

## PLANNING COMMITTEE – 29 JANUARY 2015

## PART 3

Report of the Head of Planning

**PART 3**Applications for which **REFUSAL** is recommended

<b>3.1</b>		
<b>APPLICATION PROPOSAL</b>		<b>Ref No 14/503559/FULL</b>
Change of use from equestrian grazing to domestic curtilage; removal of existing timber building and replacement with one and a half storey timber-framed barn-style residential property that will form a fully fitted, self contained annex ancillary to the adjacent property 'Cheriton'		
<b>ADDRESS</b> Land To The Rear Of Cheriton Otterden Road Eastling Kent ME13 0BN		
<b>RECOMMENDATION - REFUSE</b>		
<b>WARD</b> East Downs Ward	<b>PARISH/TOWN COUNCIL</b> Eastling	<b>APPLICANT</b> Mr Barrie Neaves <b>AGENT</b>
<b>DECISION DUE DATE</b> 10/12/14	<b>PUBLICITY EXPIRY DATE</b> 12/11/14	<b>OFFICER SITE VISIT DATE</b> 19.11.14
<b>RELEVANT PLANNING HISTORY (including relevant history on adjoining site):</b>		
<b>App No</b>	<b>Summary</b>	

**1.0 DESCRIPTION OF SITE**

- 1.1 The site is located to the south of the village of Eastling on the east side of Otterden Road. The main property on the site is Cheriton which is a relatively modest two bedroom bungalow located to the front of the plot adjacent to the road. The site was previously a commercial orchard but now is non-productive, the cherry trees have died and were replaced with plum trees of which many have also now died and is currently being used to graze horses by the occupants.
- 1.2 A number of other buildings exist on the site one of which being referred to as "The Workshed" and is subject to this application. The existing building is in a dilapidated state "shored up with temporary supports" and lies approx. 40m south of Cheriton and measures 12m wide and 6m deep, finished with a 3.6m high timber corrugated shallow pitched roof.
- 1.3 A post and rail fence forms the boundary to Otterden Road and the whole site can be seen from the road, to the northern boundary are a number of evergreen trees , to the east rear boundary is a low hedge and to the southern boundary a further post and rail fence with open land beyond.

- 1.4 The site lies within the defined countryside and is also within The Kent Downs Area of Outstanding Natural Beauty (AONB)

## **2.0 PROPOSAL**

- 2.1 This proposal is for “The change of use from equestrian grazing to domestic curtilage; removal of an existing timber outbuilding and its replacement with a self contained timber framed residential annex ancillary to Cheriton”.
- 2.2 The proposed property would measure 12.2m wide and 6m deep finished with a 5.75m high pitched roof and which includes 3 pitched roof dormer windows. The property would comprise of 2 bedrooms and a bathroom on the first floor, and an office, w.c. utility room, kitchen/dining room and a breakfast area and sitting room below. A covered log and bin store and covered porch would also be provided.
- 2.3 The existing access would be extended by approximately 60 m to the proposed across the site to the north east of Cheriton.

## **3.0 PLANNING CONSTRAINTS**

Area of Outstanding Natural Beauty KENT DOWNS

## **4.0 POLICY AND OTHER CONSIDERATIONS**

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Development Plan: Swale Borough Local plan saved policies E1, E6, E9, H2 and RC6

## **5.0 LOCAL REPRESENTATIONS**

- 5.1 Six comments of support have been received from local residents, they are summarised below:
- This proposal would allow him to look after his elderly parents. Giving all concerned the care needed while also certain independence
  - The proposed building is appropriate for the property in question. It is of suitable scale and design and uses sympathetic materials. I also think that it is a positive move to marginally increase the density of population of Eastling without using new land for development.
  - The needs that the applicant has to reside in the village in order to care for parents, makes the proposed building a necessity and may reduce the burden on public services such as providing carers and undertaking additional journeys, that would otherwise result from living remotely
  - The build is sympathetic and in keeping with the village
  - I have no objection to the proposal at the above address

- It will also be a positive addition to have this building in place of the existing shed
- We have no hesitation in offering our full support for this application

## **6.0 CONSULTATION RESPONSES**

- 6.1 No comments have been received from both the Council's Environmental Services Manager and Eastling Parish Council.
- 6.2 Kent Highway Services note that the application does not detail the layout of the proposed car parking and turning facilities within the site, and have asked for a plan to show the proposed layout of parking demonstrating that there will be sufficient additional space for Kent Fire and Rescue Service to manoeuvre vehicles within the site so as to leave in a forward gear.

## **7.0 APPLICANT'S SUPPORTING COMMENTS**

- 7.1 The current owners/occupiers of the site reside in Cheriton. They used to earn a living from the small holding but are now both in their 80's and retired. Mrs Neaves suffers from Alzheimers Syndrome and requires constant care. The couple's only son who was raised in the village stays over regularly to assist with care provision with additional day care provided by social services. The bungalow has been adapted to meet their needs.
- 7.2 In the short term the annex would provide part time carer accommodation for their son enabling them to remain in their own home. When not used as carer accommodation it is anticipated the annex building could be used as a short duration holiday accommodation.
- 7.3 An alternative to provide carer accommodation by extending the existing bungalow was deemed structurally difficult and disruptive to the existing vulnerable residents. Similarly an annex positioned closer to the bungalow could be achieved but would result in intensification of development near the road and loss of grazing space.

## **8.0 BACKGROUND PAPERS**

- 8.1 Pre application advice was sought by the applicant for a new dwelling and a response sent on 28/05/14 advising that "the proposal for a new dwelling in the countryside would be contrary to the principles of new development in the countryside and would have a harmful impact on the character of the countryside. In principle new dwellings in the countryside are not considered acceptable and as such the proposal was considered unlikely to receive planning permission.
- 8.2 It was suggested that a more acceptable solution would be to either extend the existing bungalow on the site or to demolish it and build a replacement dwelling suitable for the current occupiers as well as the proposed carer. You may also want to look at the possibility of building an annex close to the existing property.

## 9.0 APPRAISAL

- 9.1 The key issue in determining this application is whether or not the type and amount of accommodation proposed essentially amounts to a new dwelling in the countryside and would therefore be unacceptable as a matter of principle, and if so whether the personal circumstances involved outweigh the harm to the countryside. On the other hand, if the proposal can be considered as an extension to the accommodation provided by the main house, the key test then would be whether its design and size is considered modest for the location in the countryside and for this sensitive location within the AONB.
- 9.2 I note the applicant's reasoning for the accommodation and have some sympathy with the situation, however, I do not feel that the situation requires additional accommodation to be built in the form of a new dwelling of a scale equivalent to the existing dwelling on the site. I am concerned that the desire of the applicant to provide "carers accommodation...in a self contained annex" results in a proposal which includes all the facilities of a separate dwelling including a kitchen, separate utility room, w.c/shower room and bathroom with no dependency on the main house. Its location over 40m from the house also creates a physical distance/detachment from the original property on site.
- 9.3 I am concerned that the amount of accommodation being proposed is at such a level that its dependency on the main dwelling would be very much limited, and that it could very easily, and perhaps not even intentionally, be used as an independent dwelling in its own right.
- 9.4 Residential development in the countryside is very rarely ever acceptable and this case is not very different from a proposal for a wholly new dwelling house. As a matter of fact, I consider the accommodation of a living area, kitchen/dining room, hallway, downstairs WC/shower room and 2 bedrooms and bathroom is actually in law a dwelling house. There is a fine line between what is acceptable as an annex and what is not and what is an annex and what is a dwelling house. I am not however convinced that it is linked accommodation that is being required here but separate "independent" accommodation just with relatively close proximity to provide support.
- 9.5 Therefore as the argument being made is not that the proposal is the reuse of a redundant building it must be treated as a new dwelling rather than an annex this needs to be addressed.
- 9.6 In respect of housing in the Countryside, para 55 the NPPF states that "*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as (amongst other things):*
- Where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting".

- 9.7 In the context of local planning policy, policy E6 deals with the issue of rural restraint and explains that *“the quality, character and amenity value of the wider countryside of the Borough, will be protected and where possible enhanced.”* There is a presumption against development and proposals will only be permitted in specific circumstances, of which only one could be investigated further and that being *“The re-use or adaptation of an existing rural building, in accordance with Policy RC1 & Policy RC6.”*
- 9.8 However policy RC1 refers to the circumstances in which planning permission would be granted for the re use of such buildings for proposals that would help to diversify the rural economy, provide new rural jobs and services or provide environmentally positive countryside management business and thus is not relevant.
- 9.9 Policy RC6 however states that planning permission will not be permitted for the conversion of buildings in the rural area to residential use, or a mixed-use including residential, unless:
1. the Borough Council is satisfied that the applicant has made a reasonable and sustained effort to secure an alternative acceptable re-use of the building for employment or community purposes (at a price that reflects that use), and has provided a statement of such action; or
  2. the Borough Council is satisfied that the building would be undesirable or unsuitable for a non-residential use in its own right or by way of its location or the scale of use that would otherwise result; or
  3. a residential use, or a mixed-use including residential is the preferred way in which a historic building could be retained and/or restored.
- In all cases, the building should be suitable for the proposed use, structurally sound and capable of conversion without: (a) the need for significant extension, alteration, or reconstruction; (b) significantly adversely affecting the countryside; and (c) without creating scales of residential use that would lead to unsustainable travel patterns.
- 9.10 Given the above and the design, location (on a prominent site) and condition of the existing building (not capable of being renovated but needs to be rebuilt) I do not consider the proposal would meet any of the above criteria. The applicant has stated the building is not suitable for renovation, and as the photographs submitted with the application show it is in a serious state of dilapidation with the building being supported by temporary supports.
- 9.11 The applicant’s argument of wanting the new dwelling to meet the applicant’s personal needs and the architectural quality of the proposal must be weighed against the harm to policy, visual amenity and to the landscape of the AONB. The site is in a prominent position and can be viewed from some distance within this part of the Kent Downs AONB. The proposed building would also be of a size that would compete with the existing property on the site and furthermore the design, whilst generally traditional in nature fails in the modern top hung fenestration proposed. In addition the 3 dormers represent a cluttered appearance too high on the roof slope and are oversized and appear intrusive.

- 9.12 The proposed access track/road is also shown to extend a considerable distance across the site and although no detail of the material to be used has been provided the size and impact of this element of the proposal is likely to cause harm to the character of the countryside and the AONB.
- 9.13 I therefore return to the terms of the NPPF which is clear in the “great weight” it places on the protection of the AONB and *the highest status of protection in relation to landscape and scenic beauty...*”. I note the comments from the applicant and the support they have received from the local community, however, I do not consider this proposal is the solution to the situation. I note in the application details that reference is made to two examples locally where it is claimed that similar size annexes have been approved in recent years, however this application must be considered on its own merits. I also note the notion of a caravan or mobile home being placed on the site were this application to be refused and consider that this would require planning approval in its own right.
- 9.14 The application also refers to the carers’ accommodation when not in use being used as a short duration holiday accommodation, however no further details are provided as to how this could/would be managed and I am unsure how this would be able to adequately serve both uses. However, this reinforces my view that what is being proposed is essentially an independent new dwelling which is completely contrary to Local Plan policy.
- 9.15 The submission suggests that were the existing building to be outside of the AONB it would be able to be converted to a residential property following the changes to the GPDO in 2014. However, considering the current state and condition of the building I would argue that whilst the government’s guidance states “the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services will be allowed to the extent reasonably necessary for the building to function as a house” the building clearly requires more and this would seem to preclude the knocking down of buildings and rebuilding on their footprints as has been proposed here. Furthermore, the isolated nature of the building would not comply with NPPF guidance for a new dwelling, and in any case the building is within the AONB so this argument is baseless.
- 9.16 I have considered all the arguments regarding the justification for the new dwelling along with local submissions. However, it remains the case that the proposal is based purely on the applicant’s personal circumstances and such needs should not override strong policy against such development. Members are very familiar with such considerations in some very emotional circumstances. Despite the circumstances in this case, unusual personal and sometimes delicate matters, are presented with many applications and the Borough Council is always very sympathetic to these circumstances. However, it is accepted that personal circumstances are inevitably impermanent and that it is not appropriate to grant planning permission for permanent development on the basis of personal needs if that permission would not normally be granted.

9.17 Whilst I have sympathy for the situation of the applicant and the family the Council's duty is to be fair and consistent and the granting of planning permission for a new dwelling here on the basis of personal need cannot be justified. Therefore, after careful consideration I consider this proposal for a new dwelling in the countryside is unacceptable as a matter of principle and therefore I recommend that planning permission should be refused.

**RECOMMENDATION** – REFUSAL subject to the following reasons for refusal:

### **REASONS**

The scale and self contained nature of the proposed accommodation amounts to the creation of a separate dwelling capable of independent occupation from the main dwelling. The site is located outside of any built up area boundary, within a remote protected rural location and an Area of Outstanding Natural Beauty and the proposal would represent undesirable residential development in the countryside, not outweighed by the personal circumstances of the applicant. In the opinion of the Local Planning Authority, having taken into account the applicant's personal circumstances, these circumstances do not justify an exception to development plan policy. The development would be harmful to the amenities of the area and contrary to policies H2, E1, E6, E9 of the Swale Borough Local Plan 2008 which seek to protect the countryside for its own sake and which provide that development will not be permitted in rural Kent except in specified circumstances.

### **The Council's approach to this application:**

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.  
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:

The application was considered to be fundamentally contrary to the provisions of the Development Plan and the NPPF, and there were not considered to be any solutions to resolve this conflict.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.