

APPLICATION: MA/10/0839 Date: 12 May 2010 Received: 3 September 2010

APPLICANT: Mr I Fern

LOCATION: TUTSHAM HALL, TUTSHAM FARM, WEST FARLEIGH, MAIDSTONE,
KENT, ME15 0NE

PARISH: West Farleigh

PROPOSAL: Conversion of oast house to 5No. live-work units, and external alterations, associated garaging, parking and landscaping as shown on drawing nos. 2000/P/101A, 2000/P/101B, 2000/P/103, 2000/P/104, 2000/P/105, 2000/P/106, 2000/P/107A, 2000/P/108A, 2000/P/109B, *2000/P/110B, 2000/P/111B, 2000/P/112B, DHA/7347/01 RevA and Bat Survey received on 3rd September 2010.

AGENDA DATE: 16th December 2010

CASE OFFICER: Richard Timms

The recommendation for this application is being reported to Committee for decision because:

- It is contrary to the views expressed by West Farleigh Parish Council

1. **POLICIES**

Maidstone Borough-Wide Local Plan 2000: ENV28, ENV35, ENV44, ENV45, T13

The South East Plan 2009: CC1, CC6, RE3, C4, BE6

Government Policy: PPS1, PPS3, PPS4, PPS5, PPS7, PPS9, PPG13, PPS23

2. **HISTORY**

MA/09/0603 **Demolition of American oast**, reconstruction/restoration of traditional oast house and change of use to holiday let accommodation. Conversion of general purpose building to stable complex, conversion of small barn to office/store and construction of ménage – REFUSED

MA/07/1439 **Conversion of American oasthouse to form one dwelling**, conversion/restoration of twin oasthouse to form annexe accommodation and garaging and conversion of small barn to pool house – REFUSED (APPEAL DISMISSED)

- MA/06/0107 Conversion/extension of existing barn and erection of new buildings to form 3 residential units (**involving demolition of American oast**) – REFUSED (APPEAL DISMISSED)
- MA/05/0892 Change of use of buildings from agriculture to Class B1 / B8 use and associated works including formation of new vehicular access off Hunt Street (**change of use of American oast to B1 offices**) – REFUSED
- MA/03/0736 Conversion of twin-kiln oasthouse with restoration of stowage barn to 1No. dwelling and **conversion of American oasthouse to 4 dwellings** – REFUSED

3. EXTERNAL CONSULTATIONS

- 3.1 **West Farleigh Parish Council:** Wish to see the application APPROVED and request that the application is reported to Planning Committee with the conditions of the Section 106 offered by the applicant adopted as a condition of the application regarding access going through Hunt Street.
- 3.2 **Kent Highways:** No objections
- 3.3 **Kent Wildlife Trust:** No objections

"The contemporary survey, analysis and mitigation proposals are satisfactory. In these circumstances, I'm happy to withdraw the Trust's objection, subject to the Council imposing a planning condition(s)/agreement to secure implementation of the mitigation measures."

4. INTERNAL CONSULTATIONS

- 4.1 **MBC Environmental Health Manager:** No objections subject to clarification on drainage, a contaminated land condition, restriction of working hours and informatives relating to construction hours.
- 4.2 **MBC Conservation Officer:** Recommend the application is REFUSED.

"We object to the proposed scheme on the grounds that the building is not of sufficient architectural or historic merit to retain for residential purposes. We therefore would not urge the retention of the building for live-work units due to their predominantly residential use. Therefore, we object to this proposal."

Furthermore, the proposed design fails to preserve the existing character of the building particularly with respect to existing openings. The proposal adds an excessive amount of openings in addition to failing to utilise the existing pattern and design of openings. The extensive amount of glazing proposed for the west elevation is not only out of keeping with a former agricultural building of this character, it also requires the removal of louvered sections which define the character of this elevation."

5. REPRESENTATIONS

5.1 Five neighbour representations have been received raising the following points:

- Potential for increased traffic along Mill Lane, a private road with poor visibility onto Teston Lane.
- Increased traffic on Mill Lane will be dangerous due to its narrowness, tight bends and public footpath.
- Only authorised vehicles should use Mill Lane.
- Construction traffic has used Mill Lane in the past.
- Legal agreement is required to prevent use of the private road.
- Traffic must use Hunt Street.
- Submitted Transport Statement is inaccurate and misleading on the potential impact and density of traffic movements that will be generated.
- Traffic movements based on redundant farm usage are misleading and the figure should be based upon the existing residential occupation.
- Vehicle movements will be doubled at the site.
- No assessment of Mill Lane in statement.

5.2 **Mill Cottage Residents Association:** Objections to the potential use of Mill Lane by unauthorised vehicles and due to safety.

6. CONSIDERATIONS

6.1 Introduction

6.1.1 This is an application for the conversion of an 'American oast' building to 5 live/work units with new garages at Tutsham Hall, Hunt Street, West Farleigh.

6.2 Site Location & Description

6.2.1 The site is located within open countryside for Development Plan purposes falling within the Medway Valley Area of Local Landscape Importance under policy ENV35 of the Local Plan. It comprises a collection of buildings known as Tutsham Hall which are around 0.75km south of Teston village. The site is located upon

the southerly upward slope from the River Medway, which is around 240m to the north. The group of buildings are located some 300m north of Hunt Street accessed via a private driveway to the site over which public footpath KM27 runs. It is noted that there is also a private road (Mill Lane) to the north of the site which is gated near Mill Cottages.

- 6.2.2 The application relates specifically to an 'American oast' building built in 1935, which lies centrally within a group of farm buildings and on the east side of the complex. In previous appeals the building has been described as a 'barn oasthouse' having internal kilns, which would accommodate all stages of the hop-drying process as opposed to the traditional external kilns on Kentish oasts. It is a large industrial-scale building of no architectural merit and is not considered a heritage asset. It is a 2¹/₂ storey building with a single storey extension on the east side, brick built with a corrugated sheet roof. The building is surrounded by hard standing and there are agricultural buildings to the south, east and west with a residential oast house immediately to the north. Further west is Tutsham Hall a Grade II listed building as well as other residential buildings.
- 6.2.3 Public footpath KM16 is just 35m south of the site and runs from east to west and then northwards along the west boundary of the site. Footpath KM22 heads north eastwards from the site along Mill Lane. Both paths offer good views of the site.

6.3 Proposed Development

- 6.3.1 This is a full application and for the conversion of the building to 5 live/work units, which would comprise a mixed use of accommodation and work space within each unit. The nature of the work areas being linked with the residential element would mean that business uses would be non-industrial and non-disturbing such as offices or light industry (B1 uses). The work spaces make up between 27% and 38.5% of the total floorspace for each unit, with a communal atrium to provide a meeting area, meaning the overall percentage of workspace is 39%.
- 6.3.2 On the ground floor the 5 units would have their workspaces and the communal atrium. The first and second floors would provide residential accommodation with 2 three bed units and 3 two bed units.
- 6.3.3 External changes to the building would comprise a number of new and replacement windows on the south elevation and glazing set behind timber louvers. On the north and east elevations would be new and replacement windows and rooflights. On the west elevation would be a central glazed section that would be to the full ridge height of the building. There would also be additional glazing, rooflights and timber louvers. The roof would be replaced with

natural slate and there is a projecting ridge vent on the building that would be part glazed and part louvered. Metal windows would be replaced with timber.

- 6.3.4 A walkway and decking area is proposed around parts of the south, east and north sides of the building enclosed by a glass balustrade. The main decking area would be in the southeast corner.
- 6.3.5 A single storey range of 5 garages is proposed to the south of the building. This would comprise a pitched roof building with fully hipped sides (17.3m x 6.3m, 2m to eaves, 3.6m to ridge). It would be red brick with a slate roof with white/cream timber doors. In addition to the garages a parking spaces would be provided in front with a total of 10 spaces (2 per unit). Visitor parking (5 spaces) are shown southwest of the building on an existing hard surfaced area.
- 6.3.6 A communal garden would be provided to the west of the building where outdoor bin storage would also be provided. To provide this area a single storey open sided building would be removed here. New landscaping is proposed to the south and west of the site.

6.4 Planning History

- 6.4.1 There have been 5 separate applications relating to the American oast since 2003 including proposals to convert it to housing and offices and also for replacement buildings for these uses and holiday lets. All applications have been refused by the Council and two have subsequently been dismissed at Appeal. These were application MA/07/1439 (for conversion of the oast to a dwelling) and MA/06/0107 (for demolition of the oast and replacement with housing).
- 6.4.2 The previous decisions will be considered in detail below but to summarise, the Council and Inspectors do not consider the building worthy of retention for residential use, and both consider the site is at an unsustainable location with poor public transport accessibility.

6.5 Assessment and Policy Background

- 6.5.1 Live/work units are a form of accommodation providing combined living and working space that is normally a product of conversion of existing buildings. There are no policies specifically relating to live/work units within the Maidstone Borough-Wide Local Plan 2000. However, there are two separate policies relating to the conversion of rural buildings to commercial uses and residential use (policies ENV44 and ENV45). Since the proposals include an element of both employment and residential, I consider that it is appropriate to assess this proposal against those policies.

6.5.2 The South East Plan which has been reinstated as part of the Development Plan includes mainly strategic policies. Policy RE3 states that,

"Local Development Documents should address the particular economic needs of rural communities and be supportive of agricultural, horticultural and forestry industries, and rural economic diversification and non-land based business proposals in towns and villages or on farm sites where applications show positive benefits, based on clearly defined criteria and evidence-based assessments."

The accompanying text states,

"Economic diversity should also be supported through the promotion of small and medium enterprises and businesses in rural areas."

6.5.3 National Policy is contained within PPS1: *Delivering Sustainable Development* (2005), PPS3: *Housing* (2010), PPS4: *Planning for Sustainable Economic Growth* (2009), PPS7: *Sustainable Development in Rural Areas* (2004) and PPG13: *Transport* (2001).

6.5.4 Most recent and relevant guidance relating to economic development is contained within PPS4. This seeks to promote sustainable economic growth whilst delivering sustainable patterns of development and protecting the open countryside. Under section EC2, which relates to the preparation of Development Plans, it states that Local Planning Authorities (LPA's) should ensure their development plan facilitates new working practices such as live/work. PPS4 promotes the re-use of rural buildings for economic development in preference to residential development and acknowledges that some locations which are poorly served by public transport may be acceptable. However, it strongly emphasises that development should be sustainable and that the benefits of the development should outweigh any harm arising from other considerations.

6.5.5 In summary, there are relevant Local Plan policies for this development although they do not specifically address live/work units. There is national reference to the principle of live/work units in PPS4, although no detail on what form they should take or importantly, where they should be located. National policies in PPS4 encourage a positive approach towards economic development but require an assessment of sustainability, visual impact on the environment, economic and other general considerations. There are also long established policy principles of protecting countryside character and appearance.

6.5.6 As such I consider the main issues to be –

- Principle & Sustainability of the Development
- Compliance with the Local Plan & Visual Impact
- Residential Amenity

- Highway Safety
- Whether the Proposals Represent Genuine Live/Work Units
- Ecology

6.6 Principle & Sustainability of the Development

6.6.1 I note that previous decisions of the Council have been that the site is unsustainable as it does not offer a choice of means of transport and is therefore likely to be accessed by private vehicles. This was considered the case under application MA/05/0892 for B1/B8 uses of the site, MA/06/0107 for residential development and MA/09/0603 for holiday lets.

6.6.2 The Inspector for the appeal into MA/06/0107 concluded that many trips undertaken by occupiers of the site would be by car due to poor accessibility to shops, employment and services. The Inspector for the MA/07/1439 appeal considers the location has poor public transport accessibility and occupiers of the development would be likely to be highly reliant on the private car for their transport needs. The Inspector concludes that,

"the remoteness of the site from public transport, shops, services and other facilities, and the negative contribution the building makes to the appearance of the countryside, would outweigh and advantage from retention and reuse of the building. The conversion would not, therefore, on balance, meet sustainable development objectives or accord with the advice in PPS7."

6.6.3 It is clear that the Council and two Planning Inspectors consider the site is unsustainable and use of the site would result in a reliance on private vehicles, which are clearly strong material considerations.

6.6.4 However, live/work units do reduce the need to travel to work and offer some sustainability credentials in this respect. Notwithstanding this, I still consider that the movements associated with resident's trips to shops, schools, health requirements, facilities etc. and the movements associated with the business uses; deliveries, visitors etc. would result in a substantial number of movements and I note that the applicants transport assessment forecasts this to be 31 per week day. On this basis, I consider the site is not appropriately located for the development and the proposals would result in an unsustainable form of development.

6.6.5 I note a transport statement has been provided which refers to an hourly bus service on Smiths Hill, however it is 850m on foot to this road, along an unlit country lane with no pavements. It also outlines that the country lane and public footpath network is suitable for walking and cycling. However, I consider it most

likely that residents or visitors would not use the bus service or walk and cycle to and from the site. For convenience they would use private vehicles.

6.6.6 The transport statement also forecasts the likely movements for an agricultural use of the building and surrounding buildings and compares them to the forecast for the live/work units. It concludes that the proposals are expected to generate fewer trips than the historic farm activities at the site and no material intensification. Clearly, this is a best estimate bearing in mind agricultural activities have largely ceased at the application building. However, such agricultural movements in the countryside are a generally acceptable negative consequence of farming. Clearly, agriculture demands a rural location and the downsides of such vehicle movements are outweighed by the important role agriculture plays. In the case of this development, I do not consider it demands a rural location and that the economic benefits outweigh the negative impacts from the number of unsustainable vehicle movements.

6.6.7 Overall, I consider the proposals are at an unsustainable location where occupants and visitors will be reliant on private vehicles and I do not consider the economic benefits of the proposals outweigh this factor. My view is that live/work development should either be located within urban areas, or in, or adjacent to rural service centres or larger settlements where employment, housing, services and other facilities can be provided close to together as outlined under plan making policy EC6 of PP4.

6.7 Compliance with the Local Plan & Visual Impact

6.7.1 Policy ENV45 relates to the conversion of rural buildings for residential use. In this respect the Council refused conversion of the building to a single dwelling under application MA/07/1439. This decision was upheld at Appeal where the Inspector considered,

"The 1935 building is a large, industrial-scale structure constructed of mass produced bricks and with a corrugated asbestos roof. In terms of its scale, design and materials, it has more in common with larger modern day agricultural and industrial buildings than with older-style and more domestically scaled farm buildings of distinctive Kentish vernacular design constructed from locally sourced building materials. It is utilitarian and industrial in appearance and lacks any significant local distinctiveness. It is prominent in views from Hunt Street and nearby public footpaths, as well as from across the valley. In these views the 1935 building stands out as a bulky building with little aesthetic merit."

6.7.2 The Inspector goes on to state that,

"because of its appearance the building does not make a positive contribution to the character and appearance of the countryside. Indeed, I agree with the Council's assessment that it detracts from the appearance of the twin kiln oasts on the site, as well as from the wider landscape..... I am not therefore satisfied that it could be said to

exemplify the historical development of the Kentish countryside. For these reasons, the proposal to convert the 1935 building would not accord with policy ENV45 of the Local Plan."

- 6.7.3 I agree with the Inspectors conclusion that this building is not worthy of retention for residential purposes and in this respect the proposals conflict with policy ENV45.
- 6.7.4 Turning to policy ENV44, which relates to the conversion of rural buildings for commercial use. The policy states that the building must be of a form, bulk and general design which is in keeping with its rural surroundings. I agree with the Inspector that the building actually detracts from the appearance of the adjacent twin kiln oasts and the wider landscape due to its size and utilitarian appearance. However, there are a mix of buildings surrounding the site, including a relatively large modern steel agricultural building to the east, large converted oast to the north, dutch barn and smaller store to the west, such that it is not entirely out of keeping with its setting in terms of size and design.
- 6.7.5 The Inspector in 2007 agreed that it is capable of conversion without substantial demolition and rebuilding and a structural appraisal from surveyors this year confirms this.
- 6.7.6 In terms of the visual impact, the alterations to the building on the north and south sides largely retain existing openings with only a few new windows. There is however significant glazing introduced on the east and west elevations. To my mind the rural character of the building is significantly altered on these elevations such that a domestic appearance prevails. The building is prominent and its domestic character would be clear to see from surrounding footpaths. I also consider the introduction of the decking area with glass balustrade and the communal garden would result in domestic features out of character with this part of the Tutsham Farm complex. The new single storey garage building would introduce a further building in an open part of the complex.
- 6.7.7 For these reasons, I consider the conversions works would detract from the rural character and appearance of the building and surrounding area, which here retains a farmyard character. As such, I consider the visual impact of the proposals to be harmful and unacceptable.
- 6.7.8 Other criteria under policy ENV44 will be dealt with below under the highway safety and residential amenity sections.

6.8 Impact on the Listed Building

- 6.8.1 Tutsham Hall is a grade II listed building and as such its setting needs to be respected. The building is 60m from Tutsham Hall and would have a limited

direct impact on the setting of this listed building. The Conservation Officer raises no objections on this ground.

6.9 Residential Amenity

- 6.9.1 Immediately north of the site is a converted oast comprising one dwelling. Facing the building it has four ground floor and six first floor windows. The entrance to two units is on this side of the building so there would be the potential for some limited loss of privacy, however this is to be expected to a certain degree on ground floor windows to the front of houses. At ground floor level there may be some views from proposed work spaces to these windows but such windows could be obscure glazed to prevent any loss of privacy. The first floor windows on the oast are all small and I do not consider any significant loss of privacy would occur from the proposed first or second floor windows.
- 6.9.2 Vehicles associated with the proposed use would mainly be using the area on the south side of the building so I do not consider there would be any significant privacy, noise or disturbance issues to the converted oast in this respect.
- 6.9.3 The new dwellings would have shared outdoor spaces in the form of the decking area and the communal garden but no private space. Paragraph 17 of PPS3 states that particularly where family housing is proposed, it is important that the needs of children are taken into account and that there is good provision of recreational areas, including private gardens, play areas and informal play space. Whilst there is a lack of private space, the communal garden does provide an enclosed outdoor space for children to play and there is easy access to surrounding countryside. On this basis, I consider a suitable level of amenity would be provided.

6.10 Highway Safety

- 6.10.1 As with assessments under previous applications, the use of Hunt Street to serve the development is not considered to be unsafe. Kent Highways also raise no objections from a highway safety aspect.
- 6.10.2 Objections have been raised with regards to the suitability of Mill Lane, a private road to the northeast of the site. Comments state that since buildings have been converted at the site, movements (regarded as unauthorised) during construction and from residents have increased and are dangerous due to the narrowness, and two tight corners on the lane. In this respect, the applicant has offered a unilateral undertaking and/or conditions to ensure access to and from the live/work units shall only be via Hunt Street and also electric gates on Mill Lane with limited users. Other measures relate to existing traffic including a traffic management agreement to control routes of access for Tutsham properties and a turning area on Mill Lane.

6.10.3 Clearly, this is a private lane and from neighbour's representations it would seem that future users would not actually have the right to use Mill Lane. As such, it would be within the control of Mill Lane residents to prevent any future use. This is therefore a private matter that cannot be considered and I also note that under previous proposals to redevelop the site, no objections have been raised by the Council or Inspectors in respect of this.

6.11 Whether the Proposals Represent Genuine Live/Work Units

- 6.11.1 Live/work units are a form of accommodation providing combined living and working space that is normally a product of conversion of existing buildings. In the absence of any specific local or national policies relating to this type of development, it needs to be considered whether the proposals are considered to represent genuine practical and useable live/work accommodation. To my mind the concept of live/work is either home working from an existing dwelling, or possibly through the conversion of a suitably located existing building, where much of the property is given over to employment purposes and represents a mixed use.
- 6.11.2 The work spaces are on the ground floor and separate from the residential accommodation, which I consider to be practical such that they are easily accessible to visitors and avoid conflicts between the uses. The work spaces make up between 27% and 38.5% of the total floorspace for each unit with a communal workspace meaning the overall total of workspace is 39%. Whilst more floorspace is given over to the residential use, the amount of employment space is not insignificant and I consider this to generally be an acceptable ratio such that the proposals do not simply represent houses with a small study area.
- 6.11.3 I also note that advice within the 'Development Control Practice' Manuals based on a growing body of appeal decisions in urban and rural areas, indicates that normally the ratio of employment to residential floor space would be expected to be between 25%:75% and 40%:60% and this should be a condition of any permission to ensure the unit does not become purely residential in the future.
- 6.11.4 I consider that in the absence of any adopted local policy for live/work uses, the proposals do generally fall within the scope of a live/work unit, conditions could secure this, and I note that the applicant is willing to enter a legal agreement to secure such a use.

6.12 Ecology

- 6.12.1 Initially a bat survey from 2006 was submitted but an update survey has been requested and provided. The survey has revealed that brown long-eared and common pipistrelle bats are using/roosting within the building. The report outlines that, *"the roost present can be considered as a 'summer roost used by males and non-breeding females'. The building is unlikely to be used for hibernation as it lacks cavities. As the roost includes only 'small numbers of common species, not a maternity site', it should be regarded as being of low conservation significance as referred in the 'Bat Mitigation Guidelines 2004'."*
- 6.12.2 In terms of impact, it outlines that the proposal would result in the net loss of a roost for the bat species. But as these species are common and widely distributed in Kent, and as the roost is not host to a maternity roost, the loss of the building is considered to have little effect on the conservation status of bats in Kent or the local population.
- 6.12.3 The report advises that due to the loss of habitat, a bat mitigation licence is required, which would be assessed by Natural England. Mitigation would need to be provided and six bat boxes are advised for pipistrelle bats and roosting sites within the ridge vent for long-eared bats.
- 6.12.4 Overall, whilst the proposals would affect a roost site for common bats, I do not consider this would result in significant harm to biodiversity for the reason that sufficient mitigation measures could be ensured to prevent a loss of habitat.
- 6.12.5 I also note that Natural England's view on the 2006 report, which concludes that the building may have opportunities for roosting bats, is that the proposed measures appear sufficient to mitigate any potential impacts on bat populations. They raised no objections and are satisfied that the proposals should not be detrimental to the maintenance of the bat population. The Kent Wildlife Trust also raises no objections to the proposals and I note that the impact upon the bats has not formed a reason for refusal on past applications by the Council or Planning Inspectors.

6.13 Other Matters

- 6.13.1 A financial appraisal has been provided assessing the viability of a rural business use (B1), tourist units and the live/work units. The report concludes that only the live/work units are viable. The Council's Corporate Property Manager has assessed the report and whilst he considers the circulation space for the business use appears a bit high, and if lower would increase value, he concludes that the rate of return does not reach double figures until after 15 years so would unlikely to appeal to an investor. Notwithstanding

this, such uses have been refused and dismissed at appeal and for the reasons outlined above, I do not consider a live/work unit is acceptable in any case.

6.14 Conclusion

- 6.14.1 Whilst I acknowledge the applicant has explored other uses for the building including residential, office and holiday let uses through planning applications and the recent viability report, my conclusion is that the site is unsuitably located for the live/work development such that future occupants and visitors would be reliant upon private vehicles. As such, the proposals would not secure a sustainable pattern of development.
- 6.14.2 I also consider the building is not worthy of retention for residential purposes and the changes to the building and the provision of decking areas and the communal garden would result in domestic intrusion that would be harmful to the character and appearance of the rural area contrary to countryside protection policies.
- 6.14.3 On balance, any benefits for retaining the building for economic purposes are considered to be outweighed by these issues. I have considered the various appeals decisions and information submitted by the applicant relating to live/work units but this does not lead me to an alternative conclusion.
- 6.14.4 I therefore recommend refusal of the application for the following reasons.

7 RECOMMENDATION

Subject to the expiry of a neighbour notification letter and the receipt of no representations raising new issues, I be given DELEGATED POWERS to REFUSE PLANNING PERMISSION for the following reasons:

1. Due to the remoteness of the site from public transport, shops, services and other facilities the proposal would result in an unsustainable form of development with a reliance on the private car thereby contrary to policy CC1 of the South East Plan 2009 and PPS1, PPS4, PPS7 and PPG13.
2. The existing building is not of sufficient quality or architectural merit and does not make a positive contribution to the character and appearance of the countryside to justify its retention or preservation for residential purposes. In addition, the alterations to the building, the provision of decking areas and the communal garden are considered to result in harm to the character and appearance of the countryside contrary to policies ENV28, ENV35, ENV44 and ENV45 of the Maidstone Borough-Wide Local Plan 2000, policies CC6 and C4 of the South East Plan 2009 and PPS7.