

REPORT SUMMARY

REFERENCE NO - 15/504345/FULL		
APPLICATION PROPOSAL Change of use of building from live/work use (sui generis) to a mixed business (Use Class B1a, b or c) and residential use (Use Class C3) (retrospective)		
ADDRESS American Oast Tutsham Farm West Farleigh Kent ME15 0NE		
RECOMMENDATION Grant planning permission subject to planning conditions		
SUMMARY OF REASONS FOR RECOMMENDATION The business element of the development complies with the provisions of policy ENV44 of the adopted local plan and reflects Government Guidance set out in the NPPF. Independent residential use is considered acceptable in this instance after taking into account the following: (a) the guidance on rural development set out in the NPPF (b) the fact that there is greater flexibility in the use of agricultural buildings with the introduction of the prior approval system (c) the fact that the exterior of the building has not changed and (d) it was not possible to implement the approved live/work use. There are no highway or parking objections. There are no objections on residential amenity grounds.		
REASON FOR REFERRAL TO COMMITTEE Contrary to the views of West Farleigh and Teston Parish Councils		
WARD Coxheath And Hunton Ward	PARISH/TOWN COUNCIL West Farleigh	APPLICANT Ferns Property Development Limited AGENT DHA Planning
DECISION DUE DATE 17/07/15	PUBLICITY EXPIRY DATE 17/07/15	OFFICER SITE VISIT DATE 18 th June 2016

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The application site lies within a complex of commercial and residential buildings that are for development plan purposes located in the open countryside with the site also within the Medway Valley Area of Local Landscape Importance (ALLI).
- 1.02 The application building is three storeys high with a pitched roof and known as American Oast. The building is located centrally within a group of farm buildings and on the east side of the main Tutsham Farm complex.

- 1.03 The application building is surrounded by hard standing and there are agricultural buildings to the south, east and west with a oast house converted to provide a single residential dwelling located immediately to the north. Further west is Tutsham Hall; a Grade II listed building as well as other residential buildings.
- 1.04 The vehicle access to the site is from Teston Road to the north (via a private road) and from Hunt Street to the south via a surfaced access drive. Public footpath KM16 is 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.

2.0 RELEVANT HISTORY

- 2.01 MA/13/0235: Retrospective application for conversion of stable to a single live/work unit –APPROVED-16th October 2013.
- 2.02 MA/12/0107 Application to discharge conditions relating to MA/10/0839 (Conversion of Oast House to 5 live-work units, and external alterations, associated garaging, parking and landscaping) - submission of details received on 24th January 2012 pursuant to conditions 4, 5, 7, 9, 12, 13, 14, 17 & 18. Approved 1st March 2013
- 2.03 MA/10/0839: Conversion of Oast House to 5. live-work units, and external alterations, associated garaging, parking and landscaping - APPROVED -8th June 2011 subject to a S106 legal agreement requiring, amongst other things, implementation of a traffic management scheme to control access routes to and from the development –(overturned officer recommendation to refuse planning permission)
- 2.04 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). Planning permission was refused for the following reasons:
- (1) The large extent of the area proposed for the domestic curtilage, representing a change of use from agricultural land to domestic garden, would be detrimental to the character and appearance of the countryside, being contrary to policy SP1, EN1 and QL1 of the Kent and Medway Structure Plan 2006 and policies ENV28 and H31 of the Maidstone Borough-Wide Local Plan 2000.
- (2) The 1935 Oast house is of insufficient architectural and / or historic merit to justify its retention and the conversion of this building to residential use would therefore be detrimental to the character and appearance of the countryside and the Area of Local Landscape Importance, contrary to policies SP1, EN1, QL1, and HP5 of the Kent and Medway Structure Plan 2006 and policies ENV28, ENV35, and ENV45 of the Maidstone Borough-Wide Local Plan 2000.

3.0 PROPOSAL

- 3.01 An earlier planning permission for the change of use of the application building into five live/work units (MA/10/0839) has been partially implemented with the completion of the physical works linked to the change of use. The living space as part of the approved live/work units would have provided 3 two bedroom and 2 three bedroom flats.
- 3.02 Instead of the approved live/work units the building (total floorspace of 760 square metres) is currently occupied as separate self-contained residential and business floorspace. The current planning application seeks to regularise the use of the building and the completed works.
- 3.03 The ground floor of the building covering 312 square metres is currently in use as a single office unit (use class B1). The office unit is occupied by a construction company called Fern Surfacing. There are 10-14 staff employed by Fern Surfacing in this building, with over 200 other staff employed on other company sites elsewhere in the South East, East Anglia and the Midlands.
- 3.04 Whilst not themselves requiring the benefit of planning permission, minor internal works to the ground floor business floorspace have been carried out that were not shown on the earlier approved planning drawings. These changes have provided a staff kitchen, internal partitions and a new internal door.
- 3.05 The external alterations to the building were approved as part of the earlier permission and there have been no further changes carried out and there are no further changes proposed.
- 3.06 The current application seeks to remove the link between the live and work elements, which are between the ground floor business use and the approved living space at first and second floor levels.
- 3.07 The previously approved live/work layout provided separate ground floor entrances and staircases to this living space and there are no alterations proposed externally or to the size or internal layout of the living spaces. The current application seeks to retain 5 self-contained flats (3 two bedroom flats and 2 three bedroom flats).
- 3.08 The following information has also been submitted by the applicant in support of the application:
- The policy background against which the original application was determined has changed significantly with the NPPF coming into force in March 2012.
 - The NPPF seeks to promote alternative uses for rural buildings including commercial use and residential use.
 - Paragraph 55 of the NPPF supports the reuse of existing rural buildings 'where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting'.

- The NPPF does not provide a preference for the reuse of rural buildings. In this case the proposal is for a mixed use of the building for business and residential use and on this basis it is entirely consistent with the NPPF.
- The building is not isolated being within a group of residential and other buildings.
- The scheme has brought about a viable economic use for this previously vacant building, providing new rural work opportunities and the provision of 5 residential units with the appearance of the building and site also being improved in accordance with paragraph 55 of the NPPF..
- Mixed use of the building would generate approximately 81 two-way vehicular movements per week day along with fewer HGV/goods vehicle trips as it is likely that one occupying business will generate less traffic than 5 or 6 smaller units.

3.06 The applicants also advise of the following:

- The planning permission for the live work use was issued on the 8 June 2011.
- The development began in September 2013 just as the economy began to grow following the recession of 2009 – 2011.
- It became clear in September 2013 that the applicant Ferns Surfacing had a need for new premises to accommodate its expanding office based workforce. The new office based staff could not be accommodated at the company's other premises and no other suitable accommodation was available.
- There was uncertainty in respect of the ability to let the approved live/work units and their viability and with the need for office accommodation for the building was used instead for this alternative use.
- The overall amount of commercial floor space and both the number and size of the residential units have not changed as a result of the amendments that are currently being considered.
- The commercial floor space is occupied by a local business employing local people and the company helps to support the overall Maidstone economy.
- Whilst without the benefit of planning permission the applicant has confirmed that full Council Tax and business rates have been paid for both the residential and commercial uses.

4.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF 2012)
National Planning Practice Guidance (NPPG 2014)
Development Plan: ED2, ENV28, ENV35, ENV44 and ENV45

5.0 LOCAL REPRESENTATIONS

5.01 In addition to a site notice, 6 adjacent properties have been notified of the application – 5 objections have been received that are summarised as follows:

- Proposal directly conflicts with the original approval granted for this building along with failure to comply with the legal agreement that was imposed.
- Traffic still using Mill Lane despite a legal agreement being in force to preclude such use.
- No action has been taken to prevent current illegal use of the building.
- Traffic has increased in volume along Mill Lane and granting planning permission for separate business use will make situation even worse.
- Need to get developers to agree to close Mill Lane as was the case with the previous application.

6.0 CONSULTATIONS

6.01 **West Farleigh Parish Council:** Object on the following grounds:

- Given the past site history we would like to know what changes in legislation give support to the current application.
- No highway report has been submitted relating to the suitability of either Hunt Street or Mill Lane to take further traffic as a result of the work units not being used by persons living on the site.
- There is a concern that the existing legal agreement will not be enforceable in connection with the current application and a new legal agreement should be put in place to ensure that all vehicle access is via Hunt Street.

6.02 **Teston Parish Council:** Object on the following grounds:

- Teston Lane and Hunt Street are both narrow country lanes and not capable of taking additional traffic.
- The development has not complied with the previous legal agreement or provided a turning circle which has resulted in vehicles leaving the site via Hunt Street, which is public right of way not suitable for this traffic.
- There is a concern about additional lighting and the harmful impact that this will have on the night time environment.

6.03 **Highways Authority (Kent County Council):** No objection as it is not expected there will be a significant increase in trip generation from that which was generated from the previously approved application MA/10/0839 or from the previous use of the site. There is sufficient space on site for the parking of vehicles associated with both uses.

6.04 **Kent PROW:** No objection but public footpath KM22 is currently used by some vehicular traffic from the Tutsham Hall farm site. There is insufficient width to delineate traffic from pedestrians. Also the route exits onto Teston Lane which has limited width and sight lines. If vehicular access to the development site is expected to further increase consideration should be given within the planning application to traffic management in relation to this footpath

6.05 **MBC Conservation Officer:** The application building has little *architectural or historic merit and as a result it is not considered a non-designated heritage asset.*

7.0 APPRAISAL

- 7.01 The key issues are considered to be assessing the loss of the approved live/work units; the retention of the separate employment and residential uses; impact on the general character of the area; the standard of residential accommodation; the impact on residential amenity and the impact on car parking and traffic generation.

Loss of the live/work units

- 7.02 The earlier planning permission for the conversion of the application building into live/work units has been implemented with the completion of the ancillary physical works. As a result the lawful use of the application building is for 5 live/work units and the building could revert back to this use without the need for further planning permission.
- 7.03 The applicant has stated that after gaining planning permission it was found that there was uncertainty in terms of the ability to let the approved live/work units and their overall viability. With the separate need for office accommodation, the ground floor of the building was used instead for this alternative employment use and the residential space on the upper floors also occupied separately.
- 7.04 There is no adopted planning policy that seeks the provision of, or the retention of live/work space, and there is no evidence available of local need for this type of accommodation. On this basis the loss of the originally approved live/work units are considered acceptable in principle subject to assessing other matters such as amenity and traffic impacts.

Provision of separate employment floorspace

- 7.05 The NPPF seeks to promote a prosperous rural economy advising that (paragraph 28): "Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. Planning policies should support sustainable growth and expansion of all types of business and enterprise in rural areas, including through the conversion of existing buildings and should promote the development and diversification of agricultural and other land-based rural businesses.
- 7.06 The principle of providing an element of office floorspace within the application building has been established by the earlier implemented planning permission for live/work space, with the live/work space currently the lawful use of the building. It is also highlighted that a change of use from the original oast house building to the current office use (rather than a live/work use) is unlikely to have required planning permission.
- 7.07 Saved Local Plan policy ENV44 sets out various matters that need to be assessed as part of a proposal to convert rural buildings to commercial uses. Whilst the policy is not directly applicable to the current proposal, the provision of self-contained office floorspace is considered in line with the requirements of

policy ENV44. The provision of the self-contained office floorspace within the application building and the local employment that this generates is supported and the proposal is considered in line with the guidance in the NPPF.

- 7.08 In other cases gaining planning permission for live/work space has been used as a route to achieving a purely residential use, however in this case the originally approved work floorspace has been retained and is currently occupied and providing employment. The proposal also now provides residential accommodation in the form of 5 flats.

Provision of separate residential floorspace

- 7.09 Following the granting of planning permission for the live/work floorspace the applicant was unable to find tenants for the individual units that were approved. The building was instead brought into beneficial use providing separate office and residential uses. The office floorspace currently provides employment for 10 to 14 people and the five residential units are also occupied.

- 7.10 Policy ENV45 of the Local Plan states that the reuse or adaption of rural buildings for residential purposes will not be permitted unless various exceptions are present. These include ensuring that reasonable attempts has been made to secure alternative business use; if appropriate it contributes to the setting of a listed building, the building is of sound construction; general design of the building is in keeping with its surroundings; any conversion work respects local building styles and materials; traffic can be safely accommodated; there is sufficient land around the building to provide a reasonable level of outdoor space, there is sufficient room in the curtilage of the building for car parking and where associated fences, walls or other structures would harm the visual amenity of the countryside.

- 7.11 As it involves self-contained residential units that have separated the original live and work space, the current application has been assessed against policy ENV45. The submitted proposal including the separate residential accommodation is considered acceptable and in line with all the exceptions set out in policy ENV45.

- 7.12 In April 2015 revised planning legislation came into force that introduced greater flexibility in the change of use of buildings. This legislation brought in a prior approval system that removes the requirement for full planning permission in certain cases and restricts the matters that can be considered. If the original agricultural use had been retained, the change of use to residential use would have been considered under this prior approval system and there would be no requirement for full planning permission.

Impact on the general character of the area

- 7.13 Tutsham Hall is a grade II listed building and as such new development needs to respect the setting of this building. With a distance of 60 metres separating the application building from Tutsham Hall it is considered that there would be no impact on the setting of this listed building. The Conservation Officer raises no objections in this area.

- 7.14 The application building is located in the Medway Valley Area of Local Landscape importance. Policy ENV 35 states that in these areas particular attention will be given to the maintenance of open space and the character of the landscape and encouragement will be given to improvements in public access. Policy ENV28 states that in the countryside planning permission will not be given for development which harms the character and appearance of the area. Policies ENV44 and ENV45 state that work to convert rural buildings for commercial use should be of a form, bulk and general design which is in keeping with its rural surroundings; and any alterations proposed as part of the conversion are in keeping with the rural character of the building.
- 7.15 The current proposal does not include any alterations to the external appearance of the application building. The provision of landscaping on the site was approved as part of the earlier planning permission and the subsequent discharge of planning conditions. The Conservation Officer has stated that the application building has little architectural or historic merit and as a result it is not considered a non-designated heritage asset. After this assessment it is considered that the proposal is in line with policies ENV28, ENV 35, ENV44 and ENV45.

Standard of residential accommodation

- 7.16 The application building is considered to provide a good standard of residential accommodation with a good internal layout with separate ground floor entrances and adequate natural light and outlook to living spaces

Impact on residential amenity

- 7.17 The current application does not include any external changes to the existing building or changes to the layout or location of living space from that previously approved. It is considered that there is adequate separation distance between the building and other nearby residential uses.
- 7.18 The ground floor of the application building is occupied by an office use that is within planning use class B1. The definition of a B1 use is one which can be carried out in a residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. In these circumstances it is not considered that the ground floor employment use will harm the amenities of residential occupiers on the upper floor levels.

Impact on car parking and traffic generation.

- 7.19 Vehicle access to the application site is currently provided from the north along Teston Road via a private road and from Hunt Street to the south via an access drive. The lawful use of the application building is as live/work units and it is considered that the separation of the live and work elements will have only resulted in a minimal increase in overall vehicle trips. The pattern of vehicle trips associated with the separated uses will also have changed with employees travelling to the site, and residents traveling away from the site.
- 7.20 A restriction attached to the planning permission for the live/work units sought to prevent commercial vehicle access to the application site from the north along Teston Road. This restriction was put in place as the private road to the

north was not considered suitable for commercial vehicles. The applicant has stated that this restriction on commercial vehicles will be maintained and a planning condition is recommended to require the submission and approval of a Traffic Management Plan.

- 7.21 In support of the planning application the applicant has provided information on traffic and car parking within the submitted planning statement. This information is considered sufficient for the traffic impacts of the development to be assessed.
- 7.22 It is considered that there the vehicle trips associated with the separated residential and office floorspace can be easily and safely accommodated on the local road network. As the highways authority Kent County Council have assessed the application and have stated that they have no objection to the application on highway safety grounds.
- 7.23 The proposal provides a total of 15 car parking spaces that include 5 garages and 5 visitor spaces. This provision is considered sufficient for the office and residential floor space and will ensure that car parking is accommodated on the application site. As the highways authority Kent County Council have assessed the application and have stated that they have no objection to the application in relation to car parking.

8.0 CONCLUSION

- 8.01 The business element of the development complies with the provisions of policy ENV44 of the adopted local plan and reflects Government Guidance set out in the NPPF.
- 8.02 Independent residential use is considered acceptable in this instance after taking into account (a) the guidance on rural development set out in the NPPF (b) the fact that there is greater flexibility in the use of agricultural buildings with the introduction of the prior approval system (c) the fact that the exterior of the building has not changed and (d) it was not possible to implement the approved live/work use.
- 8.03 There are no highway or parking objections to the development. There are no objections to the development on residential amenity grounds.
- 8.04 As such though the building is not being used in accordance with the original planning permission it is considered,, that retrospective planning permission should be granted.

9.0 RECOMMENDATION – GRANT PERMISSION Subject to the following conditions

- (1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development within Schedule 2, Part

7 Class H (external alterations to industrial building) to that Order shall be carried out without the permission of the Local Planning Authority;

Reason: In the interests of amenity.

- (2) The ground floor of the building shall only be occupied for offices purposes falling within Class B1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose and shall only take place in the area shown on drawing no: DHA/10732/02. The 1st and 2nd of the building shall only be used as dwellings falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose.

Reason: To retain control over the development and in the interests of amenity.

- (3) No open storage of plant, materials, products, goods for sale or hire or waste shall take place on the land.

Reason: In the interests of visual amenity.

- (4) No external lighting shall be placed on any part of the building or within the associated curtilage until details have first been submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and no additional lighting shall be installed unless agreed in writing with the Local Planning Authority.

Reason: To ensure a satisfactory appearance and to safeguard the nighttime rural environment.

- (5) The parking/turning areas as shown on the approved plans shall be kept available for such use at all times. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 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: In the interests of highway safety and the free flow of traffic.

- (6) A traffic management plan shall be submitted to and approved in writing by the local planning authority within 6 months of the approval of planning permission and once approved shall be implemented in accordance with the terms and timescales set. The plan shall include agreed measures to restrict vehicle access to the application site from the south via Hunt Street only.

Reason: In the interests of highway safety and the free flow of traffic.

INFORMATIVE

Note to Applicant

In accordance with paragraphs 186 and 187 of the NPPF, Maidstone Borough Council (MBC) takes a positive and proactive approach to development

proposals focused on solutions. MBC works with applicants/agents in a positive and proactive manner by offering a pre-application advice and duty desk service, where possible, suggesting solutions to secure a successful outcome as appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance following the receipt of further information the application was considered acceptable.

Case Officer: Graham Parkinson

NB: For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.