
Platt Borough Green And Long Mill	562919 154218	31 March 2015	TM/15/00876/FL
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Proposal:	Use of part of ground floor and whole of first floor of existing detached building as a living room, 2 bedrooms, bathroom and utility room as part of 2 Keepers Cottages
Location:	2 Keepers Cottage Swanton Valley Lane Maidstone Kent TN15 8TA
Applicant:	Mr Ian Williams

1. Description:

- 1.1 This site has a complex history. In 2006, planning permission was granted for a triple carport and stable with first floor tack room storage under TM/06/03316/FL. This was 6m by 13.75m footprint and 5.7m high. It was to replace an unsightly barn. Whilst stabling can be an appropriate MGB use, the building as a whole was inappropriate development in the Green Belt but was granted on the basis of a set of very special circumstances (VSCs): being an domestic adjunct that would have been Class E permitted development except for its height and the stabling and tack room elements being appropriate small scale recreational development in MGB terms.
- 1.2 This approved outbuilding was not carried out but an unauthorised triple carport with annexed residential development was erected instead. It was also built in a slightly different location and to different (bigger) dimensions: 13.75m by 6.6m by 6.1m high. The different use and greater size meant that the VSCs did not apply in the same way and to the same extent.
- 1.3 A regularising retrospective planning application was submitted in 2008 and refused. An Enforcement Notice was issued (16 June 2009). In the light of the 2006 planning permission having established the principle of an acceptable outbuilding of similar size/siting, the enforcement notice under-enforced, ie it only referred to the use, requiring the cessation of "the use of the building as a single family dwellinghouse and to use the building only for purposes ancillary to the use of the dwellinghouse known as 2 Keepers Cottages".
- 1.4 Appeals were lodged against both the Enforcement Notice and the refusal of planning permission. The Inspector dismissed both appeals (04 January 2010), and amended the Enforcement Notice to require the removal of a kitchen which had been installed at the building and any beds and other furniture designed for sleeping.
- 1.5 A revised planning application was submitted in 2010 (TM/10/03036/FL) in an attempt to overcome the Inspectors' concerns by only removing the cooking

facilities in the building. There was a non-determination appeal but that was also dismissed in 2011.

- 1.6 It is apparent that the Enforcement Notice has not been complied with. However, the applicant considers that his personal circumstances have changed in terms of his extended family and his healthcare needs and has submitted this application to allow the Borough Council to formally re-assess previous decisions on the site. It is also submitted that there is now more Government Support for annex accommodation for extended families. An appeal decision from 2002 has also been submitted which, it is suggested, has a bearing on the particular manner of use of the annexe.
- 1.7 This application seeks permission to use the building as a supplementary accommodation to the main dwelling house. The application details that this use as ancillary accommodation would comprise keeping the bathroom and “utility room” at ground floor (to contain only a washing machine, tumble drier and sink) and the provision of beds in the rooms at either end of the building at first floor. The area immediately above the staircase would be a “living room”. It is said that meals would be prepared and eaten in 2 Keepers Cottage. The eldest grandchild would sleep in the second bedroom in the main house.
- 1.8 A site visit indicated that the submitted “existing plan” is incorrect in that there were 3 bedrooms in the first floor (2 and living room are indicated) and that only half rather than 75% of the ground floor is the machinery/workshop. One of the bays is now a residential store accessed from the kitchen albeit without a door in the main external door way at the time of the visit.
- 1.9 The applicant has indicated that he is willing to have a personal planning permission and enter into a S106 Agreement to guarantee that the whole property of 2 Keepers Cottage is used only as a single dwelling house.
- 1.10 The agent has submitted a planning statement stating:
 - The applicant is fully aware of the requirements of the enforcement notice and is grateful to the Council for their forbearance in not requiring the execution of the Notice while Mrs Williams remained alive. Mrs Williams died recently.
 - In the dismissal of the appeal regarding TM/10/03036/FL, the Inspector’s attention was not drawn to any “very special circumstances” to warrant setting aside the presumption against inappropriate development.
 - Since that decision in August 2011, the applicant’s health circumstances have changed and he is now permanently unfit to work and therefore dependent upon his son and his son’s partner in terms of his finances and health and welfare.

- His son now has three children. The two elder children are settled at Borough Green Primary School and it is important that their education is not disrupted by having to vacate the annexe to 2 Keepers Cottage and find a new home.
- The family are rooted to this property by the cremated ashes in the garden of Mr Williams Sr's wife and two grandchildren: ie, their tenure of the property is permanent and unlikely to be ended at any time in the future.
- Case law suggests that if the property is used as proposed with 2 Keepers Cottage then it would constitute use as a single family dwelling house on the basis of ***the manner of its use***. The enforcement appeal at Broadway Meadow Cottage, Whitford Bridge Road, Stoke Prior Worcestershire is a good example of this. (APP/P1805/C/01/1079568 &569). The Inspector accepted that the son of the family lived in a separate building but took his main meals in the main house and had his laundry washed there. Also the utility supply meter for both buildings, the postal address and telephone were all in the main house and the garden was not sectioned off. That case was based upon advice set out on now withdrawn Circular 10/97, but the principles remain relevant.
- If this application is refused and the terms of the Enforcement Notice are executed, then the family would have to crowd into the main house or move elsewhere, causing serious disruption to the children's education
- There is one other "Very Special Circumstance" that postdates the two appeal decisions. That is the Government Policy to assist families to stay together and for different generations to support each other. The (former) Secretary of State for Communities and Local Government Eric Pickles made a public statement reported in the Daily Telegraph on 1st June 2012 relating to domestic Annexes. Mr Pickles said: -

"We are keen to remove tax and other regulatory obstacles to families having a live-in annexe for immediate relations. We should support homeowners who want to improve their properties and standard of living. These reforms should also play a role in increasing the housing supply."

This proposal will aid the social and economic wellbeing of the whole family and this Statement is a major material consideration that should be weighed in the balance with the other "Very Special Circumstances" in determining this application.

- In terms of harm upon the "openness" and visual amenities of the Green Belt, the building exists and so no change to the openness would occur.
- Additional vehicles to that of the Applicant will still have to come to the property, regardless of the outcome of the application, because Mr Williams has no intention of leaving the premises and he will need regular support in order to live there.

- The land on which the building stands is part of the legitimate curtilage of the 2 Keepers Cottage and the Council has not sought to limit its use for incidental domestic purposes since its establishment in 1988.
- The applicant is willing to enter into a S106 Agreement to guarantee that the property remains as a single family dwelling and is not split into two dwellings
- Mr Williams requests that permission be granted for the above arrangements to endure so long as he resides at 2 Keepers Cottages. The eldest of Mr Williams' grandchildren will henceforth sleep in the second bedroom of 2 Keepers Cottages.

1.11 In response to the objections received during the course of determination of the planning application, Mr Williams has responded that

- *It is suggested that I am exaggerating my illnesses: I have had major heart surgery in the past due to very serious heart attacks, and currently should be going for more surgery which I am avoiding due to fear of being operated on. And I also suffer from mental health issues which I am receiving counselling for. He states that he has seen me using a chainsaw which is true but he fails to mention that this was a one off occurrence to remove two branches from a birch tree and my son was there helping me with the heavy lifting and general graft.*
- *He then puts forward a suggestion that I am doing this for my own financial gain which my Planner has already mentioned that my wife and grandchildren's ashes are spread in the garden which makes the land priceless to me and my son.*
- *Mr Conroy likes to use the word "illegal dwelling" which gives the image of a building which does not belong but the fact is; regardless of the outcome the building itself is accepted by the Council and is going nowhere and shouldn't be considered as illegal.*
- *Then he claims that the traffic that my sons family add is causing harm to the track (PUBLIC BRIDLEWAY) that serves my house, this track is used by the land owners who manage the wood land and sees a lot of activity regardless of my family, up to 10, 45 ton articulated lorries several wood cutters in their vans and tractors every day.*
- *He states that I have 2 vans and a lorry which I have at my property these are my private vans. The lorry he mentions is in fact a small 3.5 ton transit van. My son does bring these home but he can only drive 1 at a time so it isn't as bad as he tries to suggest. My son needs to bring a van home as the local bin man won't collect our house hold waste, and expects us to leave it at the side of the road half a mile away from my property so he takes all off our rubbish to work where we dispose of it in our work bins.*

- *It is not that easy for local councils to find housing especially for someone who needs at least a four bedroom house in the Borough Green area. My son is more than willing to compromise living space where he is, as he has grown to love the area where he has called his home for the past seven years and has made roots to the land.*
- *All past planning applications are not relevant as I am applying for different circumstances, this application should be judged on its own merit.*
- *Back in 2009 when I originally lost the right for my son to reside in the property they actually moved into a caravan parked directly outside the properties front door which was completely legal and used for sleeping in. They did cook all of their meals in my house, but after some time it just seemed impractical that they had to spend their time living in the property just to go out to a caravan to sleep.*
- *I have not done this with subterfuge as Mr Conroy suggests, it's just as time has evolved so have circumstances and it seems a shame to NOT put a good building to good use, to accommodate a family which is closely bonded.*
- *I own a pallet company elsewhere and there is no reason to use my property for the purpose of my company other than to receive mail.*
- *They seem to have a personal vendetta against me and my family and I hope that this is taken into account when decisions are being made.*
- *I am willing to accept restrictions if it is passed. The aim is to be able to use the existing building as living and bedroom space ancillary to the main house, not as a separate dwelling.*
- *My Son's children can roam freely between my house and the building in which they reside. We do not see any boundary between the two properties,*
- *My grandchildren's welfare is not jeopardised by residing in the barn conversion.*
- *No ramblers, cyclists, dog walkers or horse riders have submitted a single complaint.*
- *One objector has helped another of his close friends achieve exactly the same as I am applying for at Hurst Barn. There is a new track to serve his property, which was created by destroying some of the Green Belt land*
- *Although I respect the PC's concerns the points that he argues are that the openness of the green belt are affected, which I have already mentioned the building itself is approved and I can't see how the openness of the land is affected by my family occupying it.*

- *Access to my property is across someone else's land. That land is owned by Fairlawn Estate who are the largest land owner in our area, I have never received any complaints from Fairlawn nor have they ever objected to any of my planning applications. It should also be noted that I have legal right of access, on my deeds to my property across both Mr Dain and Fairlawn Estates land.*

2. Reason for reporting to Committee:

2.1 The complex planning and enforcement history.

3. The Site:

3.1 The site is located in the MGB and is part of a Local Wildlife Site. The very South Eastern corner is part of an AAP.

3.2 The application site comprises a semi-detached cottage and associated curtilage. The semi-detached cottage formerly comprised part of a single dwelling (together with 1 Keepers Cottage), but this was subdivided into two in 1988 following a grant of planning permission, and has been extended considerably since in the form of a two storey rear extension and a single storey conservatory to the south eastern corner. The main host dwelling has 2 bedrooms currently although one has a large dressing room attached which appears to have potential to be a third bedroom.

3.3 The relatively large building is located approximately 12.5m to the south of the main host dwelling. At the ground floor, there is a garage/workshop, together with a kitchen area, a bathroom (comprising a shower, basin and toilet) and staircase to the first floor. The first floor area comprises three rooms. At the time of the site visit, all 3 rooms in the roof void were in use as bedrooms, there being no corridor.

3.4 In addition to this large building, there are various sheds and other outbuildings located within the curtilage of the property. A small memorial style garden is on the southern boundary.

3.5 The application site, together with the adjoining dwelling (2 Keepers Cottage) and curtilage, is located at the heart of Ancient Woodland comprising a chestnut plantation, with vehicular and pedestrian access provided by bridleways which run through the wood to the west of the application site (from where views of the front (western) elevations of the dwelling and building are possible).

4. Planning History (relevant):

TM/88/10123/FUL grant with conditions 30 March 1988

Conversion of single dwelling into two.

TM/88/11736/FUL grant with conditions 7 July 1988

Two storey rear extension.

TM/06/03316/FL Approved 6 December 2006

Triple carport and stable with first floor storage

TM/08/01974/FL Refuse 16 April 2009

Appeal dismissed 4 January 2010

Retrospective application for a triple carport with annex, residential accommodation above

TM/10/00525/FL Refuse 28 April 2010

Change of use to Holiday Let of an existing outbuilding within the curtilage of 2 Keepers Cottage.

TM/10/03036/FL Non-determination
appeal 5 August 2011
Dismissed

Use of part ground floor and first floor of existing detached building as annexe

TM/10/03410/FL Refuse 9 May 2011

Single storey side extension and retention of wall

TM/12/01556/DEEM Refused 4 January 2010

Deemed application as a result of Enforcement Appeal (09/00021/ENFNOT) for use of the building for residential purposes

The enforcement history is that an enforcement notice was served in June 2009 and required the applicant to:

cease the use of the building as a single family dwelling house and to use the building only for purposes ancillary to the use of the dwelling house known as 2 Keepers Cottages.

This was upheld but varied on appeal to:

cease the use of the building as a single family dwelling house and remove the kitchen and all associated fixtures and fittings and any beds and other furniture designed for sleeping.

5. Consultees:

5.1 PC: We would object to this retrospective application. We would refer to your refusal of the last application, TM/08/011974/FL, a reason being:

The Local Planning Authority considers that the development entails the erection of a dwelling house within the Metropolitan Green Belt and rural area, rather than a residential annex that is genuinely incidental and ancillary to the host dwelling. The erection of a dwelling house within this site is inappropriate and, therefore, contrary to current Government guidance contained in PPG 2 and PPS 7, policies SS 2 and HP 5 of the Kent and Medway Structure Plan 2006 and policies CP 3 and CP 14 of the Tonbridge and Malling Borough Core Strategy 2007.

5.1.1 This refusal was upheld on appeal and reinforced a previous appeal.

5.1.2 We would dismiss the copy of the appeal decision of Broadway Meadow Cottage as it does not appertain to the Green Belt, so it should not affect this outcome.

5.1.3 The applicant is now attempting to justify its use as an annex due to "very special circumstances". Whatever the circumstances, we would suggest that the living arrangements within a family are not a planning issue, i.e. if the applicant needs a carer or equivalent, there are other arrangements available. Not necessarily his whole line of relations to be housed adjoining the property.

5.1.4 We do not therefore see this as a very special circumstance to overturn MGB openness. If TMBC consider that this will constitute a very special circumstance, then people would appreciate firm evidence, as this could lead to a dangerous precedent, especially with properties tucked away out of sight and unobserved.

5.1.5 We need to appreciate that these two ragstone cottages were built in 1800-50 one of which was a game keeper's cottage. The access is across someone else's land. The plans show only 2 bedrooms and lounge in the upstairs of the garage. This is to house two adults and three children. Assuming one adult sleeps in the main house as a carer, then the annex will have to accommodate the remaining adult and three children - in two bedrooms.

5.1.6 There will be nothing to stop the applicant from using the garage as a lounge and then the annex will be as originally intended.

5.2 Private Reps (2/2R/0S/0X) plus 13 site notice. Two objections have been received, summarised as follows:

- This is Green belt - defined as follows "once green belt has been defined local planning should plan to enhance useretain the landscape". This is a Special Landscape Area: a non-statutory conservation designation used by local government to categorise sensitive landscape which are either legally or as a matter of policy PROTECTED from development or manmade influences. This is a Site of Nature Conservation Interest.
- The building would still amount to a massive extension that would not have been granted planning permission. The large triple garage and/or stables permission was acquired to mask the real intent to build a dwelling right at the start.
- The premises were to be made of Oak frame and weatherboard clad but breeze block covered by cladding was used instead together with pvc house windows. The building is bigger and longer than 2 Keepers Cottage.
- If at the outset Mr Williams had been open and honest and submitted a Planning Application for permission to build a separate dwelling within the grounds of his property this would never have been approved. The Council is negligent in having allowed this development to proceed without check.
- He moved in the son and his partner and child. They have since then permanently resided in the premises. The occupancy now totals two adults and four children, not three children as stated in his current planning application.
- The building has been fitted out with a kitchen, bathroom bedrooms and living area. The only times that they have not lived there was on visits by Planning Enforcement to pretend nobody lived there.
- There are now only two open bays left of the garage, the rest of the structure being used by the occupants to live in. Two bays are left, the third being portioned off and incorporated into the building.
- This building has never been checked under Building Regulations or any other legitimate process to ensure that it has been built in a safe and proper manner as a dwelling where a large number of persons, including children, live.
- Much money has been spent to save this area of unique woodland containing rare species: the woodland has been regularly and professionally

coppiced providing employment for local people and preserving the viability of the traditional crafts this involves.

- The amount of vehicular traffic includes the use of at least six vehicles daily. These included Mr William's vehicles, his lodger's vehicles, two work vans and a flat back lorry which on numerous occasions over several years have been fully loaded with pallets. This vehicle being driven by his son; a large 4x4 used by his son and partner, also a large tractor belonging to his cousin is used daily and parked on his land. They are not living in or visiting 2 Keepers Cottage but living in the illegal dwelling.
- The vehicular traffic increases to up to ten vehicles at weekends. The Weald Way is an important walking path of national importance which all these vehicles use. Users of this path have to move out of the way to allow these vehicles to pass. The visual impact on the green belt woodland is dramatic to see so many vehicles parked in such a rural area and spoils the openness and beauty of such a scenic area. There are numerous daily school runs causing constant disruption which will only increase in the future as the children grow and get their own methods of transport.
- This is the registered address for a pallet business. Lorries and other traffic, totally inappropriate for the tracks, disrupting the track surface to the inconvenience of those who wish to use it for legitimate woodland management, for recreation as a footpath (walkers, cyclists and horse riders, bird watchers etc) and for access to their property.
- Mr Williams would regularly use a company white van. He is fit enough to leave home Monday to Friday at 8am and return home at various times in the afternoon. On his return he is still fit enough to carry out heavy wood working on a very regular basis. This includes carrying heavy wood, and operating heavy wood working power tools including chainsaws. He walks without any aid and regularly works in his large garden. This includes lawn mowing, maintenance of his trees where he has recently been seen climbing a high ladder and pruning the tree with a chain saw and cutting trees with a chainsaw and shovel digging.
- Between 2006 and to date Mr Williams has submitted numerous planning applications - all have been refused despite citing similar special circumstances re his health. Following Mrs Williams' terminal illness, they stayed there another three years with yet another planning application being made seeking permissions already refused. If this application is refused he will no doubt appeal again. We would ask that enforcement takes place instead of yet again allowing delaying tactics for them to remain.
- Planning Inspectorate concluded that his illness was not sufficient to justify inappropriate building especially when this was a newly built structure

deliberately built as a dwelling not as a stable/garage and storage area. Mr Williams' supposed needs could be met by family member/s residing with him in the house or elsewhere and driving up to Keepers Cottage to meet his supposed needs. Keepers Cottage is remote but still close to many other settlements.

- If Mr Williams was so ill that it would be better for him to have a carer to reside with him within the house of 2 Keepers Cottage where there is sufficient space for this person to live. He does not need six persons to live in an illegal dwelling to look after him when a carer can live in.
- By the very nature of the remoteness of the properties, water and electric services are provided from elsewhere. The water is pumped from a small pump house twice a day. It was not designed to cater for a separate dwelling catering for an additional six persons. When Mr Williams placed an unauthorised diverted water supply to the still unoccupied building he explained that it was for his wife's washing machine and not for a family now consisting of 6 persons. The electricity supply was likewise so designed. The illegal dwelling has its own telephone line.
- The majority of this separate land plot is strongly fenced off from the land belonging to 2 Keepers Cottage apart from a smaller area of garden which in the main is divided by a number of fruit trees albeit there is no restricted access but a clear defined line. A large number of children's playing equipment including a very large trampoline, very large wooden swing, slide and tree house structure and shed belonging to the illegal dwelling are all situated on this land, not that of 2 Keepers Cottage.
- In respect of 'settled children', two of the four children may well be at nursery and infants school in Borough Green: they could live in "one of the significant number of settlements close by" without disrupting their schooling. It is apparent that on hot days the premises are too hot and they have to let the children remain outside until very late to try and overcome this.
- We have no doubt that, if granted, the conditions will be broken and the building used as a separate dwelling. There will not be a "limited" permission but enforcement of such conditions will go by the wayside and if any inspection takes place this will be by arrangement giving him time to show apparent compliance.
- The cited appeal was about one man eating with his parents not living a separate life. It should be noted that the property shown in the stated case was subsequently offered for sale as a separate property for a lot of money.

6. Determining Issues:

- 6.1 The main consideration is that there have been two appeal decisions on this outbuilding, one from 2010 and one from 2011. Both predate the NPPF, national PPG and recent permitted development changes for residential dwellings from conversions but the LDF policy context is the same.
- 6.2 In regard of the refusal TM/08/01974/FL and associated enforcement appeal, an Inspector's decision letter dated January 2010 refused planning permission and upheld the enforcement notice. At this time, the building comprised a fully-equipped modern kitchen with a breakfast area and a bathroom, containing a shower, WC and wash hand basin, at ground floor level, while at first-floor level were two bedrooms off a large living area.
- 6.3 In regard of refusal TM/10/03036/FL, which was a non-determination appeal, this was dismissed by decision letter dated 5 August 2011. At that time, the layout was the same as in 2010 although there were no cooking facilities at that time.
- 6.4 In the 2010 appeal decision letter, the Inspector determined at paragraph 10 that there was no justification for the use of the building for primary residential purposes ie, that were not incidental to the use of 2 Keepers Cottage, and accordingly dismissed the Section 78 appeal against the refusal of planning permission.
- 6.5 In reaching this decision and his conclusions regarding the Enforcement Notice, the Inspector considered that there was a clear relationship between the provision of the kitchen, bathroom and bedrooms within the building and its use as a self-contained residential unit.
- Paragraph 7 of the decision letter detailed that the fully-equipped modern kitchen and bathroom and two bedrooms off a large living area gave the overall appearance of the building as being a self-contained residential unit
 - Paragraph 11 detailed that the minimum steps necessary to prevent the continued use of the accommodation as a separate unit of residential accommodation were the "removal of the kitchen and its fittings, which duplicate facilities in the main house, and the removal of beds and similar items of furniture, which would reduce the likelihood of the building being occupied overnight".
- 6.6 Therefore, the existence of the kitchen, bathroom and beds were considered to bring the use of the appeal building outside that which could be considered to be ancillary to the use of the main dwelling at the site. The enforcement notice was upheld and the requirement was amended to: "**remove the kitchen and all associated fixtures and fittings and any beds and other furniture designed for sleeping**".

6.7 The 2011 Appeal decision was looking at an identical scheme except the cooking area was deleted. That letter endorsed the 2010 appeal decision letter and added the following observations:

- Paragraph 9 said the use of the rooms in the upper part of the ancillary building as primary habitable rooms would, when taken cumulatively with other alterations and extensions that have already taken place, result in a disproportionate increase in the overall space available for use as living accommodation. This would be compounded by the use of part of the ground floor as a bathroom and utility room. This to be the case irrespective of whether or not they are used by members of the appellants' family. The proposed use would therefore be inappropriate development that would be, by definition, harmful to the Green Belt.
- Paragraph 10 said 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 the site visit. The increased intensity of use of the site would therefore be harmful to the openness and visual amenities of the Green Belt.
- Paragraph 11 said no reasons were given to justify why the extended family had to live either together or on this site.

6.8 It should also be noted that the DCLG "Technical Guidance for permitted development for householders" indicates that, in the authors' view, a "purpose incidental to a dwelling house would not cover normal residential uses, such as self-contained accommodation nor the use of an outbuilding for primary living accommodation such as a bedroom, bathroom or kitchen". This Guidance is increasingly being referred to by Inspectors in appeal decisions concerning buildings in the curtilage of a dwelling which contain such accommodation and represents a material consideration in the determination of this application.

6.9 In terms of the development plan policies, Policy CP3 of the TMBCS remains and requires development to accord with National Green Belt policy. Paragraph 79 states that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 87 states that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states 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. This building was not a converted rural building but was built initially as a residential accommodation. A new outbuilding is not one of the types of appropriate development listed in paragraph 89 of the NPPF.

- 6.10 I therefore consider that, in light of the Inspector's comments which are material considerations of significant weight, the building cannot be viewed as an annexe (i.e. as a building which is ancillary to 2 Keepers Cottage) when it contains such primary living accommodation as a kitchen or bedrooms. Given that the applicant wishes for bedrooms for his extended family and has specifically indicated this in the submitted plans and supporting documentation, the proposed use cannot be considered to be ancillary to the main use of the dwelling, which has already been found to be unacceptable in MGB terms by two Inspectors within a similar local and national policy context. I share the view that the proposed use as detailed in the submitted application would comprise inappropriate development that would also by the introduction of domestic vehicular use and paraphernalia, harm the openness and amenities of the MGB.
- 6.11 A case of Very Special Circumstances has been put forward by the applicant's agent. The comment from the former Secretary of State in 2012 about intended changes to "regulatory obstacles" is not considered to be specific enough to be assured that it would outweigh the planning policies of the NPPF or indeed still be relevant in 2015 bearing in mind the large number of changes to the planning regime since that date.
- 6.12 The offer of the legal agreement and the request for a personal planning permission are noted but do not overcome the issues highlighted by the previous Inspectors in 2010 and 2011. The health issues of the applicant do indicate some increased need for live-in care but that is not necessarily only provided by the current situation (ie the son, his partner and 3 of 4 children living in the building). Educational needs of the children are not dependent on living at the site.
- 6.13 One other change since 2011 that needs to be considered is the relaxation of the planning regime with regard to permitted development rights to convert certain types of buildings to residential use. There is no specific right to convert a domestic outbuilding to become a self-contained dwelling. As an example, had the building been an agricultural barn before May 2013, then it could enjoy permitted development rights if the LPA were satisfied that there were no concerns in terms of, inter alia, transport and highways impacts of the development, and whether the location or siting of the building makes it otherwise impractical or undesirable as a dwelling. It is my view that there is not a strong fall back argument as the building has never been anything other than an unauthorised annex and the acceptability of the location could be questioned in terms of the sustainability as it is only served by bridleways and as such not permitted development in any case.
- 6.14 It is therefore recommended that planning permission be refused for reasons similar to those in the dismissed 2011 appeal. The Enforcement Notice against the nature of the use that was upheld and varied by the Inspector in the 2010 decision therefore remains expedient. Measures will need to be taken to ensure it is now complied with.

7. Recommendation:

7.1 Refuse planning permission for the following reasons:

- 1 The building is inappropriate development in the Metropolitan Green Belt. It would include the provision of primary accommodation which is not a purpose which is genuinely incidental and ancillary to the enjoyment of the dwelling house. Therefore there is no adequate case of very special circumstances to outweigh the harmful inappropriateness by definition. The proposal is contrary to Policy CP3 of the Tonbridge and Malling Borough Core Strategy and paragraphs 17 and 79- 89 of the National Planning Policy Framework 2012
- 2 The use of the building would harm Green Belt openness as a result of additional vehicular movements in the area and the tendency to increase the amount of domestic paraphernalia. The intensity of use of the site would therefore be harmful to the openness and visual amenities of the Green Belt, contrary to Policy CP3 of the Tonbridge and Malling Borough Core Strategy and paragraphs 79/89 of the National Planning Policy Framework 2012.

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