

Shipbourne
Borough Green And
Long Mill

9 December 2015

TM/15/03865/FL

Proposal: Demolition of existing stable block and hay barn buildings and construction of a 3 bedroom dwelling house
Location: Great Oaks House Puttenden Road Shipbourne Tonbridge Kent TN11 9RX
Applicant: Mrs E Cohen
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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 amended the description of the proposal to now be for "*demolition of existing stable block and hay barn buildings and construction of a three bedroom dwellinghouse*". The previous description of the proposal was 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, access and parking facilities*".
- 1.4 The applicant has also submitted a Statutory Declaration in relation to the main use of the existing buildings and paddock, stating that they have been used for private equestrian use since the applicant purchased the property.

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TM/11/01085/FL	Application Withdrawn	15 June 2011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 with the Parish Council and neighbours have taken place upon receipt of the amended plans and description of the proposal. The following responses have been received:
- 3.2 PC: Pleased to see the reduction in bulk in the revised proposal. No objections.
- 3.3 Private Reps (2/0X/9S/0R + Site Notice): 9 letters of support received.

4. Determining Issues:

- 4.1 For Members' assistance, the relevant policies are set out in verbatim within the following assessments 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 has been amended to:

"Demolition of existing stable block and hay barn buildings and construction of a 3 bedroom dwelling house".

- 4.4 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 given to the harm (both by definition and any other harm) is "substantial" (paragraph 88).

- 4.5 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.”*

4.6 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.

4.7 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”.

4.8 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.

4.9 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.*

4.10 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. The applicant has suggested that the proposal would result in a 4% increase in volume to the existing buildings. I am of the view that the physical changes to the roof form and distribution of bulk within the building 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 amounts to inappropriate development by definition, requiring very special circumstances to be demonstrated.

4.11 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. It is proposed to use photovoltaic roof slates, air source heat pump, solar panels, triple glazing, installation of a wood burner, thermostatically controlled rainwater harvesting and grey water, along with good insulation. Chestnut boarding would be used to clad the elevations and slates for its roof.

4.12 I acknowledge that 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.

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

- 4.14 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.
- 4.15 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:

- 4.16 Paragraph 55 of the NPPF states that “*Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances*”. I note the comments relating to the proximity of the site with the post box and public house. However, I am of the opinion that the proposal is contrary to this policy, and that this approach is consistent with other sites elsewhere in the Borough.
- 4.17 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.”

4.18 There is therefore no scope within the terms of policy CP14 to demolish a non-residential building and replace it with a residential dwelling, even if that dwelling took the exact same form and structure as the building it replaced. It is clear that the development will amount to demolition and rebuild and that is not in accordance with the requirements of policy CP14.

4.19 I am aware that Policy 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.

Replacement Buildings in the Countryside:

4.20 Policy CP14 of the TMBCS is in effect supported by detailed provisions set out in policy DC2 of the MDE DPD.

4.21 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.*

4.22 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:

- 4.23 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 policy 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.
- 4.24 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.
- 4.25 The applicant also draws comparisons with Silverhill Stables (TM/14/04200/FL) and Ryarsh Farm (TM/15/02445/FL). No. 3 Silverhill Cottages (TM/14/04200/FL) approved the demolition of all livery stables, detached garage/ store, shed building, concrete hardstandings and erection of a detached dwelling and garage/ stable block. Whilst the proposal provided an increase in volume and height from the existing, which was recognised as being “inappropriate development”, the proposal provided a substantial improvement to the appearance and visual amenity of the site. It included the loss of a commercial livery stables which is a benefit not presented by this application – essentially the Silverhill site as a commercial livery enjoys a different policy in the NPPF to the type of buildings in this application.
- 4.26 Ryarsh Farm (TM/15/02445/FL) allowed the demolition and removal of existing commercial livery barns and portakabins and the replacement with a new Class B8 storage unit with ancillary B1 office. This case differed from the application case in a number of ways, in particular that the site was previously used as a commercial

livery, and that the proposal would consolidate a number of dispersed buildings and would tidy up the site.

4.27 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:

4.28 In conclusion, I am of the opinion that the proposal to demolish the existing stable building and hay barn and rebuild would have a greater impact on the openness of the Green Belt, thus comprising inappropriate development for which there are no very special circumstances. The proposal is contrary to policy CP14 of the TMBCS and policy DC2 of the MDE DPD as it involves 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 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 stable block and hay barn. 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 policy DC2 of the Managing Development and Environment DPD 2010, and no material considerations exist that justify setting aside this provision.

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