

Shipbourne
Borough Green And
Long Mill

9 December 2015

TM/15/03865/FL

Proposal: Proposed conversion of existing stable and hay barn into dwelling house (including new roof and walling to hay barn) with associated creation of domestic curtilage, access and parking facilities

Location: Great Oaks House Puttenden Road Shipbourne Tonbridge Kent TN11 9RX

Applicant: Mrs L Cohen

1. Description:

- 1.1 Members will recall that this application was originally reported to APC2 on 2 March 2016, when it was deferred to enable a Members' Site Inspection to take place.
- 1.2 The Members' Site Inspection took place on 11 April 2016, where a number of further issues were raised.
- 1.3 Since this time, the applicant has submitted a further letter and comparison plan, as they were concerned that there were a number of inaccuracies in the main committee report. The applicant has also submitted a Statutory Declaration in relation to the use of the existing buildings and paddock, stating that they have been used for private equestrian use since the applicant purchased the property.
- 1.4 For clarification, the description of the application above as a "conversion" was that submitted by the agent on the application form. However, the agent did detail in paragraph 7.2 of the submitted Planning, Design and Access Statement Planning Statement that "*the hay barn structure would essentially need substantial reconstruction and alteration*". For this reason in this report, officers refer to the **demolition** of the hay barn as part and parcel of the scheme that seeks planning permission.

2. Planning History (relevant):

TM/75/47 grant with conditions 4 April 1975

Stables.

TM/77/668 grant with conditions 9 August 1977

Erection of Hay Store.

TM/11/01085/FL Application Withdrawn 15 June 2011

Three bay oak framed garage with playroom above linked by external staircase, provision of drive and use of access from Puttenden Lane

TM/12/00189/LDE Refuse 11 June 2012

Lawful Development Certificate for existing use of land as residential curtilage

3. Consultees:

- 3.1 Re-consultations have taken place upon receipt of the Statutory Declaration with the Parish Council and neighbours. No responses have been received to date.

4. Determining Issues:

- 4.1 For Members' assistance, the relevant policies are set out verbatim within the following assessment where applicable:

Development within the Green Belt:

- 4.2 Any planning application for development within the Green Belt clearly needs to address Green Belt policy, both at national and local level.

- 4.3 The description of the proposal by the applicant is for:

"Proposed conversion of existing stable and hay barn into dwellinghouse (including new roof and walling to hay barn) with associated creation of domestic curtilage and access and parking facilities".

- 4.4 Notwithstanding the description of the proposed development, the applicant has not submitted a Structural Survey with the application demonstrating that the buildings are structurally capable of conversion without substantial rebuilding. On the contrary, he accepted that the hay barn was not of "*permanent and sound construction and capable of conversion without major or complete reconstruction*". It was on this basis that the application was originally recommended for refusal (2 March 2016).

- 4.5 As detailed above, the agent acknowledges that the hay barn structure would need substantial reconstruction and alteration and that a new roof over the dwelling would also be required. This has also been repeatedly mentioned by the planning agent in support of his claim that the site as a whole should be defined as "previously developed land" for the purposes of applying Green Belt policy, a point that I return to in the following assessment.

- 4.6 As such, and for the avoidance of any doubt, the proposed development can effectively be separated into three constituent parts;

- Demolition of the existing hay barn and construction of new build element on a larger footprint including an enlargement of the roof;
- Conversion of existing stables to residential along with construction of new build elements to enlarge the footprint and an enlargement to the roof and;
- Use of land as residential curtilage to serve new dwelling.

4.7 I will address each of these aspects in turn.

4.8 In applying national Green Belt policy, inappropriate development in the Green Belt is harmful by definition and “should not be approved except in very special circumstances”. The weight to be given to the harm (both by definition and any other harm) is “substantial” (paragraph 88).

4.9 Paragraph 89 of the NPPF states:

“A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- *Buildings for agriculture and forestry;*
- *Provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;*
- *The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- *The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- *Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or*
- *Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.”*

4.10 As such, the construction of new buildings which consist of limited infilling or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development would not be considered to be inappropriate development for the purposes of applying Green Belt policy.

4.11 Previously developed land is specifically defined within the NPPF as being

“land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings...land in built up areas such as private residential gardens...and land that was previously developed by where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time”.

4.12 Crucially, the test in paragraph 89 (6th bullet point) has two limbs: firstly whether what is proposed is either limited infilling or complete redevelopment of PDL within the terms of the definition; and secondly, if so, whether what is proposed has a greater impact on the openness of the Green Belt and the purpose of including land in the Green Belt.

4.13 In this regard, the purposes of including land within the Green Belt are set out at paragraphs 79 and 80 of the NPPF, which state:

The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Green Belt serves five purposes:

- *to check the unrestricted sprawl of large built-up areas;*
- *to prevent neighbouring towns merging into one another;*
- *to assist in safeguarding the countryside from encroachment;*
- *to preserve the setting and special character of historic towns; and*
- *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

4.14 From the applicant's own submissions it is the proposed demolition of the hay barn and replacement structure with an enlarged overall footprint and bulk in its place as part of the proposed dwelling, along with the proposed new roof which must therefore be considered in relation to paragraph 89 of the NPPF.

4.15 It is important to recognise that changes in physical bulk can be just as relevant in terms of Green Belt impact as changes to the footprint of a building. With this in mind, I am of the view that the physical changes to the roof form combined with the increase in overall footprint when considering the existing hay barn against the proposed development would clearly have a greater impact on the openness of the Green Belt and would cause encroachment into the countryside. As such, the

greater impact on the openness of the Green Belt still leads me to conclude that the development (specifically the demolition of the hay barn and the “replacement” roof and walling on a larger footprint) amounts to inappropriate development by definition, requiring very special circumstances to be demonstrated.

4.16 The applicant outlines a number of positive aspects of the development in order to justify a case of very special circumstances. These include the following:

- The applicant currently lives in Great Oaks but has recently become widowed and as a result of this the property is too large, too expensive and too difficult to maintain. This proposal would provide an alternative, smaller dwelling, that would allow the applicant to remain in the area;
- The proposed dwelling will be a contemporary style building constructed to a high standard and specification in terms of energy efficiency and sustainability whilst retaining an agricultural appearance and high quality materials that are sympathetic with the local vernacular. Chestnut boarding would be used to clad the elevations and slates for its roof.

4.17 I acknowledge this approach to enhance energy performance by improving thermal performance, and the use of solar protection on the roof can be seen as innovative aspects of the design. However, I do not consider that the design is ‘truly outstanding or innovative’. All other matters put forward, whilst acknowledged, simply amount to personal circumstances of the applicant rather than very special circumstances justifying permanent development in this location.

4.18 The development is therefore contrary to policy CP3 of the TMBCS and paragraphs 80 and 87-90 of the NPPF.

4.19 In terms of the stable block itself, paragraph 90 of the NPPF states that:

“Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are

- Mineral extraction;

- Engineering operations;

- Local transport infrastructure which can demonstrate a requirement for a Green Belt location;

- The re-use of buildings provided that the buildings are of permanent and substantial construction; and

- Development brought forward under a Community Right to Build Order.”

- 4.20 Paragraph 90 of the NPPF relates to “other forms of development” (i.e. other than construction of new buildings which is dealt with at paragraph 89 as already discussed), and the fourth bullet point as to “re-use of buildings” of permanent and substantial construction relates to direct re-use (i.e. a change of use) without any other operational development. As with paragraph 89, there is also a requirement for these forms of development to preserve openness and not conflict with the purposes of including land in the Green Belt.
- 4.21 The planning agent has submitted a Statutory Declaration stating that each of the three elements that comprise the site in this case (i.e. hay barn, stable and paddock) have been in residential use since the applicant purchased the dwelling in 1985, ancillary to the main dwelling, and therefore constitutes PDL in its entirety.
- 4.22 Notwithstanding that evidence, it is entirely clear from communications with the agent that the proposal seeks planning permission for the re-use of the existing stable block, which as Members will recall from the Members’ Site Inspection, appeared to be of a permanent and substantial construction (notwithstanding there is no structural survey to support this assertion). There is therefore no need to consider this element of the scheme in terms of the definition concerning previously developed land, rather it is paragraph 90 of the NPPF that must be applied. As I have explained earlier in the report, even the conversion of the stable block is to be facilitated by an extension and alterations meaning that it is not a straightforward conversion compliant with the tests set out in paragraph 90 of the NPPF and therefore is contrary to the requirements contained within the NPPF.
- 4.23 Turning to the use of land as residential curtilage to serve the proposed dwelling, the proposed residential curtilage mainly consists of land to the front of the stable building and hay barn. The majority of this land has been deemed to be residential curtilage by TM/12/00189/LDE. In addition to the area included in TM/12/00189/LDE it is proposed that the residential curtilage will extend to either side of the existing buildings and 3.5m to the rear of the existing barn. This area to the side of the buildings is currently a gateway and hedging to bound the area to the rear of the stable building.
- 4.24 Whilst given that the site falls within the domestic curtilage of Great Oaks, the proposal is likely to intensify the amount of domestic paraphernalia by the introduction of an additional dwelling. However, I am of the opinion that, on balance, this aspect would not have a significantly detrimental impact on the openness of the Green Belt particularly given that a condition could be imposed limiting permitted development rights in the event of a grant of planning permission.

Development within the Countryside:

- 4.25 Policy CP14 of the TMBCS states that:

“In the countryside development will be restricted to:

- (a) *Extensions to existing settlements in accordance with Policies CP11 or CP12; or*
- (b) *The one-for-one replacement, or appropriate extension, of an existing dwelling, or conversion of an existing building for residential use; or*
- (c) *Development that is necessary for the purposes of agriculture or forestry, including essential housing for farm or forestry workers; or*
- (d) *Development required for the limited expansion of an existing authorised employment use, or*
- (e) *Development that secures the viability of a farm, provided that it forms part of a comprehensive farm diversification scheme supported by a business case; or*
- (f) *Redevelopment of the defined Major Developed Sites in the Green Belt which improves visual appearance, enhances openness and improves sustainability, or*
- (g) *Affordable housing which is justified as an exception under Policy CP19; or*
- (h) *Predominantly open recreation uses together with associated essential built infrastructure; or*
- (i) *Any other development for which a rural location is essential.*

Within the Green Belt, inappropriate development which is otherwise acceptable within the terms of this policy will still need to be justified by very special circumstances.”

4.26 With the above policy in mind, CP14 (b) allows for the conversion of an existing building for residential use. There is no overt stipulation within this policy that an “existing building” has to meet any criteria concerning its ability to be converted in physical terms. However, to benefit from this provision the building must as a matter of logic be capable of conversion for residential use otherwise the development would amount to demolition and rebuild (for which the only policy support within CP14 relates to one for one replacement of an existing dwelling). There is therefore no scope within the terms of policy CP14 to demolish a non-residential building and replace with a residential dwelling, even if that dwelling took the exact same form and structure as the building it replaced. It is clear that in part the development will amount to demolition and rebuild and that element of the works is not in accordance with the requirements of policy CP14.

4.27 I am aware that CP14 dates from 2007 but in my view it remains as part of the development plan and has not been superseded by any national guidance in the meantime.

Conversion of rural buildings:

4.28 Policy CP14 of the TMBCS is in effect supported by detailed provisions set out in policies DC1 and DC2 of the MDE DPD. These set out a series of criteria which must be met for the re-use of existing rural buildings “of permanent and sound construction” to be permissible, or for replacement buildings to be permissible in such locations.

4.29 Specifically, policy DC1 of the MDE DPD states that:

“Proposals for the reuse of existing rural buildings that are of permanent and sound construction and are capable of conversion without major or complete reconstruction (as demonstrated by a structural survey) for commercial, industrial, recreation or tourist development will be permitted subject to all of the following criteria:

- a) *The building, and any alterations proposed as part of the conversion, are of a form, bulk and general design and of materials which are in keeping with the character of the area in which it is located as defined in the Character Area Appraisal SPD;*
- b) *The proposed use is acceptable in terms of residential and rural amenity, highway impacts and the use of land surrounding the buildings, and can be accommodated without requiring the erection of extensions or ancillary buildings. If appropriate, conditions will be imposed removing permitted development rights;*
- c) *The proposed use does not result in the fragmentation and/or severance of an agricultural land holding creating a non-viable agricultural unit;*
- d) *Any landscaping scheme for the site is appropriate to its rural location having regard to the Character Area Appraisals SPD;*
- e) *The proposed use does not result in a negative impact upon protected species; and*
- f) *In the case of buildings of architectural or historic interest, conversion would not:*
 - *be detrimental to the architectural or historic character of the building, including any archaeological or technological interest it may have, its group value with any other historic buildings, or its setting; or*
 - *result in the loss of important features relating to the original fabric, the external character of the building, associated archaeological remains or its internal spatial qualities.”*

2. *In the case of proposals for the conversion of such buildings for residential use, permission will not be granted where there is any conflict with subparagraphs (a) to (f) of Part 1 of this Policy, or where:*

(a) the proposal would result in an unacceptable residential environment arising from operations or uses nearby; or

(b) the scale and nature of the proposed residential curtilage around the building, particularly in respect of domestic paraphernalia, results in an adverse impact on the rural character or appearance of the countryside as defined in the Character Area Appraisals SPD.

3. *Where rural buildings, including outbuildings within the curtilage, have been converted, subsequent proposals requiring planning permission to extend such buildings will not normally be granted.*

4.30 Policy DC1 does not support substantial reconstruction and alteration. The hay barn consists of approximately half of the existing built form, and therefore I am of the opinion that it can be concluded that the proposal is contrary to Policy DC1 of the MDE DPD. Whilst the proposed pitched roof would not increase the overall ridge height of the building it is proposed to increase the pitch of the rear of the roof slope of the existing stable building to be of a greater pitch, so as to form a catslide roof over the rear of the stable building and the hay barn. The increase in bulk, resulting from the roof form, of 19% at roof level will have a significant impact on the rural character of the countryside.

4.31 Policy DC2 of the MDE DPD applies to replacement buildings in the countryside, i.e. the hay barn, and states

1. *A replacement building in the countryside will be permitted subject to meeting all of the following criteria:*

(a) It would not be materially larger than the existing building and 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 as defined in the Character Area Appraisals SPD;

(b) The proposal does not result in the fragmentation and/or severance of an agricultural land holding creating a non-viable agricultural unit;

(c) Full account is taken of any biodiversity interest in accordance with Policy NE3;

(d) It is not in an isolated position in relation to infrastructure and services; and

(e) The demolition of the existing building would not result in the loss of a building of architectural or historic interest or a building that contributes to local character.

2. *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 also be subject to Core Policy CP14. Proposals in the Green Belt will be considered in light of PPG2.*

4.32 Policy DC2 of the MDE DPD does not support the replacement of non-residential buildings in the countryside with residential development as it states that these proposals will also be subject to Policy CP14 of the TMBCS.

Other Material Considerations:

4.33 As Members will be aware, the Council in its role as Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise. Policy CP14 of the TMBCS and policies DC1 and DC2 of the MDE DPD are the key policies within the Development Plan fundamental to the determination of the application. It is therefore necessary to establish whether or not there are any material considerations that would lead to a different conclusion to that set out above. I do not consider that the circumstances put forward by the applicant amount to material planning considerations sufficient to override the Development Plan policies in this instance.

4.34 There has been some comparison made by Members to a new dwelling that has recently been constructed at Hookwood Farm (TM/13/02150/FL). However, that case is not comparable to this current application as it was a scheme for a replacement dwelling. Whilst the bulk of the replacement dwelling was considerably greater than the existing, this was on the basis the proposal involved the removal of a number of large agricultural buildings, considered to have an overall beneficial impact.

4.35 Other relevant policies relating to the proposal are Policies CP7 (AONB) and CP24 (Achieving a High Quality Development) of the TMBCS and policy SQ1 (Landscape Protection/Enhancement) of the MDE DPD. I am satisfied that the proposal satisfies these policies, as per the considerations set out in my reports to APC2 on 2 March and 13 April 2016.

Conclusions:

4.36 In conclusion, aspects of the proposed development involve demolition and rebuild or extensions to the footprint and roof form to facilitate the re-use which would all have a greater impact on the openness of the Green Belt, thus comprising inappropriate development for which there are no very special circumstances. Those aspects of the development are also contrary to policy CP14 of the TMBCS and policies DC1 and DC2 of the MDE DPD as they involve demolition and rebuild to an alternative use. There are no material planning considerations in my view that override the policy position in respect of this development. As such, the following recommendation is put forward:

5. Recommendation:

5.1 Refuse planning permission for the following reasons:

Reasons:

- 1 The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined by paragraph 87 of the National Planning Policy Framework 2012. The proposal would involve the partial redevelopment of a previously developed site (brownfield land), but would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development, and would therefore be contrary to paragraphs 87-90 of the National Planning Policy Framework 2012 and thereby contrary to policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007
- 2 The development proposes rebuilding the existing hay barn and extending the footprint and roof form of the stable building to facilitate its re-use as a residential dwelling. 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 2007 and policies DC1 and DC2 of the Managing Development and Environment DPD 2010, and no material considerations exist that justify setting aside this provision.

Contact: Glenda Egerton