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**Wouldham**                      **571935 164273**    **25 July 2013**                      **TM/13/02202/FL**  
Burham Eccles  
Wouldham

Proposal:                      Change of use of land from agricultural to garden for use for purposes incidental to the enjoyment of the dwellinghouse  
Location:                      School Farm House 166 School Lane Wouldham Rochester Kent ME1 3TS  
Applicant:                      Mr & Mrs Wharton

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**1. Description:**

1.1 Permission is sought to change the use of an area of land from agricultural to residential garden for use in association with School Farm House. The application as originally submitted refers to use of the land as “residential curtilage”. However, a recent appeal decision on a site elsewhere in the Borough (TM/12/00189/LDE) has confirmed that this is not, legally, an appropriate description for a use of land and therefore an amended description has been adopted, as set out above.

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

2.1 The application is of local interest.

**3. The Site:**

3.1 The site comprises an open area of grassed land measuring approximately 27m x 44m and is located to the south of numbers 168 and 170 School Lane and to the east of a property known as School Farm Bungalow. The land lies to the south east of School Farm House and its existing garden. The site is adjoined by agricultural land on the eastern and southern sides.

**4. Planning History:**

TM/70/10841/OLD    Application Withdrawn                      10 April 1970

Conversion into two cottages.

TM/81/10733/LBC    grant with conditions                      23 November 1981

Erect cantilevered roof extension to shed at front of dwelling.

TM/81/10742/FUL    grant with conditions                      23 November 1981

Erection of cantilevered roof extension to shed to front of dwelling.

TM/83/10073/LBC grant with conditions 8 August 1983

Alterations to design of chimney and window approved under TM/83/34LB.

TM/83/10706/LBC grant with conditions 14 March 1983

Alterations and extension to dwelling.

TM/83/10752/FUL grant with conditions 9 March 1983

Conservatory to rear, chimney stack, and alterations to form double garage.

TM/90/11338/FUL grant with conditions 20 April 1990

Extension to garage.

TM/92/10571/FUL grant with conditions 27 February 1992

Field shelter/store.

## **5. Consultees:**

- 5.1 PC: No objections in principle for the land to stay as garden but there are concerns about the future usage. It is requested that no new building of any type will be permitted on this site in the future and that any existing buildings should not be used for development purposes. This application, if granted, should not set a precedent for any remaining land to be converted to residential.
- 5.2 Private Reps: 3/0X/2R/0S + site notice. Two representations have been received making the following comments:
- It is considered that the application is a smoke screen to get a foothold to enable the land to be used for building purposes.
  - It is recommended that a covenant is placed on the land to ensure that no buildings are constructed on the land in the future.
- 5.2.1 Reference is made to the character of the applicant and past boundary issues with neighbours. These matters cannot however be taken into account in the determination of the application.

**6. Determining Issues:**

- 6.1 This site falls outside the confines of the village and within the Strategic Gap as defined on the proposals map of the Tonbridge and Malling Local Development Framework. It is therefore necessary to consider policy CP5 of the Core Strategy which states that development will not be permitted which would harm the function of the Strategic Gap as a physical break which maintains the separation and separate identities of the built up areas of Maidstone and the Medway towns. It is also necessary to consider policy CP14 which seeks to restrict development in the countryside, outside village confines.
- 6.2 The applicants' agent states that as a result of its limited size the site is not suitable for agricultural use and is physically separated from the adjoining farmland by established planting. It is understood that the land has not been used for agricultural purposes for around seven years. The applicants' agent considers that the use as garden land will have less impact upon the amenities of neighbours than an agricultural use, in terms of noise, odour and disturbance.
- 6.3 It is necessary to consider whether the principle of using part of this land for garden space is acceptable having regard to the location within the Strategic Gap. The piece of land in question lies adjacent to the rear gardens of numbers 168 and 170 School Lane to the north and School Farm Bungalow to the west. It comprises flat grassed land and is partly surrounded by hedging/planting. As a result the land does not form a stand alone site but is seen in association with neighbouring gardens.
- 6.4 The submitted information indicates that the site the subject of the application would be used for garden purposes in association with School Farm House. No indication has been given that any buildings or structures would be erected on it. Whilst the location of the land is slightly unusual in that a greater length of its boundaries adjoin those of neighbouring properties rather than that of the intended host dwelling, it will remain essentially open and rural in character and there should be no unacceptable impact upon the open countryside. As there will be limited visual change in the appearance of the land the proposal should not have a detrimental impact on the function of the Strategic Gap. In the light of this, the proposal is not considered to be contrary to Core Strategy policy CP5.
- 6.5 The comments of the neighbours have been given every careful consideration. It is not permissible in considering a planning application to take account of any comments that may be made regarding the character of any applicants or their past involvement with neighbours. It is possible though to consider the need to maintain the open character of the land and whether it is necessary to restrict the use of it in the interests of the amenities of the neighbours.

6.6 The future impact on the openness of the area will depend upon how the applicant uses the land. In order to ensure that the openness of the land is maintained it is recommended that planning permission is granted but subject to a condition removing the rights to erect outbuildings or other structures and restricting the use to residential garden land only. Such an arrangement should ensure that the land is only used for domestic purposes ancillary to School Farm House and for no other purposes. This will also ensure that the future use complies in broad terms with the objectives underlying policy CP14.

**7. Recommendation:**

7.1 **Grant Planning Permission** in accordance with the following submitted details: Site Plan dated 21.08.2013, Planning Statement dated 25.07.2013, and subject to:

**Conditions / Reasons**

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. 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 E, F and H of Part 1 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto, and no other structures or domestic paraphernalia, such as washing lines or children's play equipment, shall be placed on the land at any time.

Reason: To safeguard the amenities and interests of the occupants of other property in this residential area, and to protect the open character of the land and safeguard the Strategic Gap.

3. The land the subject of the application shall only be used as garden land for purposes incidental to the residential use of School Farm House and at no time shall it be used for any other purpose.

Reason: In the interests of the residential amenities of the occupants of the adjacent properties.

Contact: Hilary Johnson