

PLANNING COMMITTEE – 21 MAY 2015

PART 1

Report of the Head of Planning

PART 1

Any other reports to be considered in the public session

1.1 REFERENCE NO - 14/504232/FULL		
APPLICATION PROPOSAL Retrospective change of use of existing agricultural store and greenhouse to retail outlet, training and storage facility; hardstanding/turning circle		
ADDRESS Orchard Cottage Canterbury Road Faversham Kent ME13 8LY		
RECOMMENDATION – This application was delegated to Officers to approve at the last committee meeting subject to the imposition of a suitable condition restricting the hours of use, and a condition restricting number of courses and number of people attending. The item is being reported back to committee to ask Members to consider agreeing additional conditions to ensure the permission is adequately controlled.		
WARD Watling	PARISH/TOWN COUNCIL Faversham	APPLICANT Miss Eve Rush-Ryan AGENT
DECISION DUE DATE 04/03/15	PUBLICITY EXPIRY DATE 07/05/15	OFFICER SITE VISIT DATE

1.0 APPRAISAL

- 1.1 Members will note that this application was reported to the Planning Committee meeting held on 23rd April 2015 with an Officer’s recommendation for refusal. A copy of the relevant committee report and minute are attached as an appendix to this report. This recommendation was overturned by the planning committee who voted to approve the application. The presenting Officer recommended that it would be necessary to include planning conditions and suggested conditions including; opening hours, number of training courses that can be run, number of people per course and landscaping.
- 1.2 Members therefore agreed to delegate to Officers to grant planning permission subject to the imposition of a condition restricting the hours of use and to impose a condition restricting the number of training courses and the number of people attending such courses following discussions with the applicant. Members were of the view that no other conditions were to be imposed. It is for this reason that I am referring this matter back to the committee as the proposal excluding certain conditions could result in some unintended consequences. Whilst the application description refers to “*retrospective change of use of existing agricultural store and greenhouse to retail outlet, training and storage facility*”, the application site boundary is drawn around the whole residential plot and includes the wider orchard land, together with all the

land to the front of the greenhouse, and Orchard Cottage all the way to Canterbury Road and abuts the residential curtilages of two other dwellings (Mindon and 1 Orchard Cottage). The recommendation as it currently stands does not give delegation to include conditions to minimise or mitigate the harm that would be caused as a result of the proposal particularly to the character of the countryside, the setting of the conservation area and to the setting of the listed building as well as to neighbouring amenity. Officers are concerned that Members may not have realised that their recommendation in effect grants permission for a change of use of the whole site to a mixed use of retail (for any products or goods), training and open storage. Whilst a further application may be required for additional buildings, the change of use would in effect allow open storage to an unlimited height over the whole of the site (such as one might see in a busy builders yard) or for the whole site to be used as an outdoor training centre, for example, in this sensitive location, which is located within Faversham Conservation Area and the setting of the listed buildings.

2.0 RECOMMENDATION

- 2.1 As such I am recommending that additional conditions are attached to the permission to ensure that the permission only permits the use that I believe Members were intending, i.e. a small scale rural business, not a large retail or storage use. This should help clearly define the approved use and avoid pressure for the site to be seen as having an unrestricted commercial or industrial use.

I therefore recommend that the following conditions are imposed:

3.0 CONDITIONS/REASONS

- (1) The use hereby granted shall only permit the mixed use of training courses in traditional building skills and related retail sales of traditional and sustainable building products and their storage, and for the existing residential use. The site shall not be used for any other use including any use within use Classes A1, B8 or D1 of The Town and Country Planning (Use Classes) Order 1987 (as amended)

Reason: In the interests of the amenities of the area, to protect the character of the countryside, protect the setting of the listed buildings and to preserve or enhance the character of the conservation area.

- (2) No open storage shall take place on the site until a scheme agreeing where any outdoor storage will be sited, to include landscaping around such area/s (which shall detail native species), and provide maximum height of storage has first been submitted to and approved in writing by the Local Planning Authority. No outdoor storage shall take place outside of any agreed area/s. The planting scheme shall be carried out in accordance with the agreed details and within an agreed timeframe to first be approved in writing.

Reason: In the interests of visual amenity, to protect the character of the countryside, protect the setting of the listed buildings and to preserve or enhance the character of the conservation area.

- (3) No Structures, caravans or storage containers shall be placed on the site without the prior written approval of the Local Planning Authority.

Reason: In the interests of visual amenity, to protect the character of the countryside, protect the setting of the listed buildings and to preserve or enhance the character of the conservation area.

- (4) The mixed use of the site hereby permitted shall not be open to the public outside of the following hours 9am to 4pm on weekdays and 9:00am to 12:30pm (by appointment only on Saturdays). The use shall not be open to the public at any time on Sundays or Bank Holidays.

Reason: In the interests of the amenities of the area

- (5) Training courses shall not be run from the site on more than 28 days per calendar year and the number of students attending each course shall be limited to not more than twelve.

Reason: In the interests of the amenities of the area

- (6) No external lighting shall be provided on the site

Reason: In the interests of amenities of the area

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3.2 REFERENCE NO - 14/504232/FULL			
APPLICATION PROPOSAL Retrospective change of use of existing agricultural store and greenhouse to retail outlet, training and storage facility; hardstanding/turning circle			
ADDRESS Orchard Cottage Canterbury Road Faversham Kent ME13 8LY			
RECOMMENDATION: REFUSE			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL The proposal is at odds with advice as set out within the NPPF regarding sustainable development in the countryside, and harm to setting of listed buildings, to the special character and appearance of the conservation area and to the character of the wider countryside.			
REASON FOR REFERRAL TO COMMITTEE Councillor request			
WARD Watling	PARISH/TOWN COUNCIL Faversham	APPLICANT Miss Eve Rush-Ryan AGENT	
DECISION DUE DATE 04/03/15	PUBLICITY EXPIRY DATE 04/03/15		
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App No	Proposal	Decision	Date
SW/10/1318	Form new vehicular access to property with new crossover access onto the London Road.	Approved	Nov 2010
SW/11/0973	Change of use of agricultural land to form rear extension to residential curtilage and retrospective permission for tractor shed, store and greenhouse	Approved	Oct 2011
SW/13/0670	Proposed development of 12 terraced, semi-detached and detached dwellings.	Refused and Appeal dismissed	Nov 2013 July 2014

1.0 DESCRIPTION OF SITE AND PLANNING HISTORY

1.1 This site is located on the southern side of Canterbury Road (A2) close to its junction with the Ashford Road. It comprises one of a pair of semi-detached grade II listed cottages with a garden, all set within an orchard, and includes a new domestic driveway direct to Canterbury Road. This driveway was approved in 2010 following division of the original ownership of the cottages and orchard, and it follows the property boundary so as not to divide the orchard or appear more intrusive than necessary. The works have not been carried out in accordance with the approved drawings, and additional areas of hardstanding have been laid.

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- 1.2 The site includes a new out-building which is a significant part of this application. This building was granted retrospective planning permission (Oct 2011) for use as a domestic greenhouse and as a tractor store (for maintenance of the wider orchard) and is actually set within the garden area, albeit the extent of the garden was agreed to be slightly extended to incorporate the position of the new building at the time of its approval. The outbuilding itself was granted planning permission as an outbuilding to a domestic property and for no business purpose.
- 1.3 The site is abutted by an identical grade II listed cottage, no 9 Ashford Road and further open orchard land, and to the north-west lies 'Mindon' a large detached house sited close to the junction between Canterbury Road and Ashford Road. This house occupies a generous square shaped plot immediately at the junction, and is surrounded on the two open sides by a larger L shaped piece of ground which, with Mindon, originally formed a larger almost square piece of land in common ownership. The wider land, which is generally above road level, is an elderly traditional mixed apple, pear, cherry and plum orchard.
- 1.4 There is a long planning history affecting the wider site which generally relates to proposals to build housing around the wider site, including the recent application dismissed on appeal in 2014 for 12 dwellings, ref: SW/13/0670.

2.0 PROPOSAL

- 2.1 This application seeks a retrospective change of use of the new outbuilding to be used as a retail outlet, training and storage facility and the retention of the additional hardstanding/ turning circle. The application site incorporates all the garden to the property and the surrounding orchard within which the new use would be carried out.
- 2.2 The building has been used unlawfully since 2012 shortly after it was granted planning permission. The current use includes open storage of building materials, storage units and use of the wider orchard site for training courses in traditional building methods.
- 2.3 The application is supported by a statement which explains how the site is used in more detail.

“Traditional Building Supplies Ltd Supplies Ltd situated on London Road, Faversham was started by Eve and Ben Martin in 2011. Initially an online company and part of Abode Renovation Faversham, Traditional Building Supplies quickly grew and opened the doors to the former tractor shed and greenhouse for customers to collect goods and browse our range of supplies in 2012. Traditional Building Supplies Ltd now specialises in the nationwide supply of traditional and sustainable eco building materials both online and also from our site in Faversham. Customers include English Heritage and tradespeople throughout the country.

In May 2014 we started to host monthly training courses at our site in Faversham, teaching traditional building skills including re-pointing, stone masonry, lime rendering and plastering. New courses for this year include introduction to brickwork and a painting and decorating course.

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Whilst the shop and courses are well attended should we be refused planning permission we would be forced to close the shop as to rent an equivalent site would not be cost effective for a fledgling company, which we believe is a valuable asset to the town. Customers who visit the shop that are not from the Faversham area are always directed into our medieval market town to browse our shops and market-boosting the local economy. Traditional building supplies ltd supports to full time members of staff and one part delivery driver, I live on site and the other two members of staff both live in Faversham.”

3.0 PLANNING CONSTRAINTS

Faversham conservation area

The Conservation Area Character Appraisal describes this area at paragraph 11.22:

“The London Road itself has for some long time been seen to mark the southern edge of Faversham where the town ends and the countryside begins. In practice, this sharp divide is no longer as well-defined as it once was, but on the southern side of London Road close to the junction with Ashford Road two early C19 brick and weatherboarded cottages are still to be found set deep within a patch of old orchard at the end of unmade track, so that their peg tiled roofs are viewed across the tops of old fruit trees. Just here, therefore, is a fragment of 'rural Kent' positioned right alongside the southern edge of the town. Despite the rather lacklustre appearance of the orchard (a collection of rather randomly spaced trees of varying sizes, varieties and vigour) the traditional Kentish character of the houses, the orchard setting, and the position on the very edge of Faversham town are in combination such that this remains a rather special place. “

Grade II Listed Building. The listed building description states *“Early C19. 2 storeys. 2 windows on 1st floor. Tiled gabled roofs. Weatherboarded front on rendered brick sleeper wall. 2 light casement windows, 2 on ground floor in No 1. 4 panelled doors. Porches with weatherboarded returns, trellised fronts with ogee heads and slate gabled roofs. 2 paralleled ranges.”*

4.0 POLICY AND OTHER CONSIDERATIONS

4.1 The Development Plan comprises the saved policies of the adopted Swale Borough Local Plan 2008. The following saved Local Plan policies are most directly relevant to consideration of the application:-

SP1 (Sustainable development)

SP2 (Environment)

FAV1 (Faversham area strategy)

“Within the Faversham and Rest of Swale Planning Area, conservation of the historic and natural environment is the prime and overriding consideration.”

E1 (General Development Criteria)

E6 (The countryside)

E9 (Landscape)

E10 (Trees and hedges)

E14 (Development involving Listed Buildings)

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“Proposals, including any change of use, affecting a Listed Building, and/ or its setting, will only be permitted if the building’s special architectural or historic interest, and its setting, are preserved”

E15 (Development Affecting a Conservation Area)

“Development (including changes of use and the demolition of unlisted buildings or other structures) within, affecting the setting of, or views into and out of a conservation area, will preserve or enhance all features that contribute positively to the area’s special character or appearance”.

E19 (Design)

T1 (Highway Safety)

T3 (Vehicle parking) and

T4 (Cyclists and Pedestrians)

- 4.2 The NPPF was released on 27th March 2012 with immediate effect, however, para 214 states *“that for 12 months from this publication date, decision-makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.”*
- 4.3 The 12 month period noted above has now expired. As such, it was necessary for a review of the consistency between the policies contained within the Swale Borough Local Plan 2008 and the NPPF. This has been carried out in the form of a report agreed by the Local Development Framework Panel on 12 December 2012. All policies cited below are considered to accord with the NPPF for the purposes of determining this application and as such, these policies can still be afforded significant weight in the decision-making process.
- 4.4 In the core planning principles at para 17 the NPPF says Local Authorities should *“take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.”*
- 4.5 Paragraph 29 of the NPPF deals with supporting a prosperous rural economy. It states that local plans should *“support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings”.*
- 4.6 Paragraphs 126 to 141 of the NPPF relate to conserving and enhancing the historic environment. Of particular relevance here is that applicants are expected to describe the significance of any heritage asset affected, including any contribution made by their setting. Great weight should be given to the asset’s conservation, and any loss should require clear and convincing justification. Where substantial harm or total loss of a heritage asset is proposed local planning authorities should refuse “consent” unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where less than substantial loss is involved the harm should be weighed against the public benefit of the proposal, including securing its optimum viable use. Paragraph 132 says that *“Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting”.*

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- 4.7 The Council's publication version of the Local Plan (December 2014) proposes an approach to the continued development needs of Faversham in a different manner to the rest of the Borough which falls within the Thames Gateway area. At para 4.3.3 of the plan it explains;

“Outside the Gateway, the eastern and southern parts of the Borough reflect a more rural profile, characterised by the small market town of Faversham, its rural hinterland, and the Kent Downs Area of Outstanding Natural Beauty (AONB). For Faversham it is the historic character of its setting and urban form that strongly guides the planning approach here, whilst national policy for the AONB strongly promotes its conservation and enhancement.

- 4.8 Paragraph 4.3.4 of the Plan continues;

These differences in emphasis and what they have meant for the development strategy have been explored by successive sustainability appraisals and have been found to be the most appropriate and sustainable approach. As a result we have evolved our local strategy through the creation of the two planning areas identified by para 4.2.38 and by the indicated and varying scales of growth directed at them. As well as reinforcing the emphasis on regeneration with the Swale Thames Gateway area, the reduced scale of growth at Faversham:

- *avoids significant adverse impacts on heritage assets, high quality agricultural land, limits upward pressures on out-commuting, whilst boosting housing provision”*

- 4.9 Significant employment growth in the Faversham area is planned for through the proposed allocations to two sites (Oare and Love Lane) which combined will bring forward 21500sq m of employment floorspace.

5.0 LOCAL REPRESENTATIONS

- 5.1 No comments received

6.0 CONSULTATIONS

Faversham Town Council raises objection to the proposal stating;

- 1) The proposed development would be detrimental to the rural nature of the site
- 2) The proposed development to the south of the A2 would be contrary to policy

The Environmental Health Manager has no comment to make on the application

The County Archaeological Officer advises that no archaeological measures are necessary

7.0 APPRAISAL

- 7.1 In this case the key issues to consider are whether the proposal amounts to sustainable development, particularly in respect of environmental sustainability and the impact of the countryside and the character of the conservation area and the setting of

the listed buildings and whether the proposal complies with the Council's statutory duties of

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preserving the setting of the listed building and preserving or enhancing the special character of the conservation area. The impact of the development on the character and appearance of the countryside is also of relevance. Due to the retrospective nature of the application, we have the opportunity to consider some of the effects of the proposal on the ground.

- 7.2 In terms of the physical impact of the development, whilst on first appearances, it appears that the development is relatively low key and contained within one small existing outbuilding, there is additional activity and a significant extent of open storage of building materials surrounding the use which must be taken into consideration. The application actually proposes further hardstanding above and beyond that already permitted in association with a new driveway under the earlier application. These alterations cannot be looked at in isolation but as a gradual degradation of this rural site. The site in recent years has gained a new shipping container for storage, and a plastering wall has been erected, in addition to the works proposed under this application. The combined effect of these changes along with the degradation of the orchard has been quite significant over recent years and these items have in my view a serious and detrimental impact on the rural character and relative tranquillity of this part of the conservation area, and on the setting of the listed buildings. Many of the alterations are visually intrusive and have resulted in a cluttered appearance to the site, much to the detriment of the special character of the surrounding area. Fortunately, the mobile burger van stationed to serve customers has recently been removed by the applicant without the need for formal enforcement action.
- 7.3 The site is located just outside of the built up area boundary of Faversham on the southern side of the A2. Historically there has been a consensus supported by many appeal decisions that the development of Faversham should be restricted to the northern side of the A2 to protect the rural character, agricultural land and the setting of the town. As such, there is a clear divide between town and country and this site is clearly rural in nature with its large grounds and country cottage appearance. The introduction of this use with its associated activity, people and vehicles visiting the site for collection and delivery of bulky materials and attending workshops generally has changed the rural character of the site and the appearance of this part of the countryside. I am also concerned that the loss of this domestic outbuilding combined with future potential growth of the business could result in pressure in the future for further development of the site.
- 7.4 The character of these rural cottages set amidst a traditional orchard right on the southern margin of the town has a very unusual and distinct character. It is these special characteristics which national and local policy is intended to preserve or enhance. This is also an unusual case where the setting of the listed buildings is almost as significant as the buildings themselves. The orchard, which clearly forms part of the setting of the cottages, has deteriorated in recent years. This, however, does not provide justification for approving the application, but to encourage the orchard to be restored to its former condition.
- 7.5 The harm identified needs to be considered in the wider context and against the advice as set out within the NPPF. As set out earlier in this report, the NPPF is supportive of economic development in rural areas, however, this is not at all costs. The golden thread running through the NPPF is the issue of sustainability in environmental,

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economic and social terms. The very basic principle of having an economic use in a rural location is not one that would necessarily be recommended against. However, in this case, I consider there are significant sustainability issues which when balanced against the benefits lead me to recommend refusal of the application. This use would be very suitable in an existing redundant farm building in accordance with Local Plan and NPPF policy, but not on this open site within the conservation area and adjacent to the listed buildings.

- 7.6 Whilst the NPPF is generally supportive of a rural economy, within the core planning principles it also requires Local Planning Authorities to take account of different roles and character of different areas including recognising the intrinsic character and beauty of the countryside. In addition, the NPPF makes clear that great weight should be given to the conservation of heritage assets and that any loss should require clear and convincing justification. It further explains that *“Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting”* as is the case here.
- 7.7 The Council also has a statutory duty to have special regard to the desirability of preserving the listed building or its setting ...or any features of special historic interest it possesses (sections 66[1] of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 7.8 There is also has a duty under section 16[2] and section 72 of the Act *“that special attention shall be paid in the exercise of planning functions to the desirability of preserving or enhancing the character or appearance of the conservation area”*. Where development does not preserve or enhance, the courts have recently upheld that there is a strong presumption against granting planning permission.
- 7.9 In terms of highway safety, the existing improved access to the site was granted a few years ago and the intensification as a result of this proposal would not result in significant harm to highway safety or convenience.

8.0 CONCLUSION

- 8.1 The proposal would result in significant harm to the setting of the listed building's and the surrounding conservation area as well as the wider character of the rural area. As such, the proposal could not be considered sustainable, contrary to the advice as set out within the NPPF.

9.0 RECOMMENDATION –REFUSE for the following reasons:

- 1) The proposal to change the use of this domestic outbuilding and to introduce additional areas of hard standing, activity and storage of materials would represent unnecessary and undesirable commercial development in the countryside resulting in harm to the setting of the listed buildings, to the character or appearance of Faversham conservation area, and to the character of the wider countryside area resulting in environmentally unsustainable development. The significant and demonstrable harm is not outweighed by the small scale economic benefits provided as a result of the proposal. The

proposal is therefore contrary to policies SP1, SP2, FAV1, E1, E6, E9, E14, E15 and E19 of the Swale Borough

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- 2) Local Plan 2008 and paras 17 and 126 -141 of the National Planning Policy Framework.

10.0 Council’s approach to the 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 and where possible, suggesting solutions to secure a successful outcome.

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

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council’s website. The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.

APPENDIX 2

PLANNING COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Thursday, 23 April 2015 from 7.03 - 11.03 pm.

3.2 14/504232/FULL					
APPLICATION PROPOSAL					
Retrospective change of use of existing agricultural store and greenhouse to retail outlet, training and storage facility; hardstanding/turning circle.					
ADDRESS Orchard Cottage Canterbury Road Faversham Kent ME13 8LY					
WARD Watling	PARISH/TOWN Faversham	COUNCIL	APPLICANT Rush-Ryan AGENT	Miss	Eve

Mrs Rush-Ryan, the applicant, spoke in support of the application.

Members raised the following points: the National Planning Policy Framework was clear that a prosperous rural economy should be supported; sustainable growth, including conversion of existing buildings; would cause no environmental damage; would benefit the local community by providing three jobs; real benefit to whole business of conversation that would justify acceptance, site could not be termed ‘an orchard’ as there were only 9 fruit trees left; was not a rural location as surrounded by the A2, A251 a laundry and KCC transport depot; no local objections had been received; would not impact on the listed building; site was well set back; should consider the history of the site and that this was a retrospective application and the applicant had already not complied with conditions to improve sightlines.

The motion to refuse the application was lost.

Councillor Mike Henderson moved the following motion: That the application be delegated to officers to approve subject to the imposition of a suitable condition restricting the hours of use, and a condition restricting number of courses and number of people attending. This was seconded by Councillor Andy Booth.

Councillor Henderson considered that there was no need for landscaping or hardstanding or any other conditions. He also considered that the opening hours on the application seemed reasonable.

Resolved: That application 14/504232 be delegated to officers to approve subject to the imposition of a suitable condition restricting the hours of use, and a condition restricting number of courses and number of people attending.