	1220cu.m	
<u>DIFFERENCE</u>	<u>775sq.m</u>	<u>3782cu.m</u>	
REDUCTION	77%	76%	
ALL BUILDINGS			
EXISTING	1441sq.m	6563cu.m	
PROPOSED	674sq.m	3180cu.m	
<u>DIFFERENCE</u>	<u>767sq.m</u>	<u>3403cu.m</u>	
NETT REDUCTION	53%	52%	

Considering all these facts I would ask that the application be reported back to the committee for re-consideration.

On our arrival for the planning meeting it was indicated to us that it was not necessary to speak; that it had been recommended and no one from the public was opposing it. This along with the fact that certain members did not grasp the case is justification for this reconsideration.

You will appreciate that I am taking advice as to whether I have grounds for a judicial review as well as considering lodging an appeal which I do hope we can avoid.

Yours Faithfully



Michael Kingshot

**STEPHEN LANGER ASSOCIATES LTD**  
**CHARTERED ARCHITECTS**



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07012/PL/SL/KdM

By Post and email

Neil Hewett  
Tonbridge and Malling Borough Council  
Gibson Building  
Gibson Drive  
King's Hill  
West Malling  
ME19 4LZ

19<sup>th</sup> December, 2012

Dear Neil,

**New Replacement dwelling and associated works at Hookwood Farm - TM/12/01819/FL**

Further to our telephone conversation, and as the decision notice has not been issued as yet, both our clients and ourselves are extremely concerned that the members of the planning committee meeting held on 12<sup>th</sup> December 2012 were presented with:

1. All the correct information (site plan incorrect)
2. All the plans and elevations of the building
3. The very clear volume and floor calculations showing that we were, in our view, within the policy requirements.
4. That the proposals on the table were the result of considerable negotiations, discussions and meetings between yourself, Glenda Egerton and ourselves.
5. Most importantly our client arrived at the meeting with a time slot to speak and for whatever reason he was left with the clear impression that he would be advised not to speak which he did not. In the light of the discussions which followed he feels very strongly that he should have spoken as a lot of what he was going to say would have clarified matters for the members.

So on the above basis we strongly urge you to place the application before the next committee, so that they can be fully apprised of the facts to ensure they are satisfied that the correct decision was made.

Yours sincerely,

Stephen Langer B.Sc., Dip.Arch., RIBA. IHBC TAG  
STEPHEN LANGER ASSOCIATES LTD  
Committee member of the RIBA Traditional Architecture Group (TAG)  
Member of the Vernacular Architecture Group  
Member of the Institute of Historic Building Conservation

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