

**Wouldham**  
Burham And Wouldham

**21 January 2019**

**TM/19/00135/FL**

Proposal: Proposed single dwelling with partial change of use to residential  
Location: Stables And Land East Of Pilgrims Way Wouldham Rochester Kent  
Go to: [Recommendation](#)

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**1. Description:**

- 1.1 This application seeks planning permission for the demolition of an existing building, partial change of use of land to residential and erection of a single detached dwellinghouse.
- 1.2 The dwelling is to measure 12.9m long by 7.8m wide at its furthest points. The dwelling is to be set over two levels with the lower level excavated into the ground. Excavation is also proposed to form a lower courtyard. The building is to measure a total of 6m in height which includes a 3.4m projection above ground level.
- 1.3 Access is to be gained to the site from the existing field access. A hard surfaced parking and turning area is proposed to the north and east of the dwelling. This will provide parking for at least 3 vehicles.

**2. Reason for reporting to Committee:**

- 2.1 Called in by Cllr Dalton and Cllr Davis due to potential impact on the AONB.

**3. The Site:**

- 3.1 The application site consists of a parcel of equestrian land located to the east of Pilgrims Way. The site is located outside of a designated settlement and therefore is within the countryside and is within an Area of Outstanding Natural Beauty.
- 3.2 Residential dwellings border the site to the north with agricultural land to the south and east. The site has a general downhill slope from east of west with a drop down to highway level to the western boundary. It currently contains a cluster of modest buildings to the centre of the site with stable buildings/shelters to the eastern boundary.

**4. Planning History (relevant):**

- 4.1 None relevant.

**5. Consultees:**

- 5.1 PC (13.02.19): Wouldham Parish Council oppose this planning application. The field is in an AONB. Within one mile of this site sits Peters Village with 1000

houses current being built. One of these phases has sold 3 out of its 84 units at present. We believe that TMBC have fulfilled their housing quota. Agreeing to this would set a precedent which we would like to see avoided for the future of this area and its AONB.

## 5.2 Private Reps: Site Notice/0X/1R/1S.

*Objections summarised as follows:*

- Allowing development on this land would be contrary to the intentions of designating as an AONB.
- Importance of maintaining AONB's and SSSI's and other natural areas must be recognised.
- Utilising a small timeframe before the next local plan is adopted does not, in my opinion, demonstrate that further houses are required.

*Support summarised as follows:*

- Development would not be seen from the road
- Already a building in the location where the property will be

## 6. Determining Issues:

*Principle of development:*

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF at paragraph 12 asserts that it *'does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'*.
- 6.2 The site lies outside of a defined settlement and therefore would be located within the countryside and subject to the requirements of Policy CP14 of the TMBCS. Policy CP14 requires that in the countryside development will be restricted to certain specified types, none of which allow for new dwellings to be constructed in place of equestrian buildings. This means that the development as proposed is contrary to this policy.
- 6.3 However, in the absence of a five year supply of housing, it is necessary to apply the presumption in favour of development as set out in paragraph 11 of the NPPF. Paragraph 11 (c) and (d) set out that for decision making

(c) approving development proposals that accord with an up-to-date development plan without delay; or

(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.4 Firstly this means giving consideration to whether policy CP14 is “out of date” for the purposes of decision making which requires an exercise in establishing conformity between the development plan policy and the policies contained within the Framework.

6.5 The policy within the Framework relating to development within the countryside is contained within Paragraph 78. This states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 79 is also relevant and sets out that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;

c) the development would re-use redundant or disused buildings and enhance its immediate setting;

d) the development would involve the subdivision of an existing residential dwelling; or

e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting,

- 6.6 As such, there is some inconsistency between the requirements of policy CP14 and those contained within the Framework. Specifically I note that the NPPF seeks only to restrict *isolated* new homes within the countryside whereas CP14 goes further than that to restrict *any* development save for specific types. Accordingly, policy CP14 must be afforded less weight in the balance.
- 6.7 The interpretation of isolated homes in the countryside has been clarified in the Court of Appeal judgment in *Braintree DC v SSCLG* [2018] EWCA Civ. 610. In this judgment, LJ Lindblom stated that when taken in its particular context within the policy “*the word ‘isolated’ in the phrase ‘isolated homes in the countryside’ simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling that is, or is not, “isolated” in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand*”. (para.31)
- 6.8 The site itself is some 700m east of the closest defined settlement of Wouldham and therefore would be physically separate from the village settlement itself. The site is however served by Pilgrims Way which is a principle traffic route to the wider settlements. As a result there are various examples of sporadic development along Pilgrims Way including a cluster of dwellings directly to the north of the site. The site is also a short distance from the public transport links which serve the local villages such as Burham and Wouldham. Whilst the site is not located within a settlement it does lie adjacent to other dwellings and has access to public transport. It is therefore not considered to be isolated for the purpose of applying paragraphs 78 and 79.
- 6.9 Returning to the application of the presumption in favour of sustainable development paragraph 11 (d) (i) first requires an assessment as to whether the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 6 of the NPPF explains the concept of “specific policies” in this respect including development relating to sites within the AONB. It is therefore first necessary to assess the impact of the development on the AONB.

*Area of Outstanding Natural Beauty:*

- 6.10 The purpose of the AONB is to conserve and enhance the area’s natural beauty. There is a duty on the LPA to have regard to this statutory purpose in carrying out their functions (section 85 of the Countryside and Rights of Way Act 2000). National policy confirms that this duty also applies to proposals for land outside the designated area but which nonetheless impacts upon it.
- 6.11 Policy CP7 relates to AONB: development should not be permitted if detrimental to the natural beauty and quiet enjoyment of the AONB, including their landscape, wildlife and geological interest. Any such development must have regard to local distinctiveness and landscape character, and use sympathetic materials and appropriate design. This policy is in conformity with the relevant restrictive policies

of the Framework, with paragraph 172 of the NPPF attaching great weight to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

- 6.12 At present the site remains open equestrian land with post and rail fences surrounding the wider site. A cluster of dilapidated buildings lie to the centre of the site which add little to the character of the area. There is a mature tree screen to the south which somewhat mitigates views from the wider area.
- 6.13 The dwelling is proposed to be partially sunken with a single storey projecting above ground level. The roof is proposed to be a green roof with vertical green wall wire terrace to the east elevation, all with a view to minimising its visual impact on the wider views. Whilst the change of use of the land and its associated domestic infrastructure would increase the built form on the land the secluded nature of the site and low scale form of development should be considered. It would also remove the existing buildings which could be said to be an improvement to the land. It is therefore officer view that the proposal would conserve the landscape and scenic beauty of the AONB as well as not being detrimental to its natural beauty and quiet enjoyment. The proposal would therefore accord with Paragraph 172 of the NPPF and Policy CP7 of the TMBCS.
- 6.14 As such, the restrictive policies in respect of AONB impact do not in this instance provide a clear reason for refusal (being the correct test set out in paragraph 11 (d) (i)). The presumption in favour of sustainable development therefore falls to be applied and it is necessary to make an assessment as to whether the development would result in any significant and demonstrable adverse impacts that would outweigh the benefits (paragraph 11 (d) (ii)). It is on this basis that the remainder of my assessment takes place.

Visual impact:

- 6.15 Policies CP24 of the TMBCS and SQ1 of the MDE DPD are the most relevant design policies and require development to be well designed and through its scale, density, layout, siting, character and appearance respect the site and its surroundings. Development should also protect, conserve and where possible enhance the character and local distinctiveness of the area, including its setting in relation to the pattern of the settlement, roads and surrounding landscape.
- 6.16 Paragraph 127 of the NPPF sets out that planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

6.17 Paragraph 130 is also relevant and sets out that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

6.18 The dwelling is to be set over two storeys, with the lower level excavated into the ground. It would therefore give a single storey appearance above ground level with a shallow pitch grass roof. The building is to be clad in cedar boarding with large aluminium windows and doors. Whilst modern in its design the dwelling would be of a good standard of design and would suitably reflect its rural setting. It would remove an unattractive cluster of building and would likely facilitate more regular maintenance of the land itself which would be of benefit to the character of the area. I would therefore consider the proposal would accord the above policies.

*Residential Amenity:*

6.19 The closest dwelling to the application site lies some 30m to the north. Given the modest height of the proposed dwelling, its lack of north facing windows and the partial tree screen to the north of the site the proposal is considered to have no significant impact on the residential amenity of the neighbouring properties.

*Highway Safety and Parking Provision:*

6.20 The relevant development plan policy in relation to highway safety and parking are contained within Policy SQ8 of the TMBC MDE DPD. This states that:

Before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development is in place or is certain to be provided.

Development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.

Development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted.

Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.

Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied.

6.21 Paragraph 108 of the NPPF is also relevant and sets out that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users; and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

6.22 Paragraph 109 is also relevant and sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

6.23 The relevant adopted parking standards are set out within Kent Design Guides Interim Guidance Note 3 on Residential Parking (IGN3). IGN3 sets out that a 2 bedroom dwelling such as that proposed within a rural setting should have a minimum of 1.5 parking spaces per unit. This is rounded up to 2 as a single unit is proposed.

6.24 The application proposes to use the existing access to the land from Pilgrims Way. A gravel access drive is to be installed to the south of the dwelling which in turn joins the existing access to the land. In re-using the existing access to the land the

proposal is not considered to result in a significant or severe impact on highway safety. It would also provide an adequate parking and turning area which will accommodate parking for at least 3 vehicles to comply with the requirements of IGN3. The proposal would therefore comply with Policy SQ8, Paragraph 108 and 109 of the NPPF and the minimum parking standards set out within IGN3.

Conclusions:

6.25 In light of the preceding assessment, the test to be applied in this case is whether the grant of planning permission for the proposed development would result in adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. The proposed development would provide an additional dwelling at a time when the Borough Council cannot demonstrate a five year housing supply. It would also remove the existing buildings from the site and result in increased management on the land. The proposal would therefore result in some clear benefits and, in the absence of any adverse impact, it means that planning permission should be granted.

6.26 The recommendation below reflects this:

**7. Recommendation:**

7.1 **Grant planning permission** in accordance with the following submitted details: Location Plan 04363 NB01 A received 21.01.2019, Block Plan 04363 NB02 C received 21.01.2019, Proposed Plans and Elevations 04363 NB03 C received 21.01.2019, Proposed Elevations 04363 NB04 B received 21.01.2019, Proposed Plans 04363 NB05 received 21.01.2019, Planning Statement 04363 - D A - V1 JAN 19 received 21.01.2019, subject to the following conditions:

**Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 All materials used externally shall accord with the approved plans

Reason: To ensure that the development does not harm the character and appearance of the existing building or visual amenity of the locality.

- 3 Prior to any groundworks a contoured site plan showing the ground levels and finished floor levels of the dwelling proposed to be constructed shall be submitted to and approved in writing by the Local Planning Authority

Reason: In the interests of visual amenity.



- 4 The areas shown for vehicular parking and turning shall be provide, surfaced and drained before the first occupation of the dwelling hereby permitted. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking or garaging of vehicles is likely to lead to hazardous on-street parking.

- 5 The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking and turning has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

- 6 Prior to the occupation of the building hereby approved, a scheme of landscaping and boundary treatment should be submitted to and approved by the Local Planning Authority. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: In the interests of visual amenity.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class A, B, D & E, of Part 1; of Schedule 2 of that Order.

Reason: To control the level of additional development on site in the interest of preserving the landscape and scenic beauty of the Area of Outstanding Natural Beauty.

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