

TM/13/01607/LB

Approved

9 August 2013

Listed Building Application: Conversion of pig sheds/stables into 4 seasonal holiday lets

5. Consultees:

5.1 PC: The PC made observations regarding drainage and whether this would be sufficient for 4 modern holiday lets.

5.2 Private reps 0/0X/2R/1S + Site and Press Notice.

- One letter of support received stating that the proposed accommodation could assist families of people of learning disabilities to have short breaks.
- Two letters of objection raising concerns regarding construction standards.

6. Determining Issues:

6.1 I would firstly like to address the recent planning history in connection with this site. Planning permission and listed building consent was originally granted in 2013 for the *conversion* of a pre-existing outbuilding into four holiday lets. The scheme was considered to be policy compliant and allowed for a redundant, agricultural building to be brought back into a meaningful use, securing its long term future; an important consideration given its listed status.

6.2 Following the grant of that permission, and as I understand whilst carrying out works to facilitate the approved scheme for conversion, the building was considered unsound by the developer who then proceeded to demolish it in its entirety. At no point did the developer/applicant make contact with the Council to establish what the best course of action might be. The first knowledge officers had of the situation was when it had become apparent that approval had been sought under the Building Regulations for new foundations. Enforcement investigations subsequently took place and found that the building had been completely demolished. The application now submitted in effect seeks to allow for a new development to take place to provide the four holiday lets within the curtilage of Burham Court.

6.3 Albeit that the recent unauthorised demolition of the listed building amounts to a criminal offence (for which the applicant accepted a caution at the time) and the historic building has now been completely lost (save for a selection of timbers which remain piled on site), planning permission and listed building consent could not simply be withheld now as a punitive means of addressing those previous actions. Instead, the reason for setting out this recent history is to clarify that the starting point for the determination of this application is completely different from that against which the previous application was assessed and ultimately approved. Rather than being a conversion, or even the replacement of an existing building

within the countryside (albeit one that would have been in a different use), this scheme proposes an entirely new building (there is nothing on site to replace) within the curtilage of a listed building and must be assessed against the restrictive policies which apply in such circumstances.

- 6.4 Dealing firstly with the principle of new development within the countryside, policy DC2 of the MDE DPD states that a replacement building in the countryside will be permitted subject to it not being materially larger than the existing building and provided it would be appropriate in scale and design to its setting and any neighbouring buildings and to the character of the area within which it is located. It goes on to state 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 will therefore be subject to policy CP14 of the TMBCS. Policy CP14 of the TMBCS restricts development to (amongst others) the one-for-one replacement of an existing dwelling or conversion of a building to residential.
- 6.5 As has been established, there simply is no building to seek to replace or convert in this instance and as such there is a fundamental objection to the proposed development in policy terms.
- 6.6 I note that the applicant has submitted evidence as part of the submission to suggest that timbers from the historic building will be reused as part of the new build but the fact remains that the historic building has been completely lost. The reclamation of a selection of timbers is not consequential in terms of historic significance and in no way amounts to a material consideration that would justify moving away from the adopted policy in this regard.
- 6.7 I am also mindful that paragraph 28 of the NPPF requires a positive approach to the promotion of a strong rural economy and supporting rural tourism which respects the character of the countryside. However, the creation of four holiday lets would make only a minimal contribution to the rural economy and such a contribution would not outweigh the objections to the scheme in terms of principle.
- 6.8 Turning to the specifics of the scheme, and particularly the impact on the setting of the Grade II Listed Buildings, paragraph 131 of the NPPF states that LPAs should take account of the desirability of sustaining and enhancing the significance of heritage assets (in this case the nearby listed buildings). Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance of such an asset can be harmed or lost through alteration of the asset or through development within its setting.
- 6.9 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the general duty when carrying out any functions under the Planning Acts with respect to the consideration of whether to grant planning permission for development which affects a listed building or its setting. This requires that the

local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

6.10 I appreciate that the scheme submitted is attempting to replicate the siting and form of the demolished listed building but that building has been lost and thus the setting of Burham Court has been irrevocably altered by the demolition. It is simply not plausible to state that the development now proposed would reinstate that historic setting; rather there can be no doubting that the proposed development would simply amount to a modern copy of an historic building and that would not contribute to the setting of Burham Court in any way. Again, the reinstatement of the retained timbers would not mitigate this or lead me to a different conclusion, for the reasons already set out above.

6.11 More generally, policy CP24 of the TMBCS requires that development must respect the site and its surroundings and that it will not be permitted where it would be detrimental to the built environment and amenity of a locality. This is supported by policy SQ1 of the MDE DPD which states that all new development proposals should protect, conserve and where possible enhance:

- the character and local distinctiveness of the area including any historical and architectural interest and the prevailing level of tranquillity;
- the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views.

6.12 Notwithstanding my preceding assessment concerning matters of principle and detailed listed building considerations, I acknowledge that the building proposed and its envisioned use would not cause any harm to amenity in more general terms. Equally, there would be no adverse highway safety implications arising from the scheme. However, these factors in no way mitigate the harm already identified.

6.13 In light of the above assessment, I consider that the proposed development fails to meet the requirements of the NPPF or relevant LDF policies; it would amount to new development within the countryside, of a type for which there is no provision in policy. Furthermore, the development would neither preserve nor enhance the setting of Burham Court. As such, I recommend that planning permission and listed building consent be refused accordingly.

7. Recommendation:

(A)TM/15/02767/FL

7.1 **Refuse planning permission** for the following reasons:

- 1 The proposal is not a form of development that is normally permitted in the countryside as listed in Policy CP14 of the Tonbridge and Malling Borough Core

Strategy and no material considerations exist that justify the setting aside of this provision. Accordingly, the proposal is contrary to policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007 and policy DC2 of the Tonbridge and Malling Borough Managing Development and the Environment DPD 2010.

- 2 The proposed development would not preserve the setting of Burham Court, a Grade II listed building or its special architectural or historic interest. The proposed development is therefore contrary to policy CP1 of the Tonbridge and Malling Borough Core Strategy 2007, and paragraphs 129,131, 132 and 133 of the National Planning Policy Framework 2012. Furthermore, there would be no public benefits of the proposal sufficient to overcome this harm, contrary to the requirements contained in paragraph 134 of the National Planning Policy Framework 2012.

(B) TM/15/02768/LB

7.2 Refuse listed building consent for the following reasons:

- 1 The proposed development would not preserve the setting of Burham Court, a Grade II listed building or its special architectural or historic interest. The proposed development is therefore contrary to policy CP1 of the Tonbridge and Malling Borough Core Strategy 2007, and paragraphs 129,131, 132 and 133 of the National Planning Policy Framework 2012. Furthermore, there would be no public benefits of the proposal sufficient to overcome this harm, contrary to the requirements contained in paragraph 134 of the National Planning Policy Framework 2012.
- 2 The building to which the proposed development would be attached is listed under Section 1 of the Planning (Listed Building and Conservation Areas) Act 1990 as being of special architectural or historic interest, and the approval of works to this building would be premature in the absence of any associated planning permission for the proposed development.

Contact: Robin Gilbert