

Trottscliffe
Downs And Mereworth

3 June 2016

TM/16/01753/FL

Proposal: Permanent retention of a static mobile home as accommodation for an agricultural worker ancillary to the nursery business and retention of 2no. dog kennels and pens

Location: The Nursery Taylors Lane Trottscliffe West Malling Kent

Applicant: Mrs P Valler

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1. Description:

- 1.1 Planning permission was granted at appeal by the Planning Inspectorate in April 2013 for the use of the site for the siting of a static mobile home for a horticultural/agricultural worker for a temporary period of 3 years, as well as for the erection of dog pens and kennels, under reference TM/12/00379/FL. The reason for the imposition of a temporary permission at that time was to give time to ascertain whether the business enterprise would be successful.
- 1.2 This current application is for permanent retention of the static caravan type mobile home for accommodation for an agricultural worker and the ancillary development previously approved.
- 1.3 A Design, Access and Planning Statement, Supporting Statement, Business Accounts for 2012-2015 and correspondence from customers, along with the previously submitted Essential Needs Appraisal and Business Plan have been submitted with the application.

2. Reason for reporting to Committee:

- 2.1 At the request Councillor Kemp due to the history of the site and inappropriateness in the Green Belt.

3. The Site:

- 3.1 The application site comprises a rectangular parcel of land located on the west side of Taylors Lane, adjacent to the settlement confines of Trottscliffe. It is fully enclosed by a brown stained close-boarded fence set just inside established hedgerows which align the boundaries of the site. The vehicular access to the site is on Taylors Lane within the northern section of the frontage. Gates are provided well back from the frontage.
- 3.2 The northern part of the site comprises two polytunnels, with black sheeting covering the open land around them with arrangements of potted plants. A timber clad agricultural building comprising a workshop/potting shed with office facilities is situated within the centre of the site. The driveway and area around the potting shed is surfaced in bonded gravel. A static mobile home is positioned to the west

of the agricultural building with an associated domestic garden area. Two dog kennels and pens lie just to the south of the potting shed and static mobile home.

3.3 The site is situated within the countryside, Metropolitan Green Belt, Kent Downs AONB and a Water Catchment Area. The Trottiscliffe Conservation Area lies to the southeast. Taylors Lane is a Classified Road.

3.4 Agricultural land lies to the north and west. A vacant parcel of land lies to the south between the application site and Millers Farm. The residential properties of Little Berries, The Cottage and 1-6 Taylors Lane are situated to the east.

4. Planning History (relevant):

TM/10/00473/FL Approved 15 June 2010

Replacement Agricultural Building comprising a workshop and office facilities; replacement of glasshouse with two polytunnels; parking and revised access

TM/10/02411/RD Approved 27 October 2010

Details submitted pursuant to condition 8 (lighting); 10 (a) & (b) (site investigation) and 11 (sewerage) of planning permission TM/10/00473/FL: Replacement agricultural building comprising a workshop and office facilities; replacement of glasshouse with two polytunnels; parking and revised access

TM/11/00658/FL Refuse 7 June 2011

Retrospective application for the retention of a residential caravan ancillary to the Nursery Business and retention of 2 No. dog kennels and pens

TM/12/00379/FL Refuse 9 July 2012
Granted at Appeal 9 April 2013

Retrospective application for the retention of a static mobile home as temporary accommodation for an agricultural worker ancillary to a nursery business and retention of 2no. dog kennels and pens

5. Consultees:

5.1 PC: Objection. The concerns raised are summarised as follows:

- The Inspector commented that 'it should not be assumed that a permanent dwelling will be permitted after 3 years and that much will depend on any progress towards viability and the need for an on-site presence'.
- The applicant has not submitted any evidence that a viable business is in operation at the site.

- Local knowledge informs us that vehicle movements in and out of the site are minimal which also suggests that a viable business is not in operation.

5.2 Private Reps: 1+ site notice + press notice /0X/1R/0S. The concerns raised have been summarised below:

- There is little traffic to and from the site
- Virtually no business is being conducted on the site
- It is questioned whether there is a viable business being operated

6. Determining Issues:

Principle considerations:

6.1 In granting the temporary planning permission in 2013, the Inspector made clear that the development in question amounted to inappropriate development within the Green Belt, which is harmful by definition, requiring very special circumstances to be demonstrated that outweigh the harm to the Green Belt. However, it was accepted that if an essential need for a rural worker were to be established such very special circumstances would exist.

6.2 The Inspector also noted that policy CP14 of the TMBCS restricts development in the countryside to certain types, one being development that is necessary for the purposes of agriculture and forestry including housing for agricultural workers and that horticulture forms part of the definition of agriculture and also noted that the NPPF seeks to avoid isolated new homes in the countryside unless a need could be demonstrated for a rural worker.

6.3 In all these respects, the Inspector concluded that

“Circular 11/95 indicates that a second temporary permission should not normally be granted and neither should it be assumed that a permanent dwelling will be permitted after 3 years. Much will depend on any progress towards viability and the need for an on-site presence should also be reviewed having regard to the way the business develops and other factors.”

6.4 Whilst the guidance contained within the Circular has been replaced by the NPPG, the guidance remains clear:

“It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so.”

6.5 With the above in mind, the main issues in consideration of this case are therefore whether it has been sufficiently demonstrated that the horticultural business is viable and whether there remains an essential need for an on-site presence that

would require the permanent retention of the static mobile home. The Council's retained specialist consultant has advised on this matter and his advice is set out below.

- 6.6 Since the granting of the 3 year temporary permission in April 2013, the submissions on behalf of the applicant and her husband Mr Luke (the main worker on the nursery) indicate that the nursery business has expanded, through production of its various hedging plants, grasses, herbaceous perennials, bulbs, and bedding plants. Production takes place using two polytunnels with heated beds, with an associated potting/packing shed and ancillary office. There are also standing-out areas by the polytunnels.
- 6.7 Plants are delivered (or collected) and sales are made to a number of local businesses in Ightham, West Kingsdown, and Meopham. The plant deliveries are said to be carried out by pick-up truck with a trailer. The applicant has provided correspondence from 4 businesses, including garden centres located in these areas, confirming supply of plants from Mr Luke. Sales have been shown to have increased each year from 2013/14. The applicant's accountant has examined the relevant tax returns and believes the business to be successful and financially stable. I therefore consider that it has been reasonably demonstrated that the business is financially viable, being able to provide a full-time wage equivalent for Mr Luke, as well as a part-time wage for Mrs Valler. Linked to this, there remains an essential need for the mobile home for a rural worker at the site, as concluded by the previous inspector.
- 6.8 Conditions can be imposed on any permission granted relating to the cessation of the residential use and removal of the mobile home if the horticultural business at The Nursery ceases to operate, and by restricting the occupation of the mobile home to a person solely, or mainly working, in the locality in agriculture, horticulture or forestry. These would be consistent with those applied to the previous temporary permission by the Inspector.

Other material considerations:

- 6.9 The Inspector in the Appeal Decision concluded that there would be no adverse impact on the setting of the Trottiscliffe Conservation Area and its character and appearance due to the modest size of the mobile home and its location. The on-site conditions of the development have not changed to any noticeable degree. The current application proposes no changes to the existing static home on site or to any of the other development in situ. The retention of this development on a permanent basis would not cause any harm to the appearance of the area and therefore it accords with policies CP24 of the TMBCS and SQ1 of the MDE DPD.
- 6.10 In respect to land contamination, a desk study and intrusive investigation was submitted with the reserved details application (TM/10/02411/RD) relating to the 2010 permission for the replacement agricultural building (TM/10/00473/FL). Although this was based on a continued agricultural use, made ground was found

across the site that included plastic, metal, wood and brick, which presented elevated levels of lead and hydrocarbons. The report also mentions that the site has historically been used for vehicle maintenance and re-spraying. As it is proposed to retain the mobile home permanently, it is considered necessary to ensure the residential garden land is decontaminated and suitable for permanent residential use. Conditions can be imposed requiring site investigation and remediation of the land where required. With the imposition of these conditions, the development would accord with paragraphs 120-121 of the NPPF.

- 6.11 The applicant has confirmed that foul water for the mobile home and workshop/potting shed are connected to the mains sewer which runs along Taylors Lane. A condition can be added to confirm this requirement.

Representations:

- 6.12 I note the comments from the Parish Council and a neighbouring resident that suggests that there is an absence of evidence relating to the viability of the business and that there has been little business activity at the nursery. However, in taking into account the submitted accounts for the period, supporting statement from the applicant and the correspondence from local garden centres confirming business with the applicant, as well as my visual inspection of the site, I have no reason to dispute that the business is viable and continuing.

Conclusions:

- 6.13 In light of the above assessment, I consider that the applicant has suitably demonstrated that the business has been successful sufficient to justify the retention of the development in situ as set out by the previous Inspector and is acceptable in all other respects. As such, I therefore recommend that permanent planning permission, subject to conditions, be granted.

7. Recommendation:

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Email dated 31.01.2017, Supporting Statement dated 13.10.2016, Email dated 14.12.2016, Supporting Information CORRESPONDENCE dated 14.12.2016, Other ACCOUNTS dated 03.06.2016, Planning, Design And Access Statement dated 03.06.2016, Site Plan 1786/18A Rev 04/11 dated 03.06.2016, Location Plan 1786/1 dated 03.06.2016, Appraisal ESSENTIAL NEEDS dated 03.06.2016, Other BUSINESS PLAN dated 03.06.2016, Letter dated 03.06.2016, subject to the following conditions:

Conditions:

- 1 The occupation of the static mobile home shall be limited to a person solely or mainly working, or last working, in the locality in agriculture, horticulture or forestry, or a widow or widower of such a person, and to any resident dependants.

Reason: The occupation of the dwelling by persons not associated with the agricultural, horticulture or forestry would result in a separation of functions, expansion of movements and paraphernalia that could harm the openness of the Green Belt and character and visual amenity of the rural area.

- 2 The residential use hereby permitted shall cease within 1 month of the date that the horticultural enterprise at The Nursery ceases to trade and any caravan and all structures, materials and equipment brought on to, or erected on the land, or works undertaken to it in connection with the residential use (including the dog pens and kennels) shall be removed and the land restored to its condition before the development took place in accordance with a scheme previously submitted to and approved in writing by the local planning authority.

Reason: To preserve the openness of the Green Belt and ensure that the character and visual amenity of the rural locality is not significantly harmed.

- 3 Within 1 month of the date of this decision, details of the size and appearance of the existing mobile home shall be submitted to the Local Planning Authority for approval. The static mobile home shall accord with the approved details.

Reason: To preserve the openness of the Green Belt and ensure that the character and visual amenity of the rural locality is not significantly harmed.

- 4 No replacement static mobile home shall be stationed on the site before details of its size and appearance have been submitted and approved by the Local Planning Authority. The static mobile home shall accord with the approved details.

Reason: To preserve the openness of the Green Belt and ensure that the character and visual amenity of the rural locality is not significantly harmed.

- 5 The static mobile home shall only be stationed in the position shown on Drawing No.1786/18A Rev 04/11 hereby approved and no more than one caravan, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, shall be stationed on the site at any time.

Reason: To preserve the openness of the Green Belt and ensure that the character and visual amenity of the rural locality is not significantly harmed.

- 6 Details of any external lighting within the areas indicated as tarmac finish, mobile home, shed and playhouse on Drawing No. 1786/18A Rev 04/11 shall be submitted to and approved in writing by the local planning authority prior to installation. The works shall be carried out in accordance with the approved details.

Reason: To protect the visual amenity of the locality.

- 7 Foul water shall be disposed of directly to the mains sewer, unless agreed in writing by the Local Planning Authority for any variation.

Reason: To prevent pollution of groundwater.

- 8 Within 2 months of the date of this decision, the following shall be submitted to the Local Planning Authority for approval:

(a) based on the findings of the desktop study from 2010 submitted under planning reference TM/10/02411/RD, proposals for a site investigation scheme of the residential part of the scheme that will provide information for an assessment of the risk to all receptors that may be affected including those off site. The site investigation scheme should also include details of any site clearance, ground investigations or site survey work that may be required to allow for intrusive investigations to be undertaken.

If, in seeking to comply with the terms of this condition, reliance is made on studies or assessments prepared as part of the substantive application for planning permission, these documents should be clearly identified and cross-referenced in the submission of the details pursuant to this condition.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 9 Within 2 months of the approval of the site investigation under condition 8 above, the following shall be submitted to the Local Planning Authority for approval:

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment for the private garden area associated with the static mobile home, of the degree and nature of any contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

(b) the relevant approved remediation scheme shall be carried out in accordance with the approved timetable of works. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 10 Within 2 weeks following completion of the approved remediation, a relevant verification report that scientifically and technically demonstrates the effectiveness and completion of the remediation scheme at above and below ground level shall be submitted for the information of the Local Planning Authority.

The report shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

- 11 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: In the interests of amenity and public safety and in accordance with the National Planning Policy Framework 2012 (paragraph 121).

Contact: Mark Fewster