

APPLICATION: MA/13/1580 Date: 11 September 2013 Received: 9 December 2013

APPLICANT: Mr & Mrs Peter Burton

LOCATION: LAND AT FISHERS OAST, FISHERS ROAD, STAPLEHURST,
TONBRIDGE, KENT, TN12 0DD

PARISH: Staplehurst

PROPOSAL: Demolition of motor vehicle body repair workshop and demolition of 2no. existing dwellings in converted farm buildings. Erection of 4no. two-bedroomed dwellings and 2no. three-bedroomed dwellings with associated garaging/parking and landscaping as shown on drawing nos. 01, 03, 04, 05, 06, 07, 08, 09, 10, 11 received on 10/9/13; 001A received on 26/9/13; and 02A and 13 received on 9/12/13.

AGENDA DATE: 20th March 2014

CASE OFFICER: Geoff Brown

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

- it is a departure from the Development Plan

1. POLICIES

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV26, ENV28
- Village Design Statement: N/A
- Government Policy: NPPF

2. HISTORY

I consider the relevant planning history to be:

MA/12/1346 - An application for a certificate of lawful development for an existing use being use of Cottage 1 as a single dwelling – Approved

MA/12/1345 - An application for a certificate of lawful development for an existing use being the use of Cottage 2 as a single dwelling – Approved

MA/06/2198 - Outline application for the demolition of motor vehicle workshop, office and residential outbuildings and erection of nine two and three bedroom dwellings adjoining the existing farmhouse and converted oasthouse, with layout

and access to be considered at this stage and all other matters reserved for future consideration – Refused and appeal dismissed

MA/95/1053 - Erection of detached 2 bedroom dwelling – Refused and appeal dismissed

MA/93/1214 - Removal of condition (iv) attached to planning permission
MA/85/1262 E (condition limits permission to Mr. Peter Burton only) – Approved

MA/85/1262 - Demolition of existing workshops and erection of replacement single storey workshop – Approved

MA/81/0365 - Continued use of building for motor vehicle repairs – Refused but appeal allowed

3. CONSULTATIONS

- 3.1 STAPLEHURST PARISH COUNCIL wishes to see the application approved.
- 3.2 KCC HIGHWAYS AND TRANSPORTATION has no objection.
- 3.3 KCC PUBLIC RIGHTS OF WAY AND ACCESS SERVICE has no objection.
- 3.4 THE KCC BIODIVERSITY OFFICER has no objection subject to a condition requiring the submission of an ecological method statement.
- 3.5 THE MBC LANDSCAPE OFFICER has no objection subject to the standard landscaping condition requiring full detail.
- 3.6 THE MBC ENVIRONMENTAL HEALTH OFFICER has no objection subject to a condition to cover potential contamination.

4. REPRESENTATIONS

- 4.1 TWO LETTERS OF OBJECTION have been received. The following points are raised:
 - a) The development would adversely affect the outlook from housing in Fishers Close.
 - b) The volume of traffic would increase along Fishers Road and onto the A229. Fishers Road is narrow and not capable of accommodating the extra traffic.
 - c) The public footpath may be interfered with.
 - d) The site is home to wildlife which would be adversely affected.
 - e) Local services can not take the strain of new housing.

4.2 ONE LETTER HAS BEEN RECEIVED SUPPORTING THE APPLICATION but expressing concern as to the impact of additional traffic in Fishers Road.

5. CONSIDERATIONS

5.1 Site Description

5.1.1 The application site is located in the rural area, just beyond the defined village boundary to the north east of Staplehurst. The land is not the subject of any particular designation. The public highway of Fishers Road ends at the defined village boundary and beyond that becomes a private road serving the small group of buildings at Fishers Farm. Public Right of Way (PROW) KM295 shares the line of the road before diverting off northwards to the railway line, whilst PROW KM296 continues around the north and east sides of the built group.

5.1.2 Fishers Farm involves Fishers Farmhouse and Fishers Oast on the frontage of the private road with a pair of small single storey cottages to the north of the oast, set at right-angles to the road. The farmhouse and its curtilage are not part of the application site. Behind these houses (ie to the south east) is a modern barn-like structure, of utilitarian design, that was in use as a car repair workshop with access to it running between the aforementioned oast and cottages. The workshop is served by a small yard to its front and south side. Between the farmhouse/oast and the car repairs yard is garden land associated with the oast that accommodates a swimming pool and a tennis court.

5.1.3 Much of the application site is covered by hardstandings with yard areas associated with the car repairs use; and various access roads and parking areas around the buildings. The oast is essentially surrounded by hardsurfacing. Nor are the boundaries of the site well landscaped: save for a line of leylandii to the east of the site, the northern and western boundaries are largely open to the grassed fields that border the railway line to the north. Further south there is some poor hedging to the south of the barn, separating the site from the grassed paddocks and ponds to the east and south.

5.2 Proposal

5.2.1 This is a full application for the redevelopment of the site for housing. The car repairs workshop would be removed (and that use extinguished), as would the two cottages to the north of the oast. Looking at the general layout, the pattern of access would be maintained with the track around the east side of the oast remodelled to serve new housing to the east and south of the farmhouse/oast. A short 'terrace' of three two-bedroomed properties would occupy roughly the same position and alignment as the existing cottages with a detached double garage to the north of that terrace. A detached two-bed dwelling and separate

garage would be erected on the site of the workshop; whilst two detached three-bedroom houses would be constructed on land immediately to the south west of the current workshop.

- 5.2.2 A total of 12 parking spaces (both within garages and 'open air') are shown to serve the six new houses. A comprehensive approach has been taken to the landscaping of the site, along with ecological enhancement works. These issues are discussed in more detail below.
- 5.2.3 The two-bedroomed properties are shown as low level, chalet-style cottages with a maximum height of 6m to the ridge. The larger detached dwellings are again in a chalet-style but are slightly taller at just over 7m. They are of simple traditional design, particularly to the front elevation, with dormer windows and rooflights in the rear elevations to facilitate first floor accommodation. Materials for the new dwellings would involve stock brickwork under clay tile roofs with timber windows, whilst the garaging would be of weatherboarding under a clay tile roof.

5.3 Principle of Development

- 5.3.1 The site is outside the currently defined settlement boundary of Staplehurst which is a designated Rural Service Centre.
- 5.3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that all planning applications must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 5.3.3 The starting point for consideration is saved Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 which states:

IN THE COUNTRYSIDE PLANNING PERMISSION WILL NOT BE GIVEN FOR DEVELOPMENT WHICH HARMS THE CHARACTER AND APPEARANCE OF THE AREA OR THE AMENITIES OF SURROUNDING OCCUPIERS, AND DEVELOPMENT WILL BE CONFINED TO:

- (1) THAT WHICH IS REASONABLY NECESSARY FOR THE PURPOSES OF AGRICULTURE AND FORESTRY; OR**
- (2) THE WINNING OF MINERALS; OR**
- (3) OPEN AIR RECREATION AND ANCILLARY BUILDINGS PROVIDING OPERATIONAL USES ONLY; OR**
- (4) THE PROVISION OF PUBLIC OR INSTITUTIONAL USES FOR WHICH A RURAL LOCATION IS JUSTIFIED; OR**
- (5) SUCH OTHER EXCEPTIONS AS INDICATED BY POLICIES ELSEWHERE IN THIS PLAN.**

PROPOSALS SHOULD INCLUDE MEASURES FOR HABITAT RESTORATION AND CREATION TO ENSURE THAT THERE IS NO NET LOSS OF WILDLIFE RESOURCES.

The proposed development does not fit into any of the exceptions set out in Policy ENV28 which is why it has been advertised as a departure from the Development Plan.

5.3.4 It is necessary therefore to consider two main issues in relation to the proposals. Firstly, whether there are any material considerations that would indicate that a decision not in accordance with the Development Plan is justified, and secondly whether the development would cause unacceptable harm. (Detailed issues of harm will be discussed later in the report).

5.3.5 In terms of other material considerations, the National Planning Policy Framework (NPPF) is a key consideration, particularly with regard to housing land supply. Paragraph 47 of the NPPF states that Councils should;

'identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;'

5.3.6 Relevant to this, the NPPF requires that local authorities have a clear understanding of housing needs in their area, and as such they should prepare a Strategic Housing Market Assessment (SHMA) to assess their full needs; working with neighbouring authorities where housing market areas cross administrative boundaries. Maidstone has carried this out with Ashford Borough Council and Tonbridge and Malling Borough Council. The SHMA (2014) confirms the objectively assessed housing need for the borough over the plan period 2011 to 2031 as 19,600 dwellings (980 dwellings per annum). This was agreed by Cabinet on 27th January 2014 and on 24th February 2014 to be included within the draft Local Plan (to be sent out for public consultation).

5.3.7 In April 2013 when most recently calculated, the Council had a 2.0 year supply of housing assessed against the objectively assessed housing need of 19,600 dwellings, which is the figure against which the supply must be assessed. Taking into account housing permissions granted since that date, this position will not have changed significantly and would still remain below the 5 year target.

- 5.3.8 This lack of a five year supply is a significant factor and at paragraph 49 of the NPPF it is states that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing (such as ENV28 which seeks to restrict housing outside of settlements) should not be considered up-to-date if a five year supply cannot be demonstrated. The presumption in favour of sustainable development in this situation means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the application, when assessed against the policies of the NPPF as a whole.
- 5.3.9 In terms of the location of the site, The NPPF advised that when planning for development i.e. through the Local Plan process, the focus should be on existing service centres and on land within or adjoining existing settlements. Staplehurst is a defined rural service centre (RSC), which outside of the town centre and urban area, are considered the most sustainable settlements in Maidstone's settlement hierarchy, under the draft Local Plan. The draft Local Plan outlines that, "*Rural service centres play a key part in the economic and social fabric of the borough and contribute towards its character and built form. They act as a focal point for trade and services by providing a concentration of public transport networks, employment opportunities and community facilities that minimise car journeys.*" The settlement offers a good range of facilities and services including shops, pubs, a primary school, library, medical centre and railway station; and a sizeable designated employment area. As such, the site is at a sustainable location and is close to the existing settlement.
- 5.3.10 In the light of the above five year supply position, bringing forward development on this sustainably located site close to a rural service centre would assist in helping to meet the shortfall in housing supply and I consider this to be a material consideration in favour of the development.
- 5.3.11 For reasons to be outlined below, I conclude that the development would not result in unacceptable harm to the character and appearance of the countryside
- 5.3.12 Given that this particular development as proposed would not, in my view, cause significant harm to the character and appearance of the countryside and the current lack of a five-year housing land supply, I do not raise objections to the development as proposed in principle.
- 5.3.13 I note previous attempts to redevelop this site for housing have been rejected. Most recently MA/06/2198 was dismissed on appeal but, at that time, it was demonstrated that the Council had an adequate housing land supply and, in the mind of the Council and the Inspector, there was no need to set aside countryside protection policies and allow the redevelopment: clearly the situation has now changed. I also see that MA/06/2198 proposed a larger scale

development of 9 houses (as opposed to the currently proposed 6). This current application site forms part of a larger area of land that has recently been accepted as part of the Strategic Housing and Economic Development Land Availability Assessment but I give that little weight here as the public consultation on that document has not yet commenced.

5.4 Visual Impact and Landscaping

- 5.4.1 Additional housing in this locality would add to sporadic residential development on the fringes of Staplehurst. To my mind the new housing here would be clearly visible from the aforementioned footpath network, albeit behind the 'frontage' formed by the farmhouse and converted oast.
- 5.4.2 There are some factors here that mitigate that harm. Firstly the redevelopment of the site would rid the area of the utilitarian workshop building and associated development that is clearly the most bulky structure within the group. It would also remove the incidence of parked vehicles and vehicles awaiting repair scattered around the building.
- 5.4.3 Secondly the proposed development would lead to a significant 'greening' of the locality with new planting of native species put in place as a part of a comprehensive landscaping scheme, at the expense of the substantial areas of hardstanding that are currently an unattractive feature of the site. Significant new areas of lawn would be put in place to serve the new homes and this, in itself, is a substantial improvement. A new hedge would be established along the northern boundary of the site, with the existing poor quality hedging to the east and south of the site re-instated, including the removal of leylandii trees in part of that hedgerow. The site entrance would be comprehensively treated with new grassed areas and shrub planting to the oast front garden, around the access road and close to the proposed garaging. Within the site, specimen planting of trees would take place including field maple, birch, wild service tree and fruit trees. Fencing on the margins of the site would generally take the form of low post and rail fencing. In my view this substantial removal of hardstandings and replacement with landscaped areas represents a significant mitigating factor.
- 5.4.4 The design of the new houses is, in my view, satisfactory without being exceptional. They have the merit of being quite modest, low level dwellings of traditional materials. In all, new housing in locations such as this adds to sporadic development in the countryside but there are significant mitigating factors here which lead me to conclude that the harm is sufficiently ameliorated.

5.5 Ecology

5.5.1 The application is accompanied by a Preliminary Ecological Appraisal and Great Crested Newt Habitat Suitability Survey. The KCC Biodiversity Officer has examined the report and is satisfied that no further survey work is required. The report essentially concludes that the site has low ecological value although there are roosting opportunities for bats and a 'soft' demolition is recommended. The site has low potential to support reptiles and amphibians. The Biodiversity Officer agrees that the proposed mitigation would avoid the potential for harm to protected species but advises that further information is required in relation to the potential for hibernating animals being present: she advises that this can be secured by a condition requiring an ecological method statement.

5.5.2 The application proposes ecological enhancement works. Clearly the landscaping works proposed above would present substantial ecological benefits in themselves. In addition, a hibernacula is proposed just beyond the footpath to the north of the site; bat bricks would be incorporated in the larger new houses; and swift and house sparrow nesting boxes would be installed at various points around the site. The Biodiversity Officer, commenting on these measures, states:

"We are satisfied that the inclusion of the proposed features would provide mitigation for the loss of wildlife opportunities on the site and enhance the ecological value of the site post-development."

I conclude that there is no reason to object here on ecology issues.

5.6 Residential Amenity

5.6.1 The only nearby properties directly affected by the development would be the farmhouse and oast and I am satisfied that the scale and design of the development is such that there would be no loss of light, outlook or privacy to those (or any other) houses. In my view the amenities of these existing houses would be likely to improve with the removal of the noise and disturbance associated with the B2 car repairs use.

5.6.2 A rail noise study has been carried out which concludes that no mitigation measures are required to protect the future residents of the site. I conclude that the prospective residents of the dwellings would enjoy at least a reasonable living environment.

5.7 Highways

5.7.1 No objection has been raised by the Highways Officer. The traffic generated by the six new dwellings would 'replace' that generated by the car repairs use and the two cottages to be demolished and I conclude that Fishers Road, the access road beyond that and the access arrangements generally are adequate to accommodate any extra traffic. A combination of garaging and open parking spaces yields a total of 12 spaces for the six dwellings and I consider this appropriate. Following discussions on site with the Footpaths Officer the routes of footpaths KM295 and KM296 has been established and these routes safeguarded as a part of the submitted scheme, without the need for any diversion.

5.8 Other Matters

5.8.1 With regard to the Code for Sustainable Homes it is fair to say that this scheme was designed with Level 3 as its aim. Level 4 is now the Council's preferred level for new build housing but I do not consider it reasonable to impose that level 'retrospectively' on this scheme as it was designed some time ago. I therefore recommend that the relevant condition refer to Level 3 as the minimum necessary.

6. CONCLUSION

6.1 Having regard to the situation as regards the five-year housing land supply and my view that this development would not cause significant harm to the character and appearance of the countryside, I recommend that this application be approved.

7. RECOMMENDATION

GRANT PLANNING PERMISSION subject to the following conditions:

1. The development hereby permitted 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. The development hereby permitted shall be carried out in accordance with the following approved plans:
drawing nos. 01, 03, 04, 05, 06, 07, 08, 09, 10, 11 received on 10/9/13; 001A received on 26/9/13; and 02A and 13 received on 9/12/13;

Reason: To ensure the quality of the development is maintained and to prevent harm to the residential amenity of neighbouring occupiers.

3. The development shall not commence until, written details and samples of the materials to be used in the construction of the external surfaces of the building(s) hereby permitted have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials;

Reason: To ensure a satisfactory appearance to the development.

4. The approved details of the parking/turning areas shall be completed before the commencement of the use of the land or buildings hereby permitted and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them;

Reason: Development without adequate parking/turning provision is likely to lead to parking inconvenient to other road users and in the interests of road safety.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 and the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part 1, Classes A, B, C, D, E and F to that Order shall be carried out without the permission of the local planning authority;

Reason: To safeguard the character, appearance and functioning of the surrounding area.

6. No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, 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

measures for their protection in the course of development and a programme for the approved scheme's implementation and long term management. The scheme shall include full details of all proposed boundary treatments and shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines;

Reason: No such details have been submitted.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation;

Reason: To ensure a satisfactory setting and external appearance to the development.

8. The dwellings shall achieve at least code 3 of the Code for Sustainable Homes. A final code certificate shall be issued not later than one calendar year following first occupation of the dwellings certifying that level 3 has been achieved.

Reason: To ensure a sustainable and energy efficient form of development.

9. No development (including and demolition, ground works and site clearance) shall take place until a method statement for mitigating the potential impacts to bats, great crested newts, reptiles and nesting birds and for creating new wildlife features has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the following:
 - a) Purpose and conservation objectives for the proposed works;
 - b) Review of site potential and constraints;
 - c) Detailed design and working methods necessary to achieve the stated objectives;
 - d) Extent and location/area of proposed works on appropriate scale maps and plans;
 - e) Timetable for implementation demonstrating that works are aligned with the proposed phasing of the development;
 - f) Persons responsible for implementing the works.The works shall be carried out strictly in accordance with the approved details.

Reason: In the interests of ecology.

10. The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
- 1) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - 3) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
 - 4) A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;

Any changes to these components require the express consent of the local planning authority. The scheme shall thereafter be implemented as approved;

Reason: In order to ensure that potential contamination is properly dealt with.

The proposed development does not conform with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000. However, the development is at a sustainable location, is close to an existing settlement, and is not considered to result in significant visual harm to the area. Given the current shortfall in the required five-year housing supply, the low adverse impacts of the development are not considered to significantly outweigh its benefits. As such the development is considered to be in compliance with the National Planning Policy Framework and this is sufficient grounds to depart from the Local Plan.