

<b>REFERENCE NO:</b> 20/505422/FULL		
<b>APPLICATION:</b> Change of use of existing building to holiday let with erection of detached garage (part retrospective).		
<b>ADDRESS:</b> Masons Barn Queen Street Paddock Wood Tonbridge Kent TN12 6PH		
<b>RECOMMENDATION:</b> GRANT PLANNING PERMISSION subject to planning conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION:</b> The main building is lawful in planning terms and Local Plan policy DM31 seeks to support the commercial reuse of existing buildings in the countryside subject to certain criteria. The submission is considered to meet the criteria of this policy; it is not considered to cause unacceptable harm to the countryside; and it is acceptable in flood risk, highway safety and residential amenity terms. With everything considered, the development is therefore acceptable with regard to the relevant provisions of the Development Plan, the NPPF and all other material considerations such as are relevant.		
<b>REASON FOR REFERRAL TO COMMITTEE:</b> Yalding Parish Council has requested the application is considered by the Planning Committee if officers are minded to approve planning permission. This request is made for the reasons outlined in the consultation section below.		
<b>WARD:</b> Marden & Yalding	<b>PARISH COUNCIL:</b> Yalding	<b>APPLICANT:</b> Ridgewell <b>AGENT:</b> DHA Planning
<b>TARGET DECISION DATE:</b> 01/03/21		<b>PUBLICITY EXPIRY DATE:</b> 11/01/21

### RELEVANT PLANNING HISTORY

- 20/501954 – Existing LDC for erection of timber framed building – Approved:
 

*It has been demonstrated, on balance of probability, building has been on site for a continuous period in excess of 4yrs looking back from the date when the application was validated.*
- 19/505639 – Retention of existing building and use of this building as dwelling and retention of existing garage- Refused:
  - *Development would represent a new dwelling far removed from local services and facilities resulting in future occupants being reliant on the private motor vehicle to travel for access to day to day needs. This reliance on private motor vehicle would be contrary to the aims of sustainable development as set out in LP policies SS1, SP17 and NPPF (2019).*
  - *Development, by virtue of associated domestic paraphernalia associated to residential use of building would consolidate sporadic and urbanising development in rural landscape, causing unacceptable harm to character and appearance of countryside hereabouts. Development would neither maintain nor enhance local distinctiveness of countryside hereabouts, contrary to LP policies SS1, SP17, DM1 and DM30 and NPPF (2019).*
  - *Development would represent an isolated dwelling in countryside for which there is no overriding justification or need and this is contrary to NPPF (2019).*
  - *Taking into account development site falls in Flood Zone 3, as shown on EA's designation maps; in applying the NPPF's guidance on avoiding inappropriate development in areas at risk of flooding by directing development away from areas at highest risk; and in applying the Sequential Test to the extent of the surrounding area, where the EA maps clearly show Flood Zone 3 extending across a considerable area, it cannot be said that there are no other sites in the locality that are at less risk of flooding than the application site. Development therefore fails to pass Sequential Test and is contrary to LP policy DM1 and NPPF (2019) and its Guidance.*
  - *Application fails to demonstrate that every reasonable attempt has been made to secure suitable business re-use for building and this is contrary to Policy DM31 of Local Plan.*
- 19/502112 - CLD to establish occupation of existing building as dwelling – Refused
- MA/11/0952 - Stationing of mobile for gypsy family – Refused (allowed at appeal)
- MA/03/1109 - Outline for dwelling to replace demolished mission room – Refused
- MA/01/1805 - Prior approval for erection of barn for agricultural storage – Approved

- MA/01/0402 - Prior approval for erection of agricultural storage building – Refused
- MA/00/0877 - Prior approval for erection of agricultural storage building – Refused
- MA/89/1495 - Stationing of a caravan on land – Refused
- MA/80/1977 - Twin unit mobile home (or outline for bungalow) – Refused

## **MAIN REPORT**

### **1.0 SITE DESCRIPTION**

1.01 The application site is located on the eastern side of Queen Street, some 100m to the south of Lucks Lane. The site is on the very edge of Maidstone borough, and is within the countryside for the purposes of the Maidstone Local Plan. Currently on the site is a timber framed building that was the subject of 20/501954 (see above); and a detached garage that is unlawful and the subject of this application. The Environment Agency has previously confirmed that the application site is within Flood Zone 3(a) and not functional floodplain.

### **2.0 PROPOSAL**

2.01 The development is for the change of use of the existing building to a (4-bed) holiday let, and for the detached garage already on the site which is currently unlawful in planning terms.

### **3.0 POLICY & OTHER CONSIDERATIONS**

- Maidstone Local Plan (2017): SS1, SP17, SP21, DM1, DM8, DM23, DM30, DM31
- Landscape Character Assessment (2013) & Supplement (2012)
- Landscape Capacity Study: Sensitivity Assessment (2015)
- National Planning Policy Framework (2019)
- National Planning Practice Guidance

### **4.0 CONSULTATION RESPONSES**

4.01 **Yalding Parish Council:** Wish to see application refused and for it to be reported to Planning Committee if minded to recommend approval. Their comments are summarised as follows:

- *Property illegally occupied as dwelling and it is questioned how use would be enforced.*
- *Development is in floodplain and proposal would require seasonal occupancy as any potential holidaymakers could not be guaranteed safe access and egress at times of flooding.*
- *Increasing number of buildings in flood plain should not be permitted.*

4.02 **Environment Agency:** Considers permission could be granted in flood risk terms.

4.03 **Environmental Protection Team:** Raise no objection in terms of: Noise; amenity; air quality; contamination; asbestos; radon; lighting; odour; accumulations; sewage; and private water supplies.

4.04 **MBC Culture & Tourism:** No representations received.

4.05 **Tunbridge Wells Borough Council:** No representations received.

4.06 **Kent Police:** Has no comments to make.

4.07 **Neighbour responses:** One representation received considers submission to be well designed and sympathetic to surrounding; and its use to be appropriate.

## 6.0 APPRAISAL

### Main issues

- 6.01 The application is subject to the normal constraints of development in the designated countryside under the adopted Local Plan. Local Plan policies state (inter alia) that new development in the countryside will not be permitted unless it accords with other policies in the Plan; would not result in harm to the character and appearance of the area; and would not have an adverse impact upon living conditions of any neighbouring property. Furthermore, Local Plan policy DM1 seeks to avoid inappropriate new development within areas at risk from flooding, or provide suitable mitigation (integral to the design of buildings); and the NPPF also states that (para 155): Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).
- 6.02 Local Plan policy SS1 states small scale employment opportunities will be permitted at appropriate locations to support the rural economy in order to support the rural economy. Local Plan policy SP21 also states the council is committed to supporting and improving the economy of the borough and providing for the needs of businesses; and that this would be achieved through the allocation of specific sites and through (inter alia): *Prioritising the commercial re-use of existing rural buildings in the countryside over conversion to residential use, in accordance with policy DM31.* Against the general themes of countryside restraint policies, Local Plan policy DM31 allows for the commercial conversion/re-use of rural buildings provided certain criteria are met.
- 6.03 It is also not unusual to find tourist accommodation in rural areas, and whilst visitors will be reliant on the private motor vehicle, the benefits to the rural economy weighs in favour of such development. It should be added here that Local Plan policy does not require an applicant to submit a business/marketing plan and/or a viability assessment to justify the need for new tourist accommodation.

### Visual impact

- 6.04 The application site is on the eastern side of Queen Street, which is largely characterised by undeveloped flat fields within the vicinity of the site; and whilst the western side of the road is more built-up, it still retains a rural feel. There are also a number of mobile homes in the local vicinity, but this is not typical of the general surroundings.
- 6.05 The main building is of permanent, substantial and sound construction, and it is capable of conversion without major or complete reconstruction, and no external alterations are proposed. Furthermore, the building is in situ and lawful in planning terms, and so its visual impact must be accepted. Turning to the detached garage, this is located to the front of the site with public views largely limited to its roof top, given the mature hedgerow and wall along the roadside boundary. The garage is also relatively low key, standing less than 3.5m in height; and it is of a simple design, built in traditional materials.
- 6.06 Unlike new dwellinghouses in the countryside, there is general Local Plan policy support for tourism in such locations, and whilst the development would in some ways have an urbanising impact on the site, the proposed use would bring other benefits to the rural economy; and such uses tend to be of a more functional nature, typically having less associated paraphernalia and therefore having a lesser impact upon the countryside and rural character. Furthermore, the erection of any new building in the future would require planning permission and so its potential impact would be considered on its own merits at the time; a landscaping condition will be imposed to secure existing and additional (appropriate) planting to further help

soften and integrate the development into the landscape; and permitted development rights will be removed to restrict the erection of more hard boundary treatments, in the interests of visual amenity. With everything taken into account, it is therefore considered that the development would not have an adverse impact upon the character and appearance of the area hereabouts.

Flood risk implications

- 6.07 The application site is within Flood Zone 3, and the proposed use is considered to be 'more vulnerable'. As such, in accordance with the NPPF's Guidance, a flood risk assessment (FRA) is required. The NPPF states (para. 155 & 163):

*Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, development should be made safe for its lifetime without increasing flood risk elsewhere.*

*When determining planning applications, LPAs should ensure flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific FRA. Development should only be allowed in areas at risk of flooding where, in light of this assessment it can be demonstrated that:*

- a) within site, most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) development is appropriately flood resistant and resilient;*
- c) incorporates SUDS, unless clear evidence this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access/escape routes included, as appropriate, as part of emergency plan.*

- 6.08 The Environment Agency has raised no objection and has commented as follows:

*Based on the submitted information we consider that planning permission could be granted for the development. The site is located within Flood Zone 3, however site levels provided show the majority of the site to be above the 1-100year flood level. The FRA uses model flood data from the Paddock Wood modelling. Flood levels are also available from the Medway Model. This gives slightly higher flood levels, however we are satisfied finished floor levels at site have been raised high enough to mitigate flood risk.*

- 6.09 The building is existing and lawful in planning terms; whilst in Flood Zone 3, the majority of the site is above the 1-100year flood level; the finished floor level mitigates the flood risk and a condition can be imposed to secure this; and the Environment Agency has raised no objection.
- 6.10 In terms of safe access and egress to and from the site during a flood event, which is not within the Environment Agency's remit, the potential rescue implications should also be considered. The immediate road network is within Flood Zones 2/3, with Queen Street falling within Flood Zone 1 some 600m to the south of the site. This is a balanced issue, but in this instance it is considered that if the operator of the holiday let signed up to the Environment Agency's Flood Warning service, they would be able to notify future occupants at the earliest opportunity, so that they would have time to evacuate the site if necessary prior to any flood event, keeping them safe and avoiding the need of emergency egress and access. This action will be secured by way of an appropriate condition. It should also be noted again that the building is in situ and lawful; and the finished floor level is acceptable, so future occupants could also potentially safely 'sit-out' any flood.
- 6.11 The application is for the change of use of an existing building and as such, in accordance with paragraph 164 and footnote 51 of the NPPF, the submission is not subject to the sequential or exception tests. With everything considered, it is accepted that the development would be safe for its lifetime and it would not unacceptably increase flood risk elsewhere, and so no objection is raised in terms of flood risk.

Residential amenity

- 6.12 When considering the siting of the development; its separation distance from any residential unit; and its scale and intended use, it would not have an unacceptable impact upon the living conditions of any local resident when trying to enjoy their own property. Furthermore, the amenity of future users would not be harmed by the proximity of farm uses or buildings.

Highway safety

- 6.13 The development would make use of an existing and suitable vehicle access; there is sufficient room within the site for vehicle parking/turning associated to the proposed use, mostly screened from the road by the existing boundary treatment; and the traffic generated by one holiday let would not result in the unacceptable erosion of roadside verges. It is therefore considered that the proposed use of the site would not raise a highway safety objection.

Other considerations

- 6.14 In order to ensure proper control of the use of the holiday let and to prevent the establishment of permanent residency, a holiday occupancy condition will be imposed, preventing the use of the building as a sole or main residence.
- 6.15 It is accepted that there is unlikely to be any protected species on the site and there are no arboricultural issues in this instance, and as such no further details are required in these respects, prior to the determination of this application. Notwithstanding this, one of the principles of the NPPF is that "*...opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity*". A suitable condition will therefore be imposed requesting details of biodiversity enhancement on the site.
- 6.16 The Environmental Protection Team has raised no objection to the application on environmental health matters, and they are satisfied that no further details are required in terms of air quality; noise; and land contamination. The site disposes of surface water via an existing water course and foul sewage disposal is via mains sewer, and no further details are required on these matters. The Environmental Protection Team has recommended a condition relating to hours of construction work, but given the expected level of construction works required (given the buildings are already in situ), this is not considered necessary or reasonable to impose.
- 6.17 In accordance with Local Plan policy, and in the interests of sustainability, a suitable condition will be imposed to secure the development provides a minimum of one electric vehicle charging point for low-emission plug-in vehicles. Given the scale and nature of the development, no further details are required in terms of refuse storage/collection.
- 6.18 Whilst the site once benefited from permission for the stationing of a mobile home for a Gypsy family, the site was never lived on in accordance with this permission and the permission has expired. The development now under consideration does not therefore result in the loss of an existing residential pitch for a Gypsy or Traveller family.
- 6.19 In accordance with national planning policy, the issue of intentional unauthorised development has been a material consideration in the determination of this part retrospective application and this does weigh against the development.

- 6.20 The representations received by Yalding Parish Council and one other person has been considered in the assessment of this application. Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application would not undermine the objectives of the Duty.
- 6.21 The development is CIL liable. The Council adopted a Community Infrastructure Levy in October 2017 and began charging on all CIL liable applications approved on and from 1<sup>st</sup> October 2018. The actual amount of CIL can only be confirmed once all the relevant forms have been submitted and relevant details have been assessed and approved. Any relief claimed will be assessed at the time if planning permission is granted or shortly after.

## **7.0 CONCLUSION**

- 7.1 For the reasons set out above, the submission is considered to be acceptable with regard to the relevant policies of the Development Plan, the NPPF and all other material considerations such as are relevant. A recommendation of approval of this application is therefore made on this basis.

## **8.0 RECOMMENDATION - GRANT** planning permission subject to following conditions:

1. The use of the site as a holiday let shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Prior to the first occupation of the holiday let, details of a landscaping scheme, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long-term management, shall be submitted to and approved in writing by the Local Planning Authority. The site falls within Landscape Area 44 (Staplehurst Low Weald), and the landscaping scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment (2012) and shall include:

- a) Location, species and size of all new planting;
- b) Retention of existing hedgerow along western (front) boundary of the site;

The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details;

Reason: To safeguard the character and appearance of the countryside.

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the holiday let. Any seeding or turfing which fails to establish or any trees or plants which, within ten years from the first occupation of the holiday let, die or become so seriously damaged or diseased that their long-term amenity value has been adversely affected, shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme;

Reason: To safeguard the character and appearance of the countryside.

4. Prior to the first occupation of the holiday let, a scheme for the enhancement of biodiversity on the site shall be submitted to and approved in writing by the local planning authority. Prior to the first occupation of the holiday let, the approved details shall be implemented and all features shall be maintained a such thereafter.

Reason: In the interests of ecological enhancements.

5. Prior to the first occupation of the holiday let, details of an external lighting scheme (temporary and/or permanent), shall be submitted to and approved in writing by the local planning authority. This scheme shall include measures to shield and direct light from light sources so as to prevent light pollution; show where external lighting will be installed; and details of illuminance. Prior to the first occupation of the holiday let, the approved details shall be implemented and all features shall be maintained a such thereafter.

Reason: In the interest of residential and visual amenity.

6. The finished floor level of the building shall be a minimum of 14.99m AOD and maintained as such thereafter.

Reason: In order to reduce the risk to occupants from flooding.

7. Prior to the first occupation of the holiday let, the operators of the site shall sign up to the Environment Agency's Flood Warning Service, and shall remain registered thereafter. Evidence of this registration shall be made available at all reasonable times upon request to the local planning authority.

Reason: To protect future occupants at times of flood risk.

8. Prior to the first occupation of the holiday let hereby permitted, a minimum of one operational electric vehicle charging point for low-emission plug-in vehicles shall be installed on the site. The charging point shall be thereafter retained and maintained as such for that purpose.

Reason: To promote reduction of CO<sub>2</sub> emissions through use of low emissions vehicles.

9. The vehicle parking spaces as shown on the approved plans shall be permanently retained for parking and shall not be used for any other purpose;

Reason: In the interest of highways safety and parking provision.

10. The development hereby permitted shall be occupied for bona fide holiday purposes only and no such accommodation shall be occupied as a person's sole or main place of residence. The operators of the site shall maintain an up-to-date register of the names, main home addresses and the duration of stay of all future occupants, and this information shall be made available at all reasonable times upon request to the local planning authority. Relevant contact details (name, position, telephone number, email address and postal address) of the operators of the site, who will keep the register and make it available for inspection, shall also be submitted to the local planning authority (planningenforcement@maidstone.gov.uk) prior to the first occupation of the building with the relevant contact details subsequently kept up to date at all times;

Reason: In order to ensure proper control of the use of the holiday let and to prevent the establishment of permanent residency.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and reenacting that Order with or without modification), no fencing, walling and other boundary treatments shall be erected within or around the site.

Reason: To safeguard the character and appearance of the countryside.

12. The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan (1:1250); ground floor plan; and drawing ref DR/002.

Reason: For the avoidance of doubt.

Case Officer: Kathryn Altieri