

**East Peckham**  
Hadlow And East  
Peckham

**22 December 2022**

**TM/22/02850/FL**

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Proposal: Demolition of existing garage and agricultural barn and construction of one single storey dwellinghouse and associated landscaping

Location: Land South Of 111 Church Lane East Peckham Tonbridge Kent TN12 5JJ

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**1. Description:**

- 1.1 Planning permission is sought for the demolition of the two existing structures and erection of a detached dwelling and integral garage. The proposed dwelling has been designed in two sections with an entrance hallway linking the structures.

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

- 2.1 Called into Planning Committee by the Ward Member Councillor Sergison to allow the Committee to consider whether the application meets the tests of very special circumstances for development in the green belt.

**3. The Site:**

- 3.1 The site lies in the countryside, within the green belt. The site lies on the edge (within) a Flood Zone 2 and Area of Archaeological Potential. There are two existing buildings at the site, one of which benefits from prior approval for the conversion to residential under Class Q, Part 3.

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

TM/21/02321/PDVAR	Prior Approval Approved	12 October 2021
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Prior Notification: change of use of agricultural building to residential (Part 3 Class Q) and land within its curtilage together with building operations reasonably necessary to convert the building

**5. Consultees:**

- 5.1 PC: Awaited
- 5.2 EA: Refer to standing advice
- 5.3 EP: Recommend conditions relating to noise, foul water disposal and potential land contamination

5.4 Waste: Recommend informatives

5.5 Neighbours: Letter of objection raising the following points

- There has been no conversation regarding access to the amenities; water and sewage connection; along the privately owned access lane for this planning proposal. The same applied when change of use to the asbestos barn was granted for use as a residential dwelling. No conversation or permissions have been sort. This remains unresolved.
- The boundary to the South of the dwelling needs to be agreed according to Land Registry documents.
- The demolition of an existing building/buildings renders any previous permission null and void.
- The asbestos material of the main barn needs to be properly disposed of in an environmentally safe way with consideration of all neighbouring properties protected fully.
- Windows and doorway on the South elevation, at this stage, are approximately one metre from the boundary and all overlook private property.
- The proposed access to the property is through an existing and historic fence. The permissible access exists and should be the access used.

5.6 Site Notice: No response

## **6. Determining Issues:**

### *Principles of development*

- 6.1 The proposal relates to the provision of a dwellinghouse. TMBC cannot presently demonstrate a five year supply of housing and consequently, in accordance with paragraph 11 d) of the NPPF, much of the development plan is out of date for the purposes of determining applications for new housing development.
- 6.2 Paragraph 11 d) of the NPPF sets out that planning permission should be granted unless the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the proposed development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 6.3 Footnote 7 provides a list of those polices that relate to protected areas and assets of particular importance. These include the green belt and areas at risk from flooding. The application site lies within the green belt and Flood Zone 2. It must therefore firstly be established whether the proposal is acceptable in terms of

green belt policy and flood risk, in order to determine whether the presumption in favour of sustainable development applies.

*Green belt planning policy*

- 6.4 The site lies within the green belt. Paragraphs 147 – 150 of the NPPF relate specifically to proposals that affect the green belt. There is a presumption against development in the green belt. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. This is supplemented by paragraph 148 which states that substantial weight should be given to any harm to the green belt, and that very special circumstances will not exist unless potential harm to the green belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 6.5 Paragraph 149 of the NPPF requires the Council to regard the construction of new buildings in the green belt as inappropriate development. However, this paragraph and paragraph 150 lists a number of exceptions. The agent acknowledges that the proposal does not fall within one of these exceptions and therefore seeks to demonstrate that very special circumstances exist to outweigh the potential harm to the green belt.

*Very special circumstances*

- 6.6 The agent opines that as the proposal would result in the demolition of a barn which has prior approval for conversion to a residential dwelling, and the removal of the outbuildings which would consolidate development at the site with only a 30% increase in volume, only limited very special circumstances are required to outweigh this limited harm.
- 6.7 The Mansell v TMBC judgement concludes that it is possible for an LPA to consider a position under permitted development rights, in this case Class Q, as a material consideration in assessing planning applications. However, regardless of whether this potential 'fall back' position is applicable the proposal would still result in harm to the openness of the green belt in terms of size and scale and I do not therefore agree that this constitutes very special circumstances.
- 6.8 In addition, Class Q was granted on the basis that the building was worthy of conversion and a structural report was submitted to demonstrate this. However, the agent states that a new build is now sought which is largely down to the ease of construction and the flexibility to choose materials that would be more energy efficient than would normally be available for conversion. This is noted however, this is not considered to contribute to the very special circumstances that would be needed to outweigh the harm to the green belt caused by the proposed replacement dwelling.

- 6.9 It is therefore concluded that there are no very special circumstances which would outweigh the identified definitional and physical harm to the openness of the green belt.

*Flooding issues*

- 6.10 The site lies in Flood Zone 2. Paragraph 167 of the NPPF requires local planning authorities to ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- 6.11 The submitted Flood Risk Assessment concludes that although the site lies within Flood Zone 2 it is wholly unaffected by the 1:100-year +35% climate change flood extent (defended). However, the FRA recommends the proposed dwelling should incorporate flood resilience measures, where possible, sign up to the EA Flood warning system. The existing drainage system, attenuation tank linked to the roof, and lined permeable paving on additional hardstanding areas should be utilised to better manage surface water runoff on site. I have no reason to doubt these conclusions.
- 6.12 Therefore, whilst the application may be otherwise acceptable in terms of flood risk the absence of very special circumstances to override harm to the green belt means that the presumption in favour of sustainable development fails to be applied. It is now necessary to consider the proposal with regard to local planning policy and the Framework as a whole.

*Local planning policy*

- 6.13 The site lies within the countryside. Policy CP14 of the TMBCS seeks to restrict development in such areas. Whilst a number of exceptions are listed the proposal does not fall within any in this local plan policy. I appreciate that this policy now carries reduced weight as it no longer conforms, in its entirety, with the NPPF. Notwithstanding the proposal remains contrary to this policy.
- 6.14 Policy DC2 section 1.a) of the MDE DPD allows for the replacement of buildings in the countryside providing (inter alia) that 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 to the character of the area in which it is located. As noted above the proposed replacement building would be materially larger.
- 6.15 In addition, Policy DC2 2. relates to the replacement of non-residential buildings with residential building in the countryside. The policy notes that any such proposal will still be subject to policy CP14 and green belt policy. Again, as noted above the proposal fails to meet green belt policy and is therefore contradictory to this local plan policy.

*Other material planning considerations*

- 6.16 The existing access and levels of on-site parking provision would be acceptable.
- 6.17 A Preliminary Ecological and Roost Assessment has been submitted. This did not reveal any protected species at the site but nevertheless recommends habitat enhancements are incorporated.
- 6.18 In terms of nearby residential or general amenity I am aware of the concerns of a local resident. However, the single storey nature of the proposal and the rural setting of the site will ensure no unacceptable impact would result.
- 6.19 The design of the proposed replacement dwelling appears somewhat contemporary but would not warrant a refusal on this issue alone. However, as identified above the proposed replacement dwelling, owing to its scale and overall volume constitutes inappropriate development in the green belt.
- 6.20 With regard to the other concerns raised by the local resident, issues relating to land ownership, service provision (other than surface and foul water disposal) and the potential existence of asbestos are beyond the direct control of the planning system.

*Conclusions*

- 6.21 The proposed replacement dwelling, being greater in volume than the buildings it seeks to replace represents inappropriate development in the green belt. The proposal would have a detrimental impact on the openness of the green belt and therefore constitutes inappropriate development. There are no very special circumstances which would overcome this definitional, spatial, and visual harm. In addition, the proposal is contrary to countryside policy and local policy relating specifically to the replacement of rural buildings. Consequently, there are clear reasons for refusing the proposed development and therefore the presumption in favour of sustainable development does not apply.

**7. Recommendation:**

**7.1 Refusal** on the following basis

- 1 The site lies within the Metropolitan Green Belt where there is a strong presumption against inappropriate development, as defined in Section 13 of the National Planning Policy Framework (2021). The development constitutes inappropriate development within the Green Belt which is substantially harmful by definition. Furthermore, the development would cause material harm to openness by virtue of the amount of built form and visual harm to the countryside. No very special circumstances are considered to exist that clearly outweigh the degree of harm to the Metropolitan Green Belt. As such, the development is contrary to Policy CP3 and CP14 of the Tonbridge and Malling Borough Core Strategy 2007, Policy DC2 of the Managing Development and the Environment Development Plan

Document 2010 and paragraphs 147 to 149 of the National Planning Policy Framework 2021

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